

Rifles have been firing upon the Indian border security forces' patrols in the Lohacherra sector situated on extreme south-east of the United Khasi and Jaintia Hills bordering on Sylhet in Pakistan. However, reports were received yesterday that a cease-fire has been declared with effect from 1600 hours on the 19th December following a meeting that morning between the Sector commanders of the two countries " ... at Dawki on the Assam-East Pakistan border. With the cease-fire the ***st Pakistan Rifles have agreed to withdraw within 24 hours their forces south of the jointly demarcated boundary to their original positions prior to the opening of fire on the 9th December. The boundary in this sector has already been demarcated by the placement of pillars on the ground.

On the 9th December, a party of East Pakistan Rifles who had entered into Indian territory in the Lohacherra area, on being challenged by our border patrol, had opened fire. Our patrol had fired back in self-defence, whereupon the Pakistanis had gone back to their territory. This incident was repeated the following morning—the 10th December—when the East Pakistan Rifles ambushed in the area and fired upon our patrol party with light machine guns and rifles up to 1100 hours. There were no casualties on our side. Beginning in the small hours of the morning of the 12th December, the East Pakistan Rifles fired heavily till about mid-day and our border security forces had to return fire. There was a lull till the 15th December, when the Pakistanis re-opened fire on a party carrying rations to our border outpost in the vicinity. The Pakistanis were entrenched about 200 to 300 yards within our territory on a thickly forested tilla in the region. They continued firing sporadically till the cease-fire of the 19th December. There have been no casualties so far reported amongst our men, though two of our men are reported missing. I

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should like to add here that the two men, who were reported to have been missing, have returned to their ranks since then. We just heard it this morning.

The Assam Government had strongly protested about the intrusion into the Indian territory and pressure was also brought through diplomatic channels on the Pakistan Government to refrain from such irresponsible shooting.

THE PREVENTIVE DETENTION (CONTINUANCE) BILL, 1963—continued.

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA) : Dr. Subba Rao, you were making your point about that.

DR. A. SUBBA RAO (Kerala): Sir, I would like to bring to your notice that the Business Advisory Committee, which met last week, decided to include the Preventive Detention (continuance) Bill also, for consideration in this Session. But when we decided that, we did expect that sufficient notice as conforming to the Rules of Procedure would be given to the House. Now, Sir, the actual decision to be taken, is not whether this motion has to be taken into consideration but whether this can be moved. The Presiding Officer of the House—you at present—has got the discretion to say whether the motion can be moved or not. Sir, you have recently strongly supported the privileges and rights of this House and I do expect that, being a champion of protecting the rights and privileges of this House you will approach this question as pertaining to the privileges and rights of this House and you will use your discretion very judiciously. You will not use your discretion which will go against the Rules of Procedure and the rights of this House.

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA) : The Home Minister.

THE MINISTER OF HOME AFFAIRS (SHRI GULZARILAL NANDA) : Sir, I may first submit that I took preliminary action and consulted the Chairman and requested him to allow the Bill to be moved as it has now been decided to be moved.

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA) : When was it?

SHRI GULZARILAL NANDA : On the 20th December. I may, in the first place, read the rule, which says:

"On the day on which the motion for consideration is set down in the list of business which shall, unless the Chairman otherwise directs, be not less than two days from the receipt of the notice, the member giving notice may move that the Bill be taken into consideration."

As far as the motion is concerned, it seems to be very clear that it means setting down in the List of Business. That is where the consideration starts. The Chairman having taken into consideration the various circumstances exercised his discretion and decided that this business is to be placed on the List of Business. That is one part, to this. That discretion has been exercised as I have explained.

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Now the point was being raised it was a question of two days. I am not quite sure what the practice here has been, but two days in this context are not 48 hours. In this case, on Thursday the business was finished there, and intimation was received here on Thursday evening. It is now the third day. I think this amply meets the requirements of the rule. But in case the question regarding the exercise of discretion arises at all, what are the considerations which have been urged against the exercise of

of that discretion in favour of consideration of the Bill? That they have not had enough time. For what purpose? As was pointed out here, the Bill as moved in the Lok Sabha is the same, entirely the same as it is now. In the first place, it is not at all a Bill with many clauses. It is just a Bill for continuance. Secondly, even if there were clauses and if there had been no amendment at all made—in this case there is no amendment—the idea of allowing time after the Lok Sabha has passed the Bill is, and I believe that this is one of the purposes, that Members should have enough time to see if changes had been made, and if changes had been made, to enable them to apply their mind to those changes. This legislation has been there and nothing new is being done, and the hon. Member, Shri Bhupesh Gupta, because I believe he wants to say something, because he wants to express his feelings again and again on the subject, has taken this occasion. Otherwise he knows about everything in the Bill judging by what he has said in the earlier sessions. Therefore, it is not at all a consideration bearing on the study of the legislation, so that the Members can exercise their rights and perform their duties properly.

Then there is the question of the exercise of discretion in relation, as was pointed out, to the Rules of Business. We are meeting now, and on Monday we meet again. There is another Bill to be dealt with, to be disposed of on Monday. If we delay this Bill now, then can we manage to deal with that Bill?

SHRI BHUPESH GUPTA : We can pass that quickly. We will co-operate there.

SHRI GULZARILAL NANDA : If they agree to pass this Bill in an hour, that is a different thing.

SHRI G. MURAHARI : The hon. Minister while making his speech said that Mr. Bhupesh Gupta knew every-

thing about it and that he was taking advantage of this occasion for making a speech. That is imputing motives to an Hon. Member.

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA) : No, no.

SHRI BHUPESH GUPTA: I would like to have one clarification. The hon. Minister said that I knew everything. I do not know anything really. But here we are supposed to acquaint ourselves with the proceedings of the Lok Sabha. We are an Upper House here, and the thing is coming from there. Therefore, it is not merely a question of the text of the Bill. We are supposed to be acquainted with the three volumes of the proceedings; even if we may not refer to them or quote them, we are expected to study the two speeches by the hon. Minister and other speeches. Therefore, these we did not have until they had been completed there. This aspect has to be borne in mind. I submit here that the House should adjourn till Monday when we can take it up, and we shall co-operate with the Government in passing the other Bill. Let the rights of the House be vindicated here and let the discretion be not exercised in favour of the Treasury Benches.

SHRI GULZARILAL NANDA: There is nothing more to add excepting that the hon. Member underrates very much his capacity to read things and digest them. I have much greater appreciation of his capacity. But I would just like to finish by saying that it is in the interests of the business of the House that this should be taken up now, Sir, and not postponed.

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA) : I have listened to the various arguments made this morning. The wordings in rule 121 are two days and generally . . .

SHRI BHUPESH GUPTA: Not less than two days.

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA) : Generally it is days and not hours which count. The Chair has to go by past precedents. There are several precedents of this august House where Bills after Bills have been taken up in the manner in which the present Bill is being taken up. Moreover, if I remember aright, last time when the Preventive Detention (Continuance) Bill came up before this House, the Message was received on the 19th December and the Bill was considered, as today, on the 21st December. It is a coincidence that it has happened to be so.

SHRI BHUPESH GUPTA: At what time the message was received?

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA) : Messages are usually received in the evening. That is what I was asking the office to check up. So, we can proceed with the Bill.

SHRI BHUPESH GUPTA: I have a submission to make because he is asking for your permission to move it for consideration.

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA) : That will be after the First Reading.

SHRI BHUPESH GUPTA: Not that. The point is, if it were for introduction, we would have raised the objection. In the other House the hon. Minister said that he was prepared to take the whole thing off the Statute Book provided the political parties would say something about how they would function, and so on. May I know whether in the period that has intervened between the time he made the statement and now the hon. Minister got in touch with the representatives and leaders of the various political parties to have mutual consultations with them in order to find out whether it would be necessary for him to move it. If he had not consulted the political parties in the last 72 hours or so, may I know why he did not consult them before moving it?

[Shri Bhupesh Gupta.]

The second point is, in this House his predecessor gave an assurance that they would not come up with this Bill—we are not Concerned with the other House—if the situation improved and so on. They gave an assurance that it was only for three years. Today again another Home Minister has come and he is asking for its extension. I should like him to satisfy you, Sir, as to why the Government is departing from the assurance which was given to this House when on another occasion we took up this for similar consideration, and what step the Government took in the light of the offer made by the Home Minister in the other House to the various political parties.

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA) : That point you can raise during your speech.

SHRI BHUPESH GUPTA: I will say something else.

SHRI GULZARILAL NANDA: Sir, I beg to move:

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

Sir, at this stage I do not intend to take much time of the House in explaining the need for the continuance of the preventive detention law. The House is quite familiar with the pros and cons of this measure. There were in the past on several occasions keen and prolonged discussions, and the merits of the legislation have been gone into exhaustively. This was passed originally in February 1950, that is, this preventive detention legislation. There was after that, through a series of measures, progressive liberalisation of this legislation. In August, 1952, the new Parliament elected under the provisions of the Constitution passed the continuing Act and that was meant to last, at that time, till the end of the year 1954. Since then, Government have been approaching Parliament and ob-

taining sanction for its continuance for three years, on the last three occasions. It is quite evident, it is very clear, that through the long history of this legislation, every aspect of it must have been, has been, subjected to a very thorough and searching scrutiny. And at the time of every fresh review of this legislation, naturally, Government has to furnish full justification for coming before the House for the continuance of the legislation, and this is done in the light of the needs of the situation and the experience that is gained during the intervening period. As I said, I would not go into very great detail. I do not propose to anticipate all the arguments which the hon. Shri Bhupesh Gupta and others have kept up their sleeves in order not to queer the pitch for the House listening to his oratorical talents and powers. But I would at this stage just indicate briefly my approach to this question.

The question, in my eyes, is not at all in terms of doing something through this legislation which is intended to achieve a change, to achieve something which, I think, is desirable in itself I believe, Sir, that this legislation is not desirable in itself. I do not like it, it is distasteful to me, and there is nothing to be pleased about it. I recognise that this detracts from the concept of hundred per cent liberty. But the question before me is—and my approach is based on this idea, this understanding: Although by this legislation we may be taking away from that hundred per cent half a per cent or a quarter per cent, by not having that what is going to be the situation or the state of affairs in the Country? Even if it is going to mean a curtailment to the extent of 20 per cent, that is what we have to weigh and not just concentrate on that one per cent or half a per cent. This is the basic question.

SHRI BHUPESH GUPTA: These are not matters of arithmetical statistics, these are questions of principle.

SHRI GULZARILAL NANDA: It is a question of statistics also as to how many instances of violence take place, how many riots take place and how many people have recourse to violence. We can sum them up and we can give them a good deal of statistics on that point also. It can be a matter of statistics.

SHRI BHUPESH GUPTA: Even . . .

SHRI GULZARILAL NANDA: The question is that the condition is going to be difficult, very much worse, from the basic issue that is being raised. It is not a choice between good and something better. It is a choice between something which is not good and something which may be much worse still, and our approach is that we want to get rid of it at the earliest possible time, the earlier the better. We want to work for it. And we request the hon. Members here also to join in working for it. Simply the question is this, as he said just at the moment, some parties say, "Well, we will be co-operating in this, we will abjure violence." The implications of it have to be fully carried out. What is violence? Then the question comes, what was the urge? Is not rioting violence? A few thousand workers surround the manager and then, well, they threaten him and just for the sake of life, dear life, he will do anything. Now, the question is, what is violence? Is that violence or not? And I say that it is not a question of having any facile way to dispose of the situation, saying 'Sit down' and considering what will be the machinery for the implementation of any pledges that are given and any undertakings that are given. These are things which cannot be disposed . . .

SHRI BHUPESH GUPTA: As far as the workers surrounding the manager, considering . . .

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA): Mr. Bhupesh Gupta, you can reply.

SHRI GULZARILAL NANDA: Therefore, we have, with a painful heart and with the greatest reluctance, to continue this, to ask Parliament to allow us to continue this because we do not want to expose the community to grave risks. (Interruptions). I have said in a few words that it is a question 'of the wider national interest of the community as a whole and not a question simply of the freedom and liberty of a few people. And what type of people? Well, I will have occasion to say as to whose interests are there on the one side and whose interests are on the other side. That is what is going to be considered. I request the hon. Members to keep this, what I have said, in the background when we discuss it, when we go into the various other aspects of this question—the background with which we propose to go ahead with the working of this legislation.

So far as this Bill is concerned, I would like to recall the fact that when the last time this House dealt with it and when the necessity of it was debated, that is the end of 1960—a very very dear name comes to mind, that of the late Shri Govind Ballabh Pant—he moved for the continuance of the Bill in the Rajya Sabha and he explained what made it incumbent on the Government to proceed with this, to ask for the continuance of this legislation. He said:

"It is unfortunate that there are still many occasions when organised resistance against authority, against laws that are passed by Parliament, is offered by groups of people under the leadership of persons who have some responsibility and who carry some influence also...."
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"Unless the supremacy and majesty of law is accepted, I really wonder if democratic methods can by themselves prove effective in maintaining and protecting democracy itself."

[Shri Gulzarilal Nanda] Speaking about the tendency of some people to defy the will 'of the nation as expressed in Parliament and to resort to intimidatory and destructive methods to achieve their ends, he said:

"... many have been the occasions when such scenes have been witnessed and such tragedies have occurred."

Then he goes on—

"We have seen the rule of the law being almost paralysed and the entire administrative machinery being brought to a stagnation. Communications have been brought to a standstill; even railways have not been allowed to move; post-office buildings and railway station buildings have been set on fire, and many other misdeeds of a like character have been done."

Sir, the Home Minister then had in his mind a number 'of occurrences. And it is very clear that if that state of affairs is allowed to proceed and continue, then the Government cannot discharge its responsibilities to the community, to the vast millions, so that they can have security and safety and can have the full exercise of the rights which have been guaranteed to them by the Constitution.

Sir, the situation today, I must say, is somewhat better, but it is still beset with the same kind of difficulties and dangers, and these difficulties and dangers will be accentuated by the fact that there is a new menace which we are facing, which this country is confronted with, with regard to its integrity and independence, on the border, on most of the border; there is this menace, this threat looming large. Now, it should mean this, Sir; it should mean a call; the call of the emergency should be that in this country every trace of discord and conflict should be effaced, and all of us should join hands in constructive work and in development work so that we can provide fully, or as much as

possible, for the defence of the soil of India and for the protection of the freedom and the honour of the nation. Now, this is the situation in which this nation has been called upon to give an answer to this call. But what is happening? Hon. Members will remember that within two months Of the emergency there were widespread communal disturbances in Silchar, and only last September we had communal trouble in Malagaon—not very far back. Apart from that we are now seeing what is happening, the agitation going on in our place also. As I said, of course, there is no objection to agitation; you may demonstrate; you may express your voice of protest; it is quite permissible. But if every kind of agitation is going ultimately to end in some form of violent manifestation, and anti-social elements are to be allowed to exploit that situation, to the detriment of the security of the country and the vast masses of the citizens, then, Sir, it becomes a different matter. It is going on even now; we read it in the papers; I get reports. It may be for the purpose of achieving certain ends. The ends may be or may not be questioned, but the way in which they set about trying t'o secure those ends creates this problem, the problem of law and order. And such instances are n'ot a few—even now; there are organised groups; there are individuals who are quite ready to exploit the situation, and particularly in these days, certainly we cannot afford this kind of encroachment on the liberties of the people, and threat to the peace and the observance 'of the laws of the country.

Sir, the primary issue is this. As I have pointed out, at that time when the Act—which is intended to be continued now—was passed, there was a certain situation. In terms of figures I shall describe the situation. When this came up before the House, the information that was then available naturally related to a period, a period which had then preceded it, and the period was from 1st October 1957, to

30th September 1960. And what were the facts then? What were the number of persons detained, and for what? For communal activities—21; harbouring dacoits—26; preaching and indulging in violent agitation—228; go'ondaism—198.

SHRI BHUPESH GUPTA: Was *ganja* smuggling also covered?

SHRI GULZARILAL NANDA: I will give you the definition of goonda.

For espionage and anti-State activities—6; in connection with the Defence of India, etc.—22; for Naga hostile activities—21, and in connection with the maintenance of supplies and services essential to the community—45.

Now, Sir, the hon. Member wants to know who a 'goonda' is. What should I say? It happens that that personage has been very well described by Pantji himself—

"Take again the goondas who have come in for the largest percentage of detentions, particularly in West Bengal and Maharashtra."

Pantji defined a goonda as a person who is ever prepared to fish in troubled waters, who is a bully, who is a blackmailer, who tries to create a reign of terror in his own region and who, whenever opportunity occurs, creates trouble in every possible way. Such goondas create such a reign of terror that nobody is prepared to give evidence against them but (Interruptions) everybody wants them to be removed from their own neighbourhood. They want to send them to some other neighbourhood. Now, this was the proposition then. (Interruptions). It is a question of statistics.

SHRI BHUPESH GUPTA: Those Ministers who are charged with *ganja* smuggling, what are they? Goondas or what?

SHRI GULZARILAL NANDA: You can charge anybody with anything.

SHRI BHUPESH GUPTA: I am not charging anybody; Congressmen are charging.

SHRI GULZARILAL NANDA: Let me proceed now. What is the primary issue in this legislation having regard to how it has been worked? A misleading impression has been created—I saw the earlier record of the proceedings—and that is how the hon. Members—some of them—win the sympathy of people who do not really know what exactly it is. They want to tell the world: Here is a detenu, a humble, small individual, a helpless person pitted against the power and might of the Government, and he is a victim, therefore, of the vindictive-ness of the Government tyranny, and this is being done for political ends. Now, that is really the main strength or supposed strength of the Contention of those friends. Now, it is totally wrong. That fact must first be made very clear and must be cleared, that these goondas are goondas unless somebody claims them as his own, as members of any political party, and I do not think, among those people whom I mentioned, there to any person in whom he is interested or for whom he is going to take the responsibility.

SHRI BHUPESH GUPTA: Kindly refer to your Statement—page 8—of the statistical information regarding the working of the Preventive Detention Act.

SHRI GULZARILAL NANDA: Sir, I will proceed. I have enough time later on.

SHRI BHUPESH GUPTA: In your Statement you have detained one for goondaism and you have said that he was a rebel Congressman. Is a rebel Congressman a goonda?

SHRI GULZARILAL NANDA: I say, bad people can be anywhere. For one here there may be twenty thousand there. Now, Sir, this issue is not really between any isms, any kind of doctrines; it is not a question of one way of political thinking or another; it is not between the Government and that victim, supposed victim but, Sir, the issue is very large. The issue is this. The issue is—as we take this here—between the person who is a spy, for example, and the security of India; between the person who harbours dacoits and, not the Government, but all these people, harmless people, who are exposed, 'from day to day, to physical injury, murder, looting, etc; there is no safety there at all because of the conditions there; the issue is between a few persons who are bent on fanning the fires of communal frenzy, and a large number of innocent people who cannot move about without exposing themselves to the risk of their lives. And how much have people suffered? Well, we know those who have had any inkling, any touch or knowledge of what happens in communal riots, they know who suffers. Well, who suffers? This is the straight issue. Let it not be mixed up because it is only by creating confusion that there is effort to get some kind of sympathy and support for these things which they do not deserve at all.

Sir, when some persons are deprived of their freedom, let it not be contended, let it not be said that they have been deprived of their freedom. And if any one says that, we will have to tell him that it is wrong, that is not done for any political purpose, it is not done for strengthening the party, the Congress Party or the party in power at the expense of any other party. That will become a high level political issue, if it were so. It is not for expression of any opinion that anybody has been put in jail. It is not for voicing any grievances, for criticising the Government, it is not at all proposed to stifle any kind of criticism. It is not

for these things. Sir. It is not against the ideologies of any kind, but it is against the enemies of the society. So, if there are any political motives at all, I ask the hon. Member or any hon. Member who is connected with any party to please identify as to how many persons are there who have been taken up because of their political connections, because of their political activity as such. In all these three or four years there are . . .

'SHRI G. MURAHARI: Mr. Vice-Chairman, the Home Minister is telling—
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SOME HON. MEMBERS: No, no.

SHRI G. MURAHARI: There are a number of political leaders who have been arrested under this Act.

DIWAN CHAMAN LAL (Punjab): Sir, the Member has used unparliamentary language about the Home Minister . . .
(Interruptions.)

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA) : Shri Murahari, the expression which you have used is unparliamentary. The hon. Member cannot say that. It shall be expunged.

SHRI G. MURAHARI: I withdraw the word**** but it is untruth.

SHRI GULZARILAL NANDA: The hon. Member does not possibly realise what he says, what the meaning of his words is because he would not have ventured to use that expression. Even if he says "incorrect statement", I challenge him how it is incorrect. When the hon. Member gets a chance, let him speak out and I will then reply.

SHRI G. MURAHARI: There have been enough people who have been arrested . . .

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA): Mr. Murahari, you will have your chance to speak. Let him continue.

***Expunged as ordered by the Chair.

SHRI GULZARILAL NANDA: What we are dealing with is that there are acts, there is activity, there are people who create a climate of lawlessness where safety of many people becomes endangered and we have to deal with that situation, with people who might try to glorify themselves that they are launching some kind of movement for the emancipation of an enslaved people. India does not have enslaved people. It has 'free people and it is not necessary to have any violent movement for their liberation. So, this is the kind of role that some of them have assumed for themselves. If there is exploitation even by a few people, and if a few people want to impose their will on a large number, then, what happens? It is not a question of the liberty of these 200 or 300 who may be there now in detention under this Act, but it is a question of the obliteration of the fundamental rights of thousands and thousands for whom they have become a terror and who cannot exercise their normal rights freely because of them. That is the position, Sir. And what is the consequence of that situation? If we do not tackle it effectively, if this happens here, there and a number of places, the consequence is that the people lose faith in democracy, in ordered society. So, this is the issue really. When we are considering the operation of this Act, what is it that is before us? It is the ways of a few people, ways which are a negation of freedom, liberty and fundamental rights, and these powers are being exercised against people who are, I dare say, symbols, not of freedom, they are symbols of the deprivation of the people's freedom, they are symbols of something evil in human nature. That has to be fought. Therefore, Sir, the Government must discharge its responsibilities. If the millions and

crores of the people of India have installed a party in power, they expect from that party that it will use those powers to protect their safety and not allow large numbers of them to be at the mercy of a few people who, if

allowed to have their full way, will entirely blot out the liberties of all these persons.

The question now, Sir, is why it is that we have to have recourse to exceptional powers. Cannot these things be done under the normal law? That is a question which arises, and I think this requires to be faced squarely. If it were possible to deal with this threat with the exercise of whatever normal powers there are, with the use of the normal apparatus, the machinery of law and order, then I think it would be certainly not a thing at all which can be commended. It should be condemned if still the Government wants some of these exceptional powers to deal with the situation. Sir, I have looked into it and looked into it with great earnestness and examined the situation. Could it not be done under certain laws which we have got, the Indian Penal Code, the Criminal Procedure Code? Therein there are certain provisions of a preventive kind also. But let us understand that here the need is not that something has happened, that people have been killed, property has been destroyed and you try to put these people in jail. That is not the purpose. There it is that this list of offences comes in. There it is that the various procedures come in. It is something else here. Here the Government takes some precautionary measures. It is to prevent those things 'from occurring, prevent a harm, damage and destruction. And, therefore, temporarily some persons are removed from the scene who, acting from behind, are able to incite passions of others and create a situation which becomes difficult to control for any kind of machinery of law.

SHRI P. N. SAPRU (Uttar Pradesh): You remove them on suspicion.

SHRI GULZARILAL NANDA: The question is that many of these are those who have committed offences I before. A number of them are habitual offenders and, therefore, this Act is against those situations. Again, there are possibilities. Therefore, it

[Shri Gulzarilal Nanda.] has to be seen that at least for the time being, just for a while, they are kept away, when there is intensity of feelings, when there are these potentialities of mischief that we try just to keep them away from the place where they can create that mischief. As I said, I went into this question whether the laws, as they are, will avail us, will help us in dealing with these ways. I take up questions one after the other and I can state the position briefly, as has been stated, whether there are adequate powers available to the executive and magistracy under substantive laws in the Indian Penal Code and the Criminal Procedure Code. The real goondas and anti-social characters who mastermind riots and disturbances and anti-State activities seldom come out in the open but instigate others from behind the scenes. The latter are really minor fry, whereas what is really required is to control and restrain the real mischief-makers and masterminds. It is against this class of persons that the Preventive Detention Act comes in handy. There are some serious limitations to the effectiveness of the preventive sections in the Criminal Procedure Code. In the first place jurisdiction is limited to the Magistrate's or to the Sub-Divisional Magistrate's district or to the Sub-Divisional Magistrate's Sub-Division.

SHRI BHUPESH GUPTA: From where is he reading?

SHRI GULZARILAL NANDA: This is an interpretation of the laws. I am not reading from any book. I have the notes.

SHRI BHUPESH GUPTA: Notes or speech prepared by . . . ?

SHRI GULZARILAL NANDA: How much have I read? Have I spoken or read?

SHRI BHUPESH GUPTA: You have spoken.

SHRI GULZARILAL NANDA: The hon. Member has a party to give him clues and cues . . .

SHRI BHUPESH GUPTA: Is it from the C.I.D.? That is what I ask.

SHRI GULZARILAL NANDA: The hon. Member must have at least the clearness *at* mind to understand that it is not a question of information from any source. It is a question of interpretation of the Act and its working. It does not require any C.I.D. to give this information and any hon. Member who knows the law will be able to enlighten him regarding this.

SHRI BHUPESH GUPTA: Give us the source.

SHRI GULZARILAL NANDA: I was saying that this enables the culprit who may be bound down in one jurisdiction, if he is bent upon mischief, still to go to another jurisdiction and continue his nefarious activities there. The second limitation is that once the person bound down to furnish security does so, the Magistrate is bound to set him free, subject, of course, to the condition that may be stipulated in the security bond. Those persons who constitute the greatest threat and whom the Government is most anxious to lock up in the interest of public security are precisely those who can execute the needed bond, bail or surety. This is one part *at* it.

As regards the powers under Section 144 Criminal Procedure Code, orders of restraint remain in force only for a period of two months, unless the State Government notifies in the gazette that they are to be in effect for a longer period. But here the question is this. These orders do not have . .

SHRI BHUPESH GUPTA: Mr. Vice-Chairman, on a point of order. I invite your attention to rule 211. Kindly look up.

"If a Minister quotes in the Council a despatch or other State Paper

which has not been presented to the Council, he shall lay the relevant paper on the Table."

Therefore, I would request the Minister to lay this paper on the Table unless, of course, he wants your protection. I know it also says:

"Provided that this rule shall not apply to any documents which are stated by the Minister to be of such a nature that their production would be inconsistent with public interest."

If the Minister says that the production of the document will be inconsistent with public interest, he need not do it; otherwise it should be laid on the Table of the House.

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA): Certainly he can refer to his notes.

SHRI BHUPESH GUPTA: He said document, he said prepared interpretation.

SHRI GULZARILAL NANDA: It is only in order to be precise because I am dealing with a legal question as to what is the authority dealing with it, what is the jurisdiction.

DIWAN CHAMAN LALL: These are your notes.

SHRI GULZARILAL NANDA: Yes. Why is he demanding it to be laid on the Table? He will get the report tomorrow.

SHRI BHUPESH GUPTA: The whole thing, the idea is to get the whole thing.

SHRI GULZARILAL NANDA: He may refer to some law books. Just for his enlightenment I am quoting.

SHRI BHUPESH GUPTA: It is quite clear from what he said that he is not reading from his brief.

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA): That is his notes of his speech. He is reading from a document which has been specially prepared . . .

SHRI GULZARILAL NANDA: It is no document . . .

SHRI BHUPESH GUPTA: Is it a horoscope?

SHRI GULZARILAL NANDA: It is a brief note on some legal matter which arise in this connection and it is my own note.

SHRI BHUPESH GUPTA: That is what we want.

SHRI GULZARILAL NANDA: I get help just as he gets help. The point here is that whatever has been provided there is not all sufficient for the purpose of deterring the kind of mischief that has been visualised in relation to preventive detention. Similarly about the I.P.C. also, here the question is that the preparation is the crucial part of it and you cannot deal with the preparation under I.P.C. It is at that stage that something has to be done and the I.P.C. does not help there at all. The idea is to remove from the scene people who are going to disturb public tranquillity for a temporary period.

The next question that I would have to deal with is, since you think that because there are spies, because there are goondas, because there are people who harbour dacoits and have recourse to violent dacoities, does it mean, therefore, that this Act must be permanently on the Statute Book? This has been asked before. Some people have answered it in these terms—'It may be'. I do not. This is not my answer because I made it very clear elsewhere also. I have in mind—there may be an individual who may be a trouble-maker, who may be a mischief-monger, a dacoit here or there—even not that but the question is because of certain circumstances,

[Shri Gulmrlal Nanda.] the scale of this mischief is such, its intensity is such that it creates a problem of a magnitude which for the law and order machiney becomes very difficult, almost impossible to cope with. Therefore, that is one aspect.

The other aspect is that while it may be possible for the police under all the powers that we have got to deal with them, the background again makes for additional difficulties because if the authorities have also to cope with other disturbances arising from other sources, that is, various kinds of agitations which create a threat of violence, then it strains the strength and the capacity of the machinery to such an extent that it is not possible to do all this or that or both. Therefore, it is a question not at all of asking—no plea at all—that this legislation must for all times be there. I think, as I have already made it very clear this should go as soon as possible. How can it happen? That is the question. My reply has been earlier also that if people . . .

SHRI BHUPESH GUPTA: It looks as if this legislation will co-exist with the Congress Government. That is our experience. The Communists never arrested anybody under this. (Interruptions.)

SHRI GULZARILAL NANDA: I hope the Congress Government will be there while he is there but if we may assume?—God forbid—for a fraction of a moment that it is not there, then it will not be preventive detention at all, it will be total detention. Everybody who is opposed . . .

SHRI BHUPESH GUPTA: We shall invite you to join the Communists . . .

SHRI GULZARILAL NANDA There will be hundred per cent, darkness, all liberty will be wiped out. Whole democracy v?nishes, nothing is left, I cannot just speak. He is able to speak and he ^{can} speak outside and inside. He can write and newspapers write

against the Government and assail if many times wrongly and many times the criticisms are entirely unjustified and yet it is allowed. Will it be allowed when he has his way?

SHRI BHUPESH GUPTA: We had our Government under your Constitution. We never . . .

SHRI ABID ALI: We will throw you out . . . (Interruptions.)

SHRI BHUPESH GUPTA: Do not get provoked by my remarks ----- (In interruptions.)

SHRI GULZARULAL NANDA: Let this be realised. This democracy has to be stabilised and all those who now come up against this little expression of our anxiety to preserve freedom, can help in seeing to it that even this measure, this preventive detention, affects a very small percentage—even that I wish were not so—but the only thing is they should realise that they have a part in it, they have a duty that all activities have to be conducted in a peaceful manner and if there are demands or grievances, there are channels for redress. Peaceful channel is there. If all what I said, to which the hon. Member referred, in the other House, is fully understood and realised, the situation will change in this country but, Sir, I am familiar in other spheres with what is said and what is done and therefore simply because something is now offered, it is no assurance at all, no guarantee at all that things will be done hi that way, that this objective can be achieved through that. So, this question of whether it is going to be permanent because there are some evil doers and therefore always there has to be a statute of this kind here, the idea is not that. I hope that in the years—and positively I cannot say whether it will be achieved in a few months' time but a number of measures are being taken simultaneously —and with whatever, I believe, the undertaking that has been given in the Lok Sabha—and I believe he is reiterating that—if it is implemented fully in the correct proper spirit, thw»

I think conditions will soon be created that it may not be necessary to use it, it may not be necessary that this law may run its full course. It may not be necessary for this law to run its full course. It may end earlier, I hope. But just as it is the responsibility of the Government to do certain things, it is the responsibility of others also to co-operate in this very great task of which I have given a brief indication.

I will now take a few minutes referring to the situation which justifies and which necessitates our approaching Parliament for the further continuance of this law. I have got some figures before me. I gave some figures for the earlier period and I have now got the figures for the period 1st October, 1960 to 30th September, 1963. For communal activities there were 24 cases, for harbouring dacoits 43, for preaching violence 44, for goondaism, the number is fairly large, 518, for espionage 3, for Naga hostile activities 12, for exhorting people not to contribute to the National Defence Fund 2, in connection with the Defence of India etc. 28, in connection with the maintenance of supplies and services essential to the community 10. Now, I will ask the hon. Member who among these categories are such that we should have softness or for whom he has got sufficient spare sympathy to expend.

SHRI G. MURAHARI: Is there anyone among them who was inciting violence?

SHRI GULZARILAL NANDA: Another question may arise in this connection and I may briefly indicate now the working of this legislation. Maybe if I am called upon, or if it is questioned here, and it is said that the various safeguards which are provided in this Act have not been fully observed, have not been properly carried out, then I may have to give more detailed information. But at this stage, I confine myself with these observations, that those safeguards have proved fairly effective, that they have been made use of, they have been

availed of. The grounds are being given and the reserve power, to keep back in certain cases the grounds which compel the authorities to detain a person, that power has been exercised on very rare occasions, only in about half a dozen cases, I believe, in the whole of this period. Those grounds have to be given at least to the Advisory Board and the detenus have got the permission and the right to make their written representation and for that purpose secure the help of legal practitioners also, and the detenus can appear, they are entitled to appear before the Advisory Board.

SHRI P. N. SAPRU: Can the legal practitioner appear before the Advisory Board?

SHRI GULZARILAL NANDA: As for legal practitioners appearing before the Advisory Board, that had been fully explained, I think, by Dr. Katju, as to what the distinction is. So far as the Chairman of the Board is concerned, he is a person of the rank of High Court Judge or a retired High Court Judge, and the members are also, in many cases, retired Judges and only in some cases has the law permitted persons who are eligible to be High Court Judges, to be appointed. And these Advisory Boards have functioned fairly effectively. They have, on seeing the representations, on listening to the detenus, ordered the release of a number of persons. And the courts also have done that in certain cases, so that the whole system has functioned with a view to extending to the detenus these safeguards and to ensure that these safeguards are being utilised effectively. The figures also show that over a period of years the number has gone down considerably. It may not be from year to year, but the trend is somewhat in that direction. But the position is that still the need is there and the conditions are not such that we can afford to dispense with the powers that we can obtain under this Act. There is the further fact that whatever powers the Government has been

[Shri Gulzarilal Nanda.] invested with, have been exercised in a manner that there can be no complaint either of abuse or of misuse. The purposes for which this legislation was made are kept in mind and every effort has been made to see that those purposes are served properly and in a legitimate way.

Sir, I move.

The question was proposed.

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA) : I have got here a long list of speakers before me and if the House agrees, we may sit through the lunch hour.

SHRI MULKA GOVIND A REDDY: Sir, instead of doing that, I suggest that we may have a lunch break from 1 o'clock to 2 o'clock and, if necessary, we may sit late in the evening.

SHRI ABID ALI: We sit through the lunch hour and also sit late.

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA): Mr. Bhupesh Gupta.

1 P.M.

SHRI BHUPESH GUPTA; Mr. Vice-Chairman, Sir, once again in eleven years in this House I rise to speak on this hated measure sought to be justified by the hon. Minister with a combination of sermons and legal casuistry. I came to this House right from the Dum Dum Central jail where I was detained in 1952 when I was elected, and I thought that during my time in this House it would be possible for us to erase from our Statute Book this black and diabolic law. But somehow or other the Congress Government, though led by such an eminent man as Pandit Jawaharlal Nehru, have not picked up moral courage to rule the country without being buttressed by the Preventive Detention Act. Before he took over as the Prime Minister of the country, when he was struggling for national independence, Pandit Jawaharlal Nehru said once that a Government that had to rely on

such arbitrary powers had no right to rule at all. The irony of history is this that he is heading the very Government, this very Pandit Jawaharlal Nehru is heading a Government in this country for so many years, which cannot think of ruling the country without having an arbitrary law such as the Preventive Detention Act. I am sorry for Pandit Jawaharlal Nehru; partly I am sorry for Mr. Gulzarilal Nanda for whom I have got considerable personal regard.

Now, what have we been told here in support of its extension? We have been told that the situation demands an extension and this is repeat performance. Every time when the Government comes forward with this, they make such a statement in support of this measure. There is nothing new in it except that the Home Minister himself who is making the statement is new. Many Home Ministers have come and gone but the Preventive Detention Act never shows any sign of going at all.

I should deal with the origin of this Act so that you will see how it was passed. In 1950 one February Saturday the then Home Minister of the country, Sardar Vallabhbhai Patel, asked in the Provisional Parliament for the enactment of the Preventive Detention Act saying that unless that Act was passed 350 detenus in the Bengal jails would be ordered to be released by the Calcutta High Court on Monday next. That is what he said in his speech. He said that he spent two sleepless nights before he could come up to ask for a legislation of this kind. He said:

"I assure the House that I have passed two sleepless nights when I was asked to take up this measure."

Sardar Vallabhbhai Patel was a man of iron, we are told and even he had to pass two sleepless nights before he could approach Parliament for a legislation of this kind. I would like to know what happened to our Home Minister last night. Did he sleep well

or did he pass a sleepless night? Did he have sweet dreams or did the nightmare of this diabolic measure haunt him? I should like to know this from him when he replies to this debate. Today it has become a habit with them.

Sardar Vallabhbhai Patel was at that time naturally pricked in his conscience by the traditions of the Indian freedom movement and that is why he had to say that he could not sleep for two nights before he conceived such a measure but we have our Home Ministers now, one after another coming in a cyclical order to tell us that this measure is needed and they take it very easy. That only shows the debasement of the Congress Government, their departure from the high ideals which at one time they held dear and upheld before the country. We regret that such a thing should have happened to so great a party as the Congress Party of the days of the freedom fight.

[THE VICE-CHAIRMAN (SHRI AKBAR ALI KHAN) in the Chair.]

Then Sardar Patel says further:

"When this legislation is brought in, it is done with a heavy heart. It is not one which would delight us. It is not a pleasant task to bring a Bill of this kind in this House immediately after a Republican Constitution has been adopted."

Now, when . . .

SHRI K. SANTHANAM (Madras): Please quote further. Why was he bringing it?

SHRI BHUPESH GUPTA: This was how he felt at that time when this measure was passed. But then we have travelled far away from those days. It was in 1950 and we are now in the midst of, rather towards the end of 1963. In thirteen years the Congress Government has not developed that moral and mental courage

to come and tell the House that they no longer need this hated measure which at one time from the very platform of the Congress Party was denounced by Mahatma Gandhi, by Motilal Nehru and by Pandit Jawaharlal Nehru. It is pointless to put up a statue of Motilal Nehru in the premises of Parliament and then defy all the fine traditions in which he sought to function in this very building as Leader of the Congress Party in the Central Legislature. Shame on the Congress Party on account of that.

I say that because you are insulting the finest traditions created by the best of our national leaders at that time, when you pass this measure, arrest people without trial, detain them and seek to perpetuate it for eternity. I know that many Congressmen individually feel sorry for it but they cannot get rid of it because the bureaucrats, the police and others, whom they are protecting day after day, are in need of such an overall power so that they can play fast and loose with the fundamental rights and liberties of the people, cover up their ineptitude and inefficiency and carry on in the old British way. No wonder, Mr. Vice-Chairman, that the Congress Party had circulated only recently a background note for its Members in which they pointed out that under the British there were such Acts, the Rowlatt Act, the Defence of India Act and so on and therefore such thing should be there. The Congress Members are being taught by the Congress Party leadership, not in the traditions of the national liberation movement, but in the traditions, the ugly foul traditions, of the British rule. I would tell them that even under the British rule there was no permanent Preventive Detention Act. The Defence of India Act which came into force in 1914 expired in 1919. Then in Bengal only for a short while they passed the Bengal Criminal Law Amendment Act in 1924 which expired by 1928. Then in 1930 after the Chittagong Armoury Raid on the 18th April they promulgated the Bengal

[Shri Bhupesh Gupta.] Ordinance. It continued, for several years and then it also expired. Then in 1939 they brought in the Defence of India Act in the context of the war. Therefore, they were not telling the truth to their party Members when they wanted to make out that the British were having permanently a preventive detention law" on the Statute Book. What the British dared not do, some of them are doing now.

SHRI SUDHIR GHOSH (West Bengal): The hon. Member forgets that the threat of Chinese invasion still hangs on our head like a Damo'sles Sword.

SHRI BHUPESH GUPTA: That is Defence of India Act. Please, Mr. Sudhir Ghosh, do not interrupt. We are now concerned with the Preventive Detention Act. Sir, tell me in which part of the British Indian history the British Government had a preventive detention law on the Statute Book for a continuous period of 14 years. Anyhow, if you take this Preventive Detention Act alone it has already been there for 13 years. Tell me since the days of the Sepoy Mutiny as they call it—we call it the first national struggle for liberation— when did the British have for a continuous period of 13 years a preventive detention legislation of this kind or of any kind? I should like to know that. Therefore, they are out-doing even the British in this particular matter. I should like to tell the House that they are going one better than even what the British did. Therefore, the origin of this law is this. As I pointed out earlier, it was passed first to frustrate the decision of the Calcutta High Court, as was said by Sardar Patel himself; otherwise the High Court would have released 350 detenues arrested under the Bengal Security Act. Now, that is how this measure was born in sin, born in malice, born in hatred, born in negation of democracy and fundamental rights of the people, in violation of the principles of rule of law and liberty in so far as it was aimed at

frustrating and forestalling the decision of the Calcutta High Court. Such is the history of this great measure for the extension of which the hon. Minister has just spoken. Sir, we should be ashamed. I am sorry that Mr. Gulzarilal Nanda should have come to do it. It does not please me at all that I should live to see here Mr. Gulzarilal Nanda, a labour leader at one time known for his liberal views coming and standing before this House and justifying the continuance of this measure, this Preventive Detention Act.

THE VICE-CHAIRMAN (SHRI AKBAR ALI KHAN): He has already expressed his sorrow and grief.

SHRI BHUPESH GUPTA: Yes; I share that grief. I am even more sorry for him than he is for himself. Sir, was it necessary for the Government? It was not at all necessary. Now, we are discussing the Preventive Detention Act in a very interesting context. We have now an emergency for which there is really no need. The country's conditions have changed. We are in a state of emergency. And here, Mr. Fakhruddin Ali Ahmed, the Finance Minister of Assam, in a statement he made in Patna on November 12th said—he told PTI—that the situation in the frontier State of Assam was quite normal now, following last year's Chinese invasion. That is what he said. The "Statesman" dated 25th October in a special article points out that there is really no need for the continuance of the emergency. Then, the "Times of India" writes editorially on 7th December that except for keeping some people in jail without trial, there is no need for the emergency.

THE VICE-CHAIRMAN (SHRI AKBAR ALI KHAN): We are dealing with the Preventive Detention Act and not the emergency.

SHRI BHUPESH GUPTA: I am dealing with that. Therefore, the situation has changed even from the point of view of the emergency. The "Indian

Express" and said, Mr. Setalvad and others meeting in Bangalore have decided that there is no need for \ emergency. Today we find that the emergency continues, suspending the Fundamental Rights of the Constitution. Then, we have got the Defence of India Rules which authorise the Government to detain people, under which, according to his statement in the other House, they arrested 1,269 persons. Now, there are 382 persons who are in jail under the Defence of India Act. Then, we have got in the States various Security Acts under which special powers are given to the State Governments. Here we have got now again the Preventive Detention Act which gives power to the Centre and to all the States. Is this the way of democracy? Is that how we prove to the world that we are the largest democracy in the world? The largest democracy in the world, which you claim to be, is manacled from all sides, by the Preventive Detention Act, by the emergency powers, by the Defence of India Rules, by the security Acts. This is what is happening today. Therefore, let us not obscure this ugly picture of the situation when we deal with the Preventive Detention Act.

Now, let us deal with the situation a little. You will remember in this very House when the matter was discussed some eleven years ago, it was made out by the then Home Minister that so many people had to be arrested. The number given was 10,000 odd in 1950. We were told that when it became not necessary to arrest such a large number of persons, they would think of doing away with the Preventive Detention Act. In their latest report, which has been circulated to us, in which a rebel Congressman is described as a goonda—I do not describe it, it is from the legal decision—there are over 284 persons in detention. They were arrested between September 1962 and September, 1963. All of them again, as he has pointed

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out, goondas. Naturally West Bengal leads in this matter with an overwhelming majority. That is the position. Very few political workers are here as far as the Preventive Detention Act is concerned. Now, if we are to believe in the argument that was given that when it would not be necessary to arrest people under the Preventive Detention Act, you would take away this measure, is not there some difference between 10,000 and 284? And all the 10,000 of them were political workers, as the Home Minister at that time said. Now, here political workers are not even a dozen and even so they will not think that the situation has come to the standards laid down eleven years ago, to take away this measure and to do without it. You cannot blow hot and cold. When it was 10,000, you said, let the number be less and then we shall consider eliminating this measure. When it has come down to less than 200 or so, and political workers much less than a dozen or so, you say that to meet the situation you want to have the law. Therefore, I say that there is no consistency and logic in the approach of the Government at all except that somehow or other they want to keep the Preventive Detention Act on the Statute Book. This is the only conclusion to which we have arrived at. Heads we win, tails you lose. That is the logic of the Government. If there are more people under detention belonging to the Communist Party, that would be used as a justification for continuing it. If there are half a dozen persons belonging to political parties under detention, that too would be utilised as a justification for continuing the Preventive Detention Act. I should like to know whether the Government thinks that the intelligence of our public is at such a discount that whatever they say can pass in this manner. They should not draw upon the credulity of the supporters of the Congress Party in this manner. Therefore, I say that if ever was a time for the elimination of this measure, here it is.

[Shri Bhupesh Gupta.] today and the Government is not doing it but wants it for another three years.

And they talk about political parties, as if political parties are responsible for dacoities in Madhya Pradesh, for goondaism, for smuggling of ganja and other things. All this may have been there. We are told that somebody in the Congress Party landed himself in trouble that way. Political parties are functioning in this very House for eleven years. Is it not proof positive that all responsible political parties in the country stand for the working of our democratic institutions in a peaceful and democratic manner? Have we not in our party constitution and others also in their party rules and constitutions stated that we stand for peaceful methods for the transformation of the society or for changing the Government they would seek peaceful ways? Then, why try to make out as if some political parties have some plans for violence and other things and, therefore, you need such a preventive detention law? We are here for eleven years'. Where have I gone to indulge in violence? Nothing of the kind. Sometimes violence takes place, but it takes place outside the control of the political parties. Violence takes place in so many shapes, communal riots and all that. We all deplore such happenings. Every party deplores such things. Then, why talk about violence on the part of political parties and make out as if the Congress Party is Caesar's wife and Opposition Parties here are all promoters of violence? Nothing could be a greater falsehood, a greater untruth than such statement as is sought to be made out by the Congress or the Treasury Benches. Unfortunately today the Congress Party lacks that courage. If I were in that place with such a great majority, as they enjoy today, we should have been ruling this country without the Preventive Detention Act. The Congress Party is much bigger than some of them perhaps think. They have today

75 per cent of the seats in their control, controlling all the State Legislatures in the country except perhaps one. Yet you are not in a position to run the country democratically without the Preventive Detention Act, I should like to know when you will be in a position to do so.

AN HON. MEMBER: Never.

SHRI BHUPESH GUPTA: Therefore, let us not try to mislead the people by saying that they need it either for the sake of running the administration or for any other reason. Yes, violent incidents take place. Murder takes place, but there are laws to deal with them. There is the police force to prevent crime. There is the police force for detection of crime. If the police force is not in a position to discharge its responsibilities in the matter of detection and prevention of crime, the answer to that is not the Preventive Detention Act, which every Congressman deplores in point of principle. The answer to that is the improvement of the police force, your detective apparatus and so on. Look at the United States of America. In Chicago in the last 23 years there were perhaps more than a thousand murders. Every day murder takes place in the United States of America, the country which my friend, Mr. Sudhir Ghosh, very much likes.

SHRI SUDHIR GHOSH: Yes.

SHRI BHUPESH GUPTA: Yes, get up. It enchants you.

SHRI SUDHIR GHOSH: May I ask one simple question? Is he arguing that we do not need both the Preventive Detention Act and the Defence of India Act? We can do with one and members arrested can be kept under detention under the Defence of India Act. Is that his argument?

SHRI BHUPESH GUPTA: I am coming to that. All that I say is that you like America,

SHRI SUDHIR GHOSH: I like America, I like Russia and I like you.

SHRI BHUPESH GUPTA: That is the one thing that you like and Russia perhaps another. I am not concerned that way. In the U. S. A. about which democracy they talk so much, only the other day the President has been murdered. Do they talk about Preventive Detention Act? Every day we see in the papers that the life of Mr. Johnson is being threatened. Do they talk about having a Preventive Detention Act? Now, they do not, because even if the Bill of Rights has been modified in the U. S. A. by various other Acts, still the American tradition has not gone out of the influence of Abraham Lincoln and Jefferson. That is why despite the fact that crimes are committed there and despite the fact that even a President is murdered, Mr. Kennedy, they do not talk about Preventive Detention Act. Why? Because there are certain fundamental principles which have to be cherished. If a President is murdered their answer is not the Preventive Detention Act. Their answer is, strengthen the F. B. I., strengthen the Police Department, strengthen the Detective Department, so that, firstly, the guilty are punished and, secondly, the crimes are detected before they are committed. Come to England. Is there any Preventive Detention Act in England? Am I to believe that there is no murder in England, no violence in England? Very many things take place in England also. But ever since 1670 when they passed the Habeas Corpus Act they did not dream of, they did not think of having any such preventive detention measure in peace-time. Only in war-time they had it. I shall come to that later. Therefore, this is England. Come to France. In France very many violent acts take place, strikes take place and so on. But even the Fifth Republic of France, let alone the earlier Republics, never thought of having a Preventive Detention Act on the Statute Book. Go to Italy where

strikes take place, violence takes place. Even in the Italian Parliament shots were fired and the leader of the Communist Party in the Italian Parliament, Signor Togliatti, was shot in Parliament itself and seriously injured. Even so neither the Communist Party nor anybody there demanded that there should be a Preventive Detention Act or similar Act. Go to Japan where a Prime Minister was killed, a leader of the Socialist Party was killed, and so on. Do you have the Preventive Detention Act there? No. They do not have. That is not the way of modern democracy. That is not the way of parliamentary democracy. This is something which has been given up long ago and other steps are taken to deal with the situation. In our country too we have got the Indian Penal Code which is the written law and which is comprehensive. We have got the Criminal Procedure Code (containing such provisions as sections 107, 108, 144, 151 and so on. We have got various other laws also with which we can deal with situations as they arise because of certain lawlessness and violent activities. No, they are not satisfied with that. They must have this Preventive Detention Act. It is an Act for terrorisation as far as the political parties are concerned. Do not tell us that you are not arresting the political workers.

Mr. S. A. Dange, leader of the Communist Party, and President of the Samyukta Maharashtra Samiti, was put in detention under the Preventive Detention Act, together with many of his colleagues. The Opposition leader, Dr. Lohia, and the late Dr. Shyama Prasad Mookerjee had all served their term under the Preventive Detention Act. This is how things are done. They have sought to use it against the top-most leaders of important political parties in the country. Yet he wants to make out before this House that the Preventive Detention Act is only meant for the goondas and so on. Am I to understand, when you

[Shri Bhupesh Gupta.] have arrested Comrade Dange, that he was indulging in violence or doing something which would attract this Act? No. Comrade Dange was fighting for the break-up of the bilingual Bombay State, and he did win. Bilingual Bombay State has gone and a linguistic State has come in its place. For that he was put under arrest, and under this very Preventive Detention Act. In Bengal Opposition leaders have been detained under the Preventive Detention Act, trade union leaders have been detained under the Preventive Detention Act.

Mr. Vice-Chairman, I may inform the House that when we were in Government in Kerala between 1957 and 1969, the question arose as to whether the Preventive Detention Act should be used to deal with any agitation which was patently violent and aggressive. We thought over it at the ministerial level in Kerala and at the central level and decided never to use the Preventive Detention Act. It would be better to get out of office rather than having the shameful and inglorious thing done by us. Now, you put people in detention without trial. I know they are in that place. The Vice-President expressed satisfaction that we had not done such a thing. Well, this is the standard that we laid down, and yet in Kerala the moment you get a chance you put our people in jail without trial. In Bengal, everywhere you have done that.

Mr. Vice-Chairman, I reject the suggestion that the Preventive Detention Act is needed in order to deal with the situation that may arise. The situation is comparatively far better than it was some ten years ago. Our institutions are settling down; You saw how we led the march before Parliament. Was it a violent thing or was it peaceful? And this is how the political parties are functioning. If dacoits are there, deal with them. But how are they dealing with them? Those who are custodians of the law sell guns to the dacoits. When they are arrested, the guns in their

possession are found to be police guns and ammunition, and this is stated by the Home Ministers of Rajasthan and Madhya Pradesh. The other day also it has been stated that the police force sell weapons and cartridges to the Madhya Pradesh dacoits. Well, you cannot control this kind of crime, and it is no use coming here and telling us: "Give us the Preventive Detention Act". Goondaism is indulged in. We have got ample powers in Calcutta, which according to this report has furnished you so many goondas to be treated by you as State guests. In Calcutta we have got the Goonda Act. Why is it not being effectively used in order to deal with the goonda menace? Sir Charles Teggart, not under a free Government but as a part of the alien Government, dealt an effective blow to the goondas under the Goonda Act. What the British Police Commissioner could do, taking advantage of the Goonda Act, to teach a good lesson to the goondas our Ministers cannot do. Am I to believe that they are not competent people that way? They are competent, but they build up an inefficient administration. Mr. Vice-Chairman, when we see our brave goondas becoming at the time of election Congress propagandists, we feel that the goonda menace can neither be dealt with under the Goonda Act nor under the Preventive Detention Act. This is the position.

Come to Calcutta during the 1967 general election, and I shall show you how many goondas become Congress canvassers. We published a picture of the lawless goondas of Calcutta in the papers in the role of canvassers. I should like to know whether the remedy lies in this kind of measure or in purification of our political life in the country. Therefore, Mr. Vice-Chairman, let us not talk about the Goonda Act here. We want the goondas to be dealt with. We want the dacoits to be dealt with. Certainly there is a law for it, but they are not applying this law. Now what are they doing? A very interesting thing

you will find in this report is that there are very few politicals under detention, but they have arrested the politicals under the Defence of India Rules.

THE VICE-CHAIRMAN (SHRI AKBAR ALI KHAN): We are not concerned with that now.

SHRI BHUPESH GUPTA: This is how they are working. How are the other countries using the preventive detention law? I am now concerned with a particular law, the preventive detention law. In this country you arrest 900 Communists including Members of Parliament. Even today a Member of this House is under detention, and two Members of the other House are under detention, belonging to our Party. And there are others also. As far as the two Members of the other House are concerned . . . • (*Interruptions*) Please do not interrupt.

I wrote a letter to the British High Commission to find out from them how they administered the Defence of the Realm Act, their preventive law. A reply came from the Head of the Reference Section of the British Information Services. I would read out this thing: —

'Dear Mr. Gupta,

Please refer to your enquiry of the 31st January requesting information regarding the number of British subjects detained in Britain without trial during the Second World War.

We have made some enquiries and have managed to collect the facts below. Regulation 18B was the relevant section in the Defence of the Realm Acts ____"

Then, this is what they say—

"While Regulation 18B was in force, the Home Secretary was required to report monthly to Parliament the number detained, released and retained in detention. These reports were printed and available to the public.

The published figures show that 1,847 people (including a handful

of non-British) were detained for periods varying from a few days to several years. The maximum number detained at any one time was very much less than this,

Although there was no trial in open court, each case was considered by an independent Advisory Committee when representations on behalf of the detainee were made. The Advisory Committee, after hearing all that was put forward, made recommendations to the Home Secretary who had to tell Parliament how many such recommendations he rejected each month. In this way Parliament exercised a restraining influence upon the executive Departments."

"I hope that this is approximately the sort of information you want. My apologies— that it has taken rather a long time to accumulate.

Yours sincerely,

(Sd) Miss B. M. Rowe,

Head of the Reference Section."

That is how they utilised, in war-time, the powers of their Preventive Detention Act, which cannot be conceived of in peacetime. They had talked about the Advisory Board even in wartime, they had said how many were detained under the preventive law and in the entire period of war of seven years, they arrested only 1,847 people. But here in India today, according to his own statement, nearly 1,500 people were arrested in no time and that too after the cease-fire, when the so-called war had ended on the frontiers. The comparison is there. This is the comparison. I am not asking you to emulate everything that is English, but certainly some of the things should be taken note of because you say that you go by the practices that obtain in England.

SHRI ABID ALI: What is happening in Russia? What is happening in Russia and China?

SHRI BHUPESH GUPTA: Well, do not go into that question.

SHRI ABID ALI: Why not?

SHRI BHUPESH GUPTA: They have also arrested people whenever suspicion is there. And I am saying that there was the Fascist Party of Oswald Mosley who spoke for Hitler. There is no such party in India which speaks against the Government of India on the border question. We are committed to the defence of our mother-land in the same way as anybody is. Is there a party, is there a paper, doing so? Not at all. But in England—it is a fact—Mosley was running the Fascist Party. I was at that time in England when he was saying that Hitler should be supported. Very few people were arrested. But here this Government has arrested so many people, well, in no matter of time and after the cease-fire and today they are getting even Members of Parliament and the State Legislature arrested; any person they arrest. I have criticised the West Bengal Government here but I must say that though belated, they have started releasing them. Now there are 28 people in jail. All others have been released. I thank Shri Prafulla Sen for this. We are not small men and I hope that others too would soon be released, as also "the detenus in other States. In Maharashtra, Tripura, Assam, UP., MP. and Bihar, there are nearly 140 people belonging to our party, let alone others. They should be released. This is what I would like to see. They are using this Act to arrest them. Now, if these people had been arrested under the Preventive Detention Act, they would have been released, all of them, firstly because the Preventive Detention Act prohibits detention for a period of more than one year, and most of them have spent more than one year in prison. That is why instead of arresting them under the Preventive Detention Act, they were arrested under the Defence of India Rules. If they had been arrested under the Preventive Deten-

tion Act, the safeguards under article 22 of the Constitution would have been available to us and we would have gone before the Advisory Board and proved the hollowness of your malicious and false charges against them. Therefore, in order to deprive the citizens of these safeguards provided under the Preventive Detention Act,—that is to say, representation and appearance before the said Advisory Board—they put them under the Defence of India Rules which negate all these Constitutional safeguards. Am I not to conclude from this that the Government is not guiding itself in good faith in this matter? Am I not to conclude from this that they are guided by political prejudices, if not political vendetta? And I say that in some places, they are guided by political vendetta. I pointed out to you that in Bihar, in Bhagalpur, some people were arrested on a warrant under the Preventive Detention Act, which the Magistrate said was a forged warrant. We have heard in our country of forgeries of many kinds but we have never heard of a forged warrant. Yet, such things happen. People were arrested on forged warrants which the Magistrate very well denounced and ordered an enquiry into the matter.

Therefore, I do not wish to say anything more. All that I can say once again today, as I speak on the subject, is that if ever there was a time when you could do without the Preventive Detention Act -and such laws, here is the time today, and it is unfortunate that the Home Minister has not taken courage in both hands in order to do away with this thing. There is no time; it is useless to make appeals. You know the position of the country more than we do. Therefore, as far as this is concerned well, it is a strange thing. Can you cite one single country in the world which has two sets of preventive detention laws such as we have, namely, the Defence of India Rules and the Preventive Detention Act? I do not know of any Government in the world which runs simultaneously **two**

sets of detention laws. Those who have, they have one, and very few have it. But here the Government has two detention laws. Therefore, from every angle, this law has to be criticised, and the entire Opposition, between them representing the majority of the voters in this country, has demanded the abrogation of the law, and yet the Government wants to continue this law because it thinks that it must be there in their hands to intimidate its political opponents, terrorise them, and democracy . . .

SHRI GULZARILAL NANDA: Where is the majority that the hon. Member claims that have voted for the repeal of this legislation? Where?

SHRI BHUPESH GUPTA: I think the Home Minister would understand it; the statistics of the Election Commission will tell him that 47 per cent of the voters voted for the Congress Party and 53 per cent, rejected the Congress Party at the ballot box and voted for other parties. If they had been united, if they had been in one single party, Shri Nanda would have been sitting here and somebody else would have been sitting there. I assure you that in that case you may not be in danger of being kept under detention.

SHRI GULZARILAL NANDA: Have you counted all the Independents and everybody on your side?

SHRI BHUPESH GUPTA: I have not. How can I? I am saying this thing and I hope that you will consider it. This was one of the issues in the election. You went for the mandate of the people, asked everybody to vote for you. But only 47 per cent, voted for you but the 53 per cent said, that they would not vote for the Congress. Then they got divided and they voted for other parties. Certainly the majority is represented on this side. It is true that it is a disunited majority but nevertheless it is a majority; the majority of the voters was against such measures *me* the Preventive Detention Act. If we

had proportional representation the picture would have been different in Parliament.

Therefore, Mr. Vice-Chairman I would ask the Home Minister to heed popular public opinion in this matter and do everything in his power to take away this law. As far we are concerned, for eleven years we have fought this shameful and arbitrary law, which is morally repugnant, politically oppressive and ethically intolerable. It is a criminal law; it is a crime against the times to have such a law on the Statute Book. I ask the Government of India to pick up courage even at this late hour and withdraw this shameful Bill. They will be doing good to the country and the people by taking away this measure. They will be adding to the prestige of the country and creating a better climate for the shaping of our democracy, of our parliamentary institutions and public life.

THE VICE-CHAIRMAN (SHRI AKBAR ALI KHAN): Mr. Santhanam.

SHRI SUDHIR GHOSH: Would it be unfair to say . . .

THE VICE-CHAIRMAN (SHRI AKBAR ALI KHAN): Would you like to speak? If so, you may refer to what you want to say now when you speak later. I have called Mr. Santhanam.

SHRI K. SANTHANAM: Mr. Vice-Chairman, I rise to support the motion moved by the Home Minister. I am sorry that my friend, Mr. Bhupesh Gupta, had so exhausted himself that he could not stay on. I shall not follow him with eloquent and wholly irrelevant adjectives. I shall confine myself to a purely rational examination of the entire issue.

It is common ground that generally and ordinarily the liberties of individuals should not be restricted or infringed except through judicial processes; that is accepted. But the real issue is: Are there special circum-

[Shri K. Santhanam..]

tances in this country, or are there marginal cases where prosecution and punishment is not adequate to safe guard the liberties of the people, where, if things are not prevented, a situation will develop in which no prosecution and punishment can protect the liberties of the people? That is the sole issue. This question came up for exhaustive discussion in the Constituent Assembly where I had the privilege to participate. There, the article dealing with preventive detention was not proposed by Sardar Vallabhbhai Patel or by Pandit Jawaharlal Nehru, but by Dr. Ambedkar and by Sir Alladi Krishnaswami Iyer—all of them tried lawyers—not in particular sympathy with the Congress. Therefore, the Constituent Assembly decided that in the infant stages of Indian democracy we should not depend wholly on prosecution and punishment, that we should see that things are prevented before they develop. Therefore, they put the article in the Constitution and left it to Parliament to legislate according to the needs of the country -----

Mr. Vice-Chairman, I need not say, I need not explain why it was necessary to enact the Preventive Detention Bill in 1950. There were widespread communal riots, people were being killed on the open streets; from the second floor of the "Hindustan Times" I saw a boy of fifteen years stabbing on the road in Con-naught Circus a Muslim—and in those circumstances, when the whole city was rioting, the Government could not wait and see who kills whom and then put its police people at work. Things had to be prevented.

My friend, Mr. Bhiroesh Gupta, has argued that it might have been justified then; we have passed thirteen years since then; is it now necessary to continue this Act

SHRI BHUPESH GUPTA: I never said it might have been justified then.

On that ground you justify it, what you are saying.

SHRI K. SANTHANAM: You did not justify it then,

SHRI BHUPESH GUPTA: It was never justified by me; the other side justified it.

SHRI K. SANTHANAM: Then I would only recall to the memory of my friend the situation that existed in Telangana. You, Mr. Vice-Chairman, know it more than any of us. Was there any safety of life or property, or anything whatsoever, in Telangana? There was sheer terrorism, and that terrorism had to be suppressed. Could it have been suppressed, could the rights of the ordinary people—not of politicians—the peasants, workers have been secured without these exceptional powers? Then again there was an agrarian movement in my own district of Tanjore in Madras. There, at the instance of the members belonging to our friend's party, the agricultural labourers and the smaller peasants were called upon to murder all the landholders. And many murders did take place, when Mr. Pra-kasam had to come down with a heavy hand and restore order. Therefore, this measure was necessary.

And again, let me take the last point which he made: Should there be two detention laws? If these two laws are going to stay for the same period, then of course there is a lot of substance in what Mr. Bhupesh Gupta has said. But it is our claim, our hope as well as the hope of Mr. Bhupesh Gupta, that the Defence of India Act may come to an end and that emergency may be declared to have ended. Then we cannot be left without a resource for dealing with these extraordinary dangers to fundamental liberties. The hon. the Home Minister has referred to goon-daim, to the goondas, to deal with whom the Detention Act has been used to the largest extent, and he

has well explained that there is a fundamental difficulty in prosecuting these goondas. They tamper with witnesses; they terrorise them; and without witnesses I do not suppose my friend wants the courts to put them down.

SHRI BHUPESH GUPTA: There are the provisions of sections 107 and 108 under which they can be bound over; if they do not get bound over, they go to jail.

SHRI K. SANTHANAM: They will be bound over and go to the next iState and commit the crime, and so, by the time they commit crime all over India ____ (Interruptions)

THE VICE-CHAIRMAN (SHRI AKBAR ALI KHAN): Please do not interrupt, Mr. Bhupesh Gupta; you have had your say, and let him go on now.

SHRI BHUPESH GUPTA: He is supposed to be one of the founding fathers—very few we have got of them. Therefore I want, the children want to get things clarified from the founding fathers of the Constitution.

SHRI K. SANTHANAM: But my own point of view is that this Act is essential, not so much, for goondaism as for the existence of two move ments in this country, which consti tute a permanent and dangerous peril to our liberties. One is communism and the second is communalism. Sir, my friend pre tended to be a white-robed de mocrat. I would like to know whe ther he believes or does not be' in violent revolution. I want to know whether he believes or does not be lieve in class war.....

SHRI BHUPESH GUPTA: I will just tell you, Mr. Santhanam.

SHRI K. SANTHANAM: No.....

SHRI BHUPESH GUPTA: You ask me a question and you will not listen to my answer. We have said in our party constitution that the Com-

munist Party will seek social transformation by peaceful means and jolly well we mean it. That is why I am here.

SHRI K. SANTHANAM: Have you abandoned violence as a philosophy?

SHRI BHUPESH GUPTA: Violence you will do. We do not.

SHRI K. SANTHANAM: You have said that for the present because of emergency you will follow these methods.

SHRI BHUPESH GUPTA: We stand for bringing about social transformation through peaceful means. And that is what we are working for. You should be happy, Mr. Santhanam.

THE VICE-CHAIRMAN (SHRI AKBAR ALI KHAN): He is referring to democracy, whether you believe in democracy.

SHRI BHUPESH GUPTA: Well, we are the first Opposition in the general election. Does he say that we do not believe in democracy?

SHRI K. SANTHANAM: I shall be happy if the Communist Party of India declared that they have given up Marxist principle of violence.

SHRI BHUPESH GUPTA: You want as to give up Marxism. Do not get confused, Mr. Santhanam.

SHRI K. SANTHANAM: Did not Marx plead for violent revolution?

SHRI BHUPESH GUPTA: Marx and Engels preached transformation of the English society towards the 19th century. But if you invite me to Bhubaneswar, I will tell you.

SHRI M. P. SHUKLA (Uttar Pradesh) : Sir, are the two hon. Members discussing amongst themselves?

SHRI K. SANTHANAM: I wouli request my hon. fiend not to inter-runt me. I would like to speak according to my lights. I have read Karl Marx from the beginning. He

[Shri K. Santhanam.] has declared from the housetops that so long as the people—he called them proletariat—do not rise in violence and exterminate the non-proletariat, there would not be communism. That is what he has said. I can give him the chapter and verse from it. Then, what about class war? Does he believe or does he not believe in class war? And does he believe or does he not believe in proletariat dictatorship? So long as any party believes in these three, it is a permanent and irrevocable danger and we have to guard ourselves against them.

SHRI BHUPESH GUPTA: Is it your contention that so long as the Communist Party remains there, there must be preventive detention?

SHRI K. SANTHANAM: Exactly.

SHRI BHUPESH GUPTA: Say that. McCarthy.

SHRI SUDHIR GHOSH: If Mr. Santhanam permits me just for one moment.

SHRI K. SANTHANAM: No. I do not want any interruption.

SHRI BHUPESH GUPTA: He is a very capable man.

SHRI K. SANTHANAM: I do say that so long as the Communist Party exists it will try to take its opportunity to create Telanganas, to create confusion. And as we know, the slogan of "peaceful politics" is a pure expediency. It is willing to take every opportunity directly and indirectly, to create trouble, to indulge in violence, to set up the students, to provoke the peasants and do everything to upset peace and order in this country. For that some exceptional law will be required. If he wants formal laws, then the laws will have to be much more extensive, much more dangerous to the ordinary people than these

laws. For instance, if it is said that the police should be able to arrest people, if they fear that there will be danger to public peace, then that will be a greater danger than the law of detention.

Then there are communalists. We know what happened in Jabalpur. We know there are communalists everywhere. There are people burning the Constitution

SHRI BHUPESH GUPTA: If you will mix us with the Communalists, I can go.

SHRI K. SANTHANAM: I am not going to give any undertaking.

Then, the communalists. They are an equal danger. We do not know where the communal fanatics will start, when they will start and what they will do. And should we not be prepared for it? Otherwise on the smallest excuse there will be rioting. Of course, we may have prosecutions and we may have punishments. But it is far, far better that some steps are taken to prevent these riots, all this violence, rather than resort solely to prosecution and punishment.

THE VICE-CHAIRMAN: (SHRI AKBAR ALI KHAN) : You have got two minutes more.

SHRI K. SANTHANAM: I shall finish soon. I have got a full list of people here detained under the Preventive Detention Act as well as under the Defence of India Rules. It will be found that great care has been taken to see that only a minimum number of people are dealt with and detained only for the minimum period of time. Now, 1,262 people were arrested under the Defence of India Act. Now the people who remain there are only 382. And it is not necessary for me to say that most of them were in Assam and Bengal and the need for keeping *them* in detention was obvious. Therefore, my contention is that for the infant democracy of India, for the conditions at present as they are,

the rule of law cannot be established by more prosecution and punishments and, therefore, we should have sufficient powers of prevention for all these things.

Sir, my friend, Mr. Bhupesh Gupta, referred to the U.S.A. Probably he does not know about the existence there of the Subversive Activities Control Act which does not apply to goondas, which does not apply to murderers but which applies solely to the Communist Party. And then in Burma, in Japan, Indonesia and Malaya they have got similar laws authorising preventive detention. Therefore, our preventive detention is sanctioned by the Constitution. It is necessitated by circumstances and the existence of communism and communalism in the country makes it dangerous to deprive ourselves of this measure, and if we do so, we shall have to re-enact it with far more stringent powers in a short time. Therefore, I support the motion of the Home Minister.

SHRI MULKA GOVIND A REDDY: Mr. Vice-Chairman, I oppose this Bill, the Preventive Detention (Continuance) Bill, 1963. It is a retrogressive measure, which no democracy will support. In 1950 this measure

[THE VICE-CHAIRMAN (SHRI M. GOVINDA REDDY) in the Chair.]

was put on the Statute Book. Whatever justification it had in 1930 because of the partition and communal riots, there is no justification for it now to be continued for another period of three years. In other countries, particularly in democratic countries, it is very rarely that a measure of this nature is resorted to and put on the Statute Book. Under very emergent circumstances, where the country is at war, the Government concerned will resort to this sort of law. But unfortunately in India, from 1950 onwards this measure is put on the Statute Book. We all expected that after the 31st December 1963 the Government would not come forward

with this Bill for continuing this aetastable legislation.

2 P.M.

It is not a party question. We are all one with the Government that goondaism should be put down, that communal elements who create abnormal situations in the country should be put down, that the anti-social elements that resort to profiteering, hoarding, and all sorts of things whereby they create an intolerable situation for the ordinary people in the country should be put down. Whatever measures are necessary for putting down such elements, in that the Government will have our cooperation. But this preventive detention measure is not a measure that the Government should resort to because this is an undemocratic measure. This is a very retrograde measure, this is a very oppressive measure. In a parliamentary democracy, we should not resort to such measures. The figures quoted by the Minister do not justify any further continuance of this measure. Hardly 300 people have been detained under this measure and those could have been dealt with by the common law of the country. The I.P.C., the Criminal Procedure Code, etc. are wide enough and long enough to bring any of the antisocial elements to book and thus to put down lawlessness. Because of this measure lawlessness has not been put down properly in this country, mostly because goondaism and lawlessness are resorted to by people who have some influence or other with the ruling party. It looks as though this has been aided and abetted by influential sections in the ruling party. Whenever members connected with the ruling party or having some influence with the ruling party resort to antisocial activities or resort to profiteering or hoarding of stocks, etc. this measure has not been utilised to prevent such illegal and anti-social activities. Recently the cooperative sector particularly the Delhi Co-operative Stores, was involved in profiteering in sugar. I would like to ask the Minis-

[Shri Mulka Govinaa Reddy.] tax Wietaer this Act was resorted to and ine persons connected with that Co-operauve Stores were brought to book under this Act whereas small businessmen and merchants, when they resort to such profiteering methods, they have been booked.

It clearly shows that this measure is utilised to put down their political opponents and that was not the reason for which this was adopted in 1950. At that time because of the partition there were communal riots, commotions and at that time it might have been necessary to resort to the Preventive Detention Act but now when the situation is normal, it should not be resorted to. It is the right of any political party or trade union to agitate for the social transformation of the society and for the redressal of their grievances in a peaceful way. I know there are many instances where, just because the trade unions or workers agitated for the redressal of their grievances, instead of resorting to ordinary laws of the country, this extraordinary fascist law has been resorted to and they have been clapped under the Act

The Home Minister was telling us while moving this Bill for consideration that we are now under an emergency, that there is Chinese aggression, that the Chinese have attacked us and certain territories are under the control of the foreign enemy and therefore there is need to have this Act in addition to the D.I.R. "While replying to the debate in the Lok Sabha he appears to have said that it is easier to resort to the Preventive Detention Act than the D.I.R. though the DTK. is sharper and more aggressive in character. We are one with them to preserve the integrity of the country the security of the country. It is they, the ruling party, who are responsible for this rampant our northern borders by a foreign enemy. If at all there is any justification for resorting to this Act, the manner of the Tendency Bunch's submission has been brought under the mischief of

this Act because they tried to compromise with the integrity of the country, with the security of the country.

There is no justification whatsoever for this fascist measure to be continued any longer, it is only under a fascist dictatorship, where there is police raj or police rule, that these obnoxious, abnormal and abhorrent legislations are resorted to but in a democratic country like India which always claims to be the largest democracy in the world, we should set an example to the other neighbouring countries that the ordinary rule of law prevails in India, that we need not resort to police measures and keep the people under detention without trial. It is the fundamental right of any citizen in any democratic country to have his liberty, freedom of speech and action and association and if there is any violation of those freedoms guaranteed under the Constitution, he should protest and protest with all vigour. It is unfortunate that the Congress Government which is now in power should continue to resort to this oppressive measure. The liberty of the citizen, the freedom of the citizen, is very fundamental for the proper functioning of democracy and democratic ideals and democratic elements will not thrive if the liberty of the person concerned is curtailed in this unusual and undemocratic manner without giving an opportunity to the person concerned to state his case. The ordinary law—the I.P.C. and the Criminal Procedure Code—is quite sufficient to bring to book any anti-social element or those who resort to anti-social activities or communal activities which will disturb the peace of the land. It is time that we have some Divisions in the Indian Penal Code and in the Criminal Procedure Code in the light of the provisions that we have and in view of the fact that we are now a sovereign democratic country.

From the foregoing it is seen that there are 10 provisions under the Preventive Detention Act because they

resorted to profiteering and hoarding. This is a very sorry state of affairs. It looks as if the Government is not at all serious in putting down antisocial elements, elements which resort to profiteering and hoarding of essential commodities. It looks as if they are very particular to curb the activities of trade unions and political parties. Many of the top leaders of the Opposition have been detained under this Act, even though most of the parties have publicly stated that they do not resort to violent activities, that they do not believe in violent activities, that they believe in the transformation of society through peaceful methods and peaceful agitation. In spite of the declarations made by the political parties the Government still wants to have this detention measure which is a very obnoxious one.

The Home Minister in the other House said that if there was an assurance given by all the political parties, he might come with another measure for repealing this Act. Almost all the political parties—I do not think there is any exception—have stated that publicly. And the leaders of the political parties in the other House gave an assurance that they do not believe in violent methods, that they would strive to transform society or redress the grievances of the people, through peaceful methods. And here also the hon. Member, Shri Bhupesh Gupta, has given that assurance, and we, on behalf of the P.S.P. and other political parties, are prepared to give that assurance, that we will not resort to violent activities, that we believe in peaceful methods for changing society and for changing the government. When such assurances have been forthcoming it does not look proper for the Government to insist that this Bill should be passed, that this measure should be continued for another period of three years, and that after the lapse of some time, we may consider the advisability of repealing this measure. Mr. Vice-Chairman, whatever justification there was in 1960,

or whatever justification there will be when we are actually at war with an enemy, there is no justification for the continuance of this measure now, particularly when we have the Defence of India Rules and the Defence of India Act, which have been in operation since the emergency was declared. I therefore, very strongly object to the passing of this measure and I would respectfully urge upon the Government to withdraw this motion.

SHRI P. N. SAPRU: Mr. Vice-Chairman, I frankly confess that I am not in sympathy with this Bill. The Constitution, no doubt, gives us the power to have preventive detention, and the provision has found place in the Fundamental Rights. But let us remember the circumstances in which the Constitution was framed. We had abnormal circumstances in those days. There had been a good deal of bloodshed in connection with the partition, and there was the trouble in Telangana. The position today, fortunately, is different. Also this Act has been in operation for thirteen years. A measure of this character can be justified, if at all, on the ground of emergency. But the difficulty with us is that our emergency is a permanent one. Mr. Nanda said that he hoped that the emergency would be over soon. But every third year, the Government comes before us and wants us to pass a measure of this character, in the name of the emergency, and that emergency seems to be a permanent emergency.

Mr. Vice-Chairman, I am opposed to the principle of preventive detention. The principle of preventive detention is opposed to all that we understand by the rule of law. They have preventive detention, no doubt, in Indonesia which cannot be called a democratic State. I know there is preventive detention in Ghana which cannot be called a democratic State, and also in South Africa there is preventive detention of a drastic character, and

[Shri P. N. Sapru.] I do not think that that country, South Africa, is a country which we should imitate. Preventive detention dispenses with all legal formalities. It dispenses with the normal legal procedure. The accused may make representations, or has the right to make representations. But his case is heard by the Advisory Board, not in public but in camera. And he cannot be represented, as Mr. Nanda said, by a legal practitioner. There is an express provision, provision in section 10(3), barring the appearance of legal practitioners before the Advisory Board. Undoubtedly the Advisory Board will be presided over by a High Court Judge. But a High Court Judge or a Supreme Court Judge can act only on the materials before him. And part of the material is of a confidential character which must not be disclosed to the accused person. Therefore, look at it from the point of view of the rule of law, and you will find that it offends the basic principles with which the rule of law and the concept of democracy are intimately connected. We pride ourselves on being an ethical State. We pride ourselves as being the inheritors of the Gandhian tradition. Surely, in a democratic State of this character, it should be possible for us to do without preventive detention. It has been said that we need this Act for goondas. We have any number of goondas. Why not then dispense with the provisions of the Criminal Procedure Code, with sections 107, 108 and 110 of that Code, or the provisions relating to the trial of dacoits? Why not use this measure for dealing with everybody against whom there is suspicion? If you do that, you will probably have peace in this country, but it will be the peace of the grave, and I do not think that we want in this country the peace of the grave. We have today the Defence of India Act. That is a more stringent measure than the Preventive Detention Act. Is it necessary for us to have two Acts? Is it necessary for us to have the Defence of India Act and to have the Preventive Detention Act? I do not think so.

I say when the British were in this country we used to have Criminal Law Amendment Acts and we used to have Preventive Detention Act and we used to be vehement critics of those Acts and I remember to have made a speech in 1934 in the Council of State opposing the Criminal Law Amendment Act and I quoted from a passage of Mr. Asquith which I will repeat here*. Mr. Asquith said:

"It is all important that the Executive should stamp out murders and terrorism but in the performance of that task the means are almost, if not quite so important as the end."

Sir, Mahatma Gandhi always laid emphasis on means and I think it is necessary for us, in order to stamp out terrorism, goondism, murder and all that, to employ correct means.

Something was said about Marx and Communism. Now I am not a Communist and I have got very grave and serious differences with certain aspects of the Communist philosophy. But let it be remembered that Marx was a very very great thinker. The four men who influenced the thought of the last and present century were Darwin, Marx, Freud and Einstein. They are a class by themselves. It is all right to talk against class war but Marx has many interpreters and certain sections of the British Labour Party also share Marx's views.

SHRI BHUPESH GUPTA: Now they have given up.

SHRI P. N. SAPRU: And they do not interpret Marx to have preached violence as Shri Santhanam appears to have assumed. Assuming that Marx has preached violence and the Communist Party being a Marxist Party is a party of violence, why not take the straight course and why not ban the Communist Party? I think that is the more honest and more courageous course for us to take but that we are not prepared to do. We want to take action against individual Com-

munists who may have hurt the susceptibilities of local authorities.

I do not say that this Act has not been administered in a just or proper manner. That is a criticism which I do not share with my friend, Mr. Bhupesh Gupta. I think the Government has tried to administer it justly and fairly.

SHRI BHUPESH GUPTA: I might point out—Eh-. Sapru, one minute—to this House that Mr. Ganesh Ghosh was put in detention on a charge relating to the Chittagong Armoury Raid case in 1930; he was put in detention under the Preventive Detention Act for having participated in that raid in 1930.

SHRI ABID ALI: That information is not correct. He is making a wrong statement.

SHRI P. N. SAPRU: It is not my submission that Government has administered this measure in an unjust manner, or in an oppressive manner. I think it has tried to administer it in a moderate manner but the point is that the very principle of this Bill is wrong and where the principle is wrong the measures taken must be necessarily wrong.

It was said that the detenu could be represented by a legal practitioner. There is an express provision in the body of the Act itself prohibiting the appearance for a detenu by a legal practitioner. He can appear in person or he can be called upon to appear in person and he can be supplied with the grounds in a general way on which the order has been made but parts of the evidence against him which are placed before this Advisory Committee may never be made known to him. That is not my conception of the rule of law and as I have said there is an intimate connection between the rule of law and democracy. During war time they had in England the Defence of the Realm Act and it

is to the eternal credit of British Judges that at least one of them declared, that in the clash of arms the laws are not silent. Lord Aitkin's judgment is a tribute to the ability, integrity and liberalism which characterize the British Judges.

I think we should even in abnormal times hesitate to take abnormal action because abnormal action makes an abnormal situation more abnormal. What can be done by normal methods cannot be done by abnormal methods and should not be done by abnormal methods. I know that there are men who want the security of the State to be maintained. I am just as eager as they are for maintaining the security of the State but the security of the State cannot be maintained by coercive laws. What you need is firmness plus reasonableness and where firmness is not combined with reasonableness disaster follows. We have, therefore, to consider in a calm manner whether for some of the things that happen in this country we ourselves are not at times by the policies we pursue responsible. It is a bitter pill for anyone who values the rule of law, for any one who has respect for the rule of law to swallow, and I confess, Mr. Vice-Chairman, that I have no sympathy with this Bill. I look upon it as a measure which is not deserving of support.

Thank you.

SHRI G. S. PATHAK: (Uttar Pradesh): Sir

SHRI BHUPESH GUPTA: I am afraid you never speak for progress.

SHRI G. S. PATHAK: Mr. Vice-Chairman civil liberty and the rule of law are the essence of democratic life. They are our prized possessions. They give meaning to the life of a citizen. Without them we think that economic and social progress is an idle dream. Therefore, no price is too dear which might be paid in order to

[Shri G. S. Pathak.] secure conditions which may ensure civil liberty. (Interruption). I am not a theorist. I am not apologetic, as it were, of this Bill. The Government states that these are the conditions prevailing in the country which necessitate the continuance of the Preventive Detention Act.

SHRI P. N. SAPRU: And the Government must be right.

SHRI G. S. PATHAK: I myself believe that those conditions exist and, therefore, I support the Bill. I want to live in a world of realities, not on theories. Safety of the people and security of the State are essential requirements without which there can be no civil liberty; there can be no democratic life if there can be no parliamentary institution. We are comparing India, which won freedom sixteen years ago, with countries like the United Kingdom, which has enjoyed democratic life for long and which has got a certain disciplined mind among the people. Are there any persons in the United Kingdom who are prepared to embrace foreign enemies at the borders?

SHRI P. N. SAPRU: Sir Oswald Mosley was there.

SHRI G. S. PATHAK: What happened to him? Public opinion killed him. There is no such public opinion here.

SHRI B. D. KHOBARAGADE: Who cares for public opinion in this country? (Interruptions).

THE VICE-CHAIRMAN (SHRI M. GOVINDA REDDY): Order, order. Mr. Pathak, I think you should ignore interruptions and go on. Otherwise, your time is limited.

SHRI G. S. PATHAK: Therefore, this hard won liberty, hard won freedom of ours has to be preserved and our parliamentary democracy has to be preserved. Otherwise, we would not be talking here in the manner that we are talking today.

I do not understand the argument that in principle we do not like preventive detention. Then, you are arguing against the Constitution. Why did you not argue then that this is against the principle? The Constitution-makers, whose sagacity, whose wisdom . . .

SHRI P. N. SAPRU: May I just ask Mr. Pathak . . .

THE VICE-CHAIRMAN (SHRI M. GOVINDA REDDY) : He is not yielding. Are you yielding?

SHRI G. S. PATHAK: No, I am not yielding.

THE VICE-CHAIRMAN (SHRI M. GOVINDA REDDY) : He is not yielding. (Interruptions). And Mr. Pathak while speaking, I would suggest that you do not look at Mr. Sapru, which will provoke him to interrupt you. You have to address the Chair.

SHRI BHUPESH GUPTA: He is looking at a progressive lawyer.

SHRI G. S. PATHAK: I am a realist. I am not a theorist. Now, Sir, the question, therefore, is this. When the Constitution-makers framed the Constitution, they anticipated that there must be protective measures which the Government of the day could take in order to preserve the freedom, the hard won freedom, and the Constitution-makers made safeguards. The Constitution-makers said that full opportunity for representation must be given to the detainee. The Constitution-makers said that it would be the duty of the Advisory Board presided over by a High Court Judge—there may be other High Court Judges on the Board—to examine the material and if on an examination of the material the Board finds that there is not sufficient reason for detention the Government is bound to obey the Board.

(Interruptions).

THE VICE-CHAIRMAN: (SHRI M. GOVINDA REDDY): Please do not interrupt him.

SHRI P. N. SAPRU: I want to ask.

THE VICE-CHAIRMAN (SHRI M. I. GOVINDA REDDY): He is not yielding, I am sorry.

SHRI G. S. PATHAK: I am prepared to answer all the questions at the time of interruptions if you will kindly add to my time.

THE VICE-CHAIRMAN (SHRI M. GOVINDA REDDY): No. You please go on. You do not get any advantage in time.

SHRI G. S. PATHAK: Now, Sir, the ;
•Constitution-makers knew that we 'were surrounded by foreign States, and we had to be protected from the machinations of those foreign States. We have some rapacious neighbours. "We have people in our own community who are greedy, who are prepared to indulge in espionage in conspiracy with the foreign people. And, therefore, with all this in view, the Constitution-makers contemplated that if there are conditions which need the enactment of such a law, such law may be enacted by the Government subject to those safeguards. Now, therefore, to say that preventive detention is bad in principle is an argument which should have been advanced at the time when the Constitution was made. Today the only question is and the only question can be whether at the present time there are conditions which require the continuance of the Preventive Detention Act. That is the only question today.

Now, Sir, something has been said about goondas and the existence of other evils which need to be checked. I shall tell you very briefly what I have known from cases decided in courts where the Preventive Detention Act has been applied. I will give you just two or three instances. Speeches are made. Persons are instigated to indulge in acts of violence and create disturbances. Even where that is done, simply because the 2575 (A) L.S.D.—8.

language was English, the Supreme Court upset it and released the detainee. In deciding the cases the courts are taking into account the question of malice. If the court finds that the detainee has not got a full opportunity, there is a release by the Government. Then, there are cases where our citizens send misleading information, wrong information, to foreign countries and people in foreign countries make use of such information. In England the punishment was very heavy for a thing like this. I will mention to you one case. A person in a certain town in India—I will not mention the names—made speeches arousing passions, asking people to murder a certain dignitary of the State. Now, he is prevented from coming to Delhi. It was stated in the order; You intend to proceed to Delhi and you will instigate plans which may adversely affect the security of that individual. Now, should the Government have waited till the murder was committed?

SHRI BHUPESH GUPTA: No.

SHRI G. S. PATHAK: He is prevented from coming here. He is detained. If there is evidence believed by the Advisory Board that he was a person who had instigated and he was a person who would have or who might have committed murder or instigated other people to commit murder, if that was the situation, then, would not preventive detention be a better measure, which would have kept the man out of harm's way and which would have secured the safety of the life of the people here?

SHRI P. N. SAPRU: It will be applied in all cases.

SHRI G. S. PATHAK: It will be applied in all cases if the security of this country is threatened.

THE VICE-CHAIRMAN (SHRI M. GOVINDA REDDY): The hon. Member is entitled to a patient hearing.

SHRI G. S. PATHAK: Pro-Chinese elements exist in the country today. Can any 'one deny that when there was the Chinese attack, there were no pro-Chinese elements working in the border and engaged in anti-Indian propaganda? Can anyone deny this? Can anyone deny that there have been people here—at least two or three cases have arisen—who were engaged in espionage, who have transferred important document! to foreign countries?

SHRI A. M. TARIQ (Jammu and Kashmir): Why don't you mention Pakistan?

SHRI G. S. PATHAK: You will have to go to Pakistan.

SHRI A. M. TARIQ: Sir, I make a protest against what the hon. Member has said that I will have to go to Pakistan.

SHRI P. N. SAPRU; Sir, on a point of order. The hon. Member has charged Mr. Tariq as being a Pakistani.

SHRI G. S. PATHAK: I am not charging him as a Pakistani.

THE VICE-CHAIRMAN (SHRI M. GOVINDA REDDY): That is no point of order.

SHRI A. M. TARIQ; Sir, please give me a hearing. It is not a point of order, but I have got a right to protest. When I said, "Why don't you mention Pakistan?", the hon. Member told me, "You will have to go to Pakistan". This is a threat to me. I think he is entitled to be put under detention, he must be put under detention.

SHRI BHUPESH GUPTA: What could be a greater provocation than "> say, "You go to Pakistan"?

SHRI G. S. PATHAK: I never said that.

THE VICE-CHAIRMAN (SHRI M. GOVINDA REDDY): You proceed, Mr. Pathak.

DrwAN CHAMAN LAIL: I hope my friend Mr. Bhupesh Gupta will not get very angry about it. I was in Pakistan only this morning.

SHRI BHUPESH GUPTA: It ia a good thing. But why should ha say that?

SHRI CHANDRA SHEKHAR; He can be anywhere because he is under the shadow of the Prime Minister. But the same thing is not the case of Mr. Tariq.

THE VICE-CHAIRMAN (SHRI M. GOVINDA REDDY): Your tinae is coming to a close. You proceed, Mr. Pathak.

DIWAN CHAMAN LALL: Unfortunately my hon. friend, Mr. Chandra Shekhar, is in the habit of casting' aspersions in the House. If he does not understand the rules of thia House, he cannot learn to behave himself.

SHM A. M. TARIQ: Sir it must be expunged. He has fought for Kashmir. It wilt be very bad for him, he is a leading lawyer. I say that for his credit it must be expunged.

THE VICE-CHAIRMAN (SHRI M. GOVINDA REDDY); I think you should not take it seriously. He meant it in a light-hearted way.

SHRI BHUPESH GUPTA: We know tVt Mr. Pathak is a very reactionary lawyer. We told him that.

THE VICE-CHAIRMAN (SHRI M. GOVINBA REDDY): You are only taking his t'me. You proceed, Mr. Pathak.

SHRI G. S. PATHAK; This chart would go to show that the Government has used the powers only where the use of those powers was necessary. Otherwise, in a country with.

this big population you would have found a larger number of persons in detention. This chart also shows that the people who are detained are not *so* detained as members of a particular party. Only those persons are detained who were engaged in certain activities which are prejudicial to the security of the State and to other matters. Therefore, it is not an argument that because there are a small number of people, therefore, you should not have law. This shows that the continuance of the Preventive Detention Act is necessary. The use of it will be proper and will be made only when necessary. It will not be directed against any party but only directed against individuals who may be found to be engaged in certain activities. This is the evidence afforded for its continuance.

Sir, many countries have been mentioned, U.K., U.S.i.A., and son on.

SHRI BHUPESH GUPTA: And France and Italy.

SHRI G. S. PATHAK: France, Italy, and so on. Now one of the questions is, why it is that only one class of countries have been mentioned and not other class of countries.

AN HON. MEMBER: Because you like these countries.

SHRI G. S. PATHAK: There may be n'o detention laws and yet people may be taken away and detained.

SHRI B. D. KHOBARAGADE: Do you want to follow them?

SHRI G. S. PATHAK: We do not want to follow them, but we want to have laws; otherwise you would not be talking here. (Interruption) About two detention laws, it is quite obvious that in case a proclamation is issued that the emergency has ceased, one law will not be on the Statute Book and the other? law will be kept on the Statute Book with larger safeguards than the Defence

of India Act and the Defence of India Rules for a period during which or before the expiry of which the emergency may cease. Therefore, Sir, support this Bill and I feel that conditions do exist which justify the passing of this Bill, Thank you.

شہری بھارتی لال گوبیل ددپالپ: :
وائس چیرمین صاحب - شریمان -
میں آپ کا زیادہ وقت نہیں لوں گا
کیوں کہ مجھے ذرا باہر جانا ہے -
اس سے پہلے کہ اپنے وچار آپ کے سامنے
دیکھوں مہاتما گاندھی نے چلنے شہد
جو انہوں نے آزادی سے پہلے کہے تھے
وہ میں آپ کے سامنے دیکھوں گا -

[THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA) in the Chair.]

ان کے شہد کتنی اہمیت رکھتے
ہیں اس کا اندازہ آپ ان شہدوں سے لگا
سکے ہیں گے - انہوں نے ددینگ انتہاء
۲ مارچ سنہ ۱۹۴۲ء کے لشو میں
لکھا تھا :-

"Democracy is no* a state in which people act like sheep. Under democracy individual liberty of opinion and action is jealously guarded."

ایک دوسرا ان کا اور بیان ہے وہ
بھی میں اسی وقت آپ کے سامنے
پڑھ دوں -

"Real Swaraj will come not by the acquisition of authority by a few but by the acquisition of the capacity by all to resist authority when it is abused; in other words, Swaraj should be obtained by educating the masses to a sense of their capacity to regulate and control authority."

[شری پیارے لال کرپل دھالبہ]

یہ اس مہان ہستی کے الفاظ ہیں جو کہ انہوں نے آزادی سے پہلے کہے تھے۔ ان الفاظ کی کتنی بڑی قوت ہے وہ آپ اچھی طرح سے سمجھ سکتے ہیں۔ جمہوریت میں، پرچا تلتر میں اور جہاں پر جلتا کا راج ہے—جسٹا کہ آپ کہتے ہیں اس دیش میں جلتا کا راج ہے یہاں ڈیموکریسی ہے یہاں جمہوریت ہے۔۔۔ وہاں پر شہریوں کے کچھ بنیادی حقوق ہوا کرتے ہیں کچھ مولک ادھیکار ہوا کرتے ہیں اور وہ مولک ادھیکار ایسے ہوتے ہیں جو کہ کسی حالت میں بھی ختم نہیں کئے جا سکتے جو کہ شہری کے ساتھ میں ہمیشہ رہتے ہیں جب تک کہ دیش کے اندر جمہوریت ہے پرچا تلتر ہے جب تک جلتا کی حکومت ہے تب تک وہ ادھیکار اس سے چھینے نہیں جا سکتے یہاں تک کہ اگر ایمر جاسی ہو تو ہوں میں کہہ سکتا ہوں کہ ان ادھیکاروں پر کتھارا کھات نہیں کہا جا سکتا ان بنیادی حقوق کو نہیں چھینا جا سکتا۔ یہ ہماری جمہوریت کے ساتھ رہتے ہیں پرچا تلتر کے ساتھ رہتے ہیں اور شہری کے ساتھ میں سدا رہتے ہیں۔ یہ ایسے ادھیکار ہیں جن کو کہ ہم کسی وقت پر بھی ختم نہیں کر سکتے ہیں۔

کہا یہ جاتا ہے کہ اس دیش کے اندر غلطے ہوں ایٹمی سوئل ایپلیکیشن

ہیں جو کہ دیش کی شانتی کو بھنگ کرنا چاہتے ہیں دشمنوں کے ساتھ ساز باز کرنا چاہتے ہیں یہاں کی اطلاع کو دوسرے ملکوں میں بھیجتا چاہتے ہیں۔ ہو سکتا ہے کہ ایسا ہو۔ کچھ ایسے آدمی ہوں لیکن جہاں تک راجھتک دلوں کا سیاسی دلوں کا تعلق ہے کوئی سیاسی دل ایسا نہیں ہے کوئی سیاسی پارٹی ایسی نہیں ہے جس نے کہ یہ کہا ہو کہ ہم وائٹس پر رشواس کرتے ہیں ہم وائٹس کے ذریعہ سے حکومت کو بدلنا چاہتے ہیں یا یہاں کی شانتی کو بھنگ کرنا چاہتے ہیں۔ کوئی پارٹی آپ بتا دیں۔ یہاں تک کہ کمیونسٹ پارٹی بھی یہی کہتی رہی ہے اس نے بھی یہ کہا ہے کہ ہم وائٹس نہیں چاہتے ہیں اور نان وائٹس طریقوں سے پارلیمنٹری طریقوں سے حکومت بدلانا چاہتے ہیں تو اس پارٹی نے بھی کئی دفعہ اس قسم کے بیانات دیئے ہیں۔ اب سوال یہ پیدا ہوتا ہے کہ ان پارٹیوں کے علاوہ اگر ہم دیکھیں تو پریویلنٹ ڈیٹنشن ایکٹ میں جن لوگوں کو گرفتار کیا گیا ہے ان میں زیادہ تر ہماری سیاسی جماعتوں کے لیڈرس تھے ورگس تھے۔ میں اپنی پارٹی کے متعلق بتا سکتا ہوں کہ میرے خیال میں شاید ہی کوئی ایسا لیڈر رہا ہو جو پریویلنٹ ڈیٹنشن میں نہ گرفتار ہوا ہو۔ ہمارے پریویلنٹ تھے جو لوگ سبھا کے ممبر

تھے انہیں اس کے ماتحت گرفتار کیا گیا ایک مسٹر بنگالیک تھے اس کو گرفتار کیا گیا اور ہماری پارٹی کے امپروونٹ لیڈر وی - سی - مصرا کو بھی پریوینٹیو قیٹیشن میں گرفتار کیا گیا -

ہم عبداللہ کو II سال سے گرفتار کر رکھا ہے - آپ ہندوستان کی یا دنیا کی تاریخ میں بتائیے کہ کسی شخص کو انڈی سعاد کے لئے قیٹیشن کیا گیا ہو - انڈی عرصہ سے ان کے اوپر مقدمہ چل رہا ہے اور سینکڑوں ہزاروں گواہ پھیلے ہوئے ہیں ابھی تو چند ہی پھیلے ہوئے ہیں اور معلوم نہیں وہ کتنے مدت تک جیل میں رہیں گے -

کیا یہ جمہوریت ہے کیا یہ پرجا تانترو ہے - آپ ان کے خلاف قدم اٹھائیے مگر جلدی اٹھائیے جلدی سے جلدی ان کو سزا دیجئے - گیارہ سال کی سزا بہت ہوتی ہے اگر وہ قتل بھی کئے ہوتے تو پانچ چھ سال میں چھوٹ جاتے - اگر انہیں صبر قہد کی سزا بھی ہوتی تو بھی آج جیل سے باہر ہوتے لیکن اب بھی وہ جیل کے اندر ہیں یہ ہماری جمہوریت کے لئے شرمناک بات ہے - اب ان سیاسی لیڈروں کے علاوہ جو غنڈا ایگسٹسٹ ہے اس کے متعلق جب ذکر کیا جاتا ہے تو میں ہوا تعجب کرتا ہوں کہ آپ نے ذرا غور سے انڈین پمیل کوڈ کو نہیں دیکھا کہ وہ کتنا ایکڑاسٹیو ہے - ہم اگر پمیل کوڈ کو بڑے دھماکے سے

دھکے تو معلوم ہوگا کہ کوئی بھی ایسا آفیس نہیں ہے اس دھکے کے اندر جس کے بارے میں آپ انڈین پمیل کوڈ کے اندر ذکر نہیں پاتے ہیں - آپ اس کے مطابق سزا دے سکتے ہیں - میں آپ کی اس طرف توجہ دلاؤں گا کہ انڈین پمیل کوڈ میں اور خاص طور پر کرمیل پروسچر کوڈ میں ایک پورا کا پورا چپٹر ہے -

چپٹر ۶ - آفیسس ایگسٹسٹ دی اسٹیٹ - جس میں بہت ساری باتیں کہی گئی ہیں اور ان میں سے ہر تین کو پڑھکر میں آپ کو سناؤں کہ ایمرجینسی کے دوران یا لوائی کے دوران کیا کیا پراویزیں اس میں ہیں :-

"121. Waging, or attempting to wage war, or abetting waging of war, against the Government of India.

121A. Conspiracy to commit offences punishable by section 121.

122. Collecting arms, - etc. with intention of waging war against the Government of India.

123. Concealing with intent to facilitate design to wage war.

124. Assaulting President, Governor, etc., with intent to compel or restrain the exercise of any lawful power."

ایسی کئی دفعیں آپ کو دونوں ایکٹ کے اندر مل جائیں گی جن کے ماتحت آپ گرفتاری کر سکتے ہیں -

[شری پیارے لال کرپل دھڑلے سے]
 ویسے ہی اگر کوئی سڈیشن کرے یعنی
 کوئی اسٹیٹ کے خلاف کام کرتا ہے
 اور پریچ کرتا ہے اس کے لئے خاص
 طور پر پروویژن رکھا گیا ہے جس کے
 ماتحت آپ ان کے خلاف کارروائی کو
 سکتے ہیں۔ اور آگے پوچھئے تو رائٹس
 کے متعلق اس میں کہا گیا ہے :-

- "144. Joining unlawful assembly,
 armed with deadly weapon.
 145. Joining or continuing in un-
 lawful assembly, knowing it has
 been commanded to disperse.
 146. Rioting.
 148. Rioting, armed with deadly
 weapon.
 151. Knowingly joining or con-
 tinuing in assembly of five or
 more persons after it has been
 commanded to disperse.
 152. Assaulting or obstructing public
 servant when suppressing riot,
 etc.
 153. Wantonly giving provoca-
 tion, with intent to cause riot—
 if rioting be committed.
 353 A. Promoting enmity between
 classes."

ابھی ہمارے مسٹر موریہ کو یہ
 کہہ کر قیڈنس آف انڈیا رولز کے ماتحت
 گرفتار کیا گیا کہ وہ شیڈولڈ کاسٹ
 اور مسلمان ایک طرف اور دوسری
 طرف ہندوؤں کے بیچ میں نفرت پھیلا
 رہے تھے۔ اس کی بنا پر ان کو
 قیڈنس آف انڈیا رولز کے تحت گرفتار
 کیا گیا۔ آپ کو انہیں اس کے
 ماتحت کیوں گرفتار کرنا چاہیئے تھا۔

ہمارے قانون میں ویسے ہی ایک
 دفعہ ہے - Promoting enmity
 between classes جس کے ماتحت
 کارروائی کی جا سکتی تھی اور یہی
 بہت سی ایسی دفعیں ہیں جیسے کہ-
 Harbours persons hired
 for an unlawful assembly
 This is chapter IX—offences by
 or relating to public servants اس

طرح سے بہت سے ایسے پروویژن اس میں
 ہیں اور اسی طرح سے کرمینل پروسیجر
 کوڈ میں آپ دیکھ لیجئے۔ یعنی میں
 ابھی دوسرے اسپیشل ایکٹ کی
 طرف دھیان نہیں دلا رہا ہوں مگر
 یہ جو ایکٹ میں نے آپ کو بتائے
 یہ دیکھیں پھر میں مشہور نہیں۔
 پریویژن آف آفینڈرز کے لئے سپیشلس
 ہیں باقی اور کے میں نمونے دے
 رہا ہوں :-

- "Criminal Procedure Code—Chapter
 IV—Prevention of offences,
 106—Security for keeping the
 peace on conviction.
 107—'Security for keeping the
 peace in other areas.
 108—Security for good behaviour
 from persons disseminating
 seditious matter. 109—Security
 for good behaviour
 from vagrants and suspected
 persons.
 110—Security for good behaviour
 from habitual offenders."

اس کے آگے ابی لافل اسمبلی کے
 متعلق ہے - سیکشن ۱۲۹ —

Use of armed forces—you can even call
 in the armed forces

یہ پبلک نوٹس پر بھی ایک
سیکشن ہے۔ اس کے علاوہ کوئی
اسٹیمٹ ایسا نہیں ہوگا جہاں پر
کوئی نہ کوئی اسپیشل ایکٹ نہیں
ہوگا جس کے ماتحت کارروائی کی جا
سکتی ہے۔ کوئی بھی آفیسر کیمٹ
ہو اس کے خلاف نارمل لاز آف دی
کنٹری موجود ہیں۔ ہم تو کہتے
ہیں کہ جمہوریت کے اصولوں کو
ہمیں قائم کرنا ہے تاکہ آئندہ آنے
والی نسلیں ان اصولوں کو اور ان
طریقوں کو نواہ کریں۔ آپ نے ایک
مثال آنے والی نسلوں کے لئے رکھی
ہے۔ میں نے ابھی مہاتما گاندھی کے
الفاظ آپ کے سامنے رکھے اصل میں
ہم قوم کی خدمت کر رہے ہیں
ہم گورنمنٹ کے کان کھینچ رہے
ہیں ہم بنا رہے ہیں کہ آپ
ایسی چیز کو دے رہے ہیں جو جتنا
کے مفاد کے خلاف ہے۔ چلتا کے
بندھنی حقوق کے خلاف ہے۔ جب
نارمل لاز آف دی کنٹری موجود ہیں
ان کو آپ ہرگز کے خلاف استعمال
کر سکتے ہیں۔ پرافٹرز کے خلاف
استعمال کر سکتے ہیں۔ جس طرح
ہے جن کے خلاف آپ چاہیں استعمال
کر سکتے ہیں۔ مجھے آپ بتائیے وہ
کون سے ایسے آفسیڈز ہیں جن پر
آپ نارمل لاز کے مطابق پلیمینٹ
نہیں دے سکتے ہیں؟ سزا نہیں دے
سکتے ہیں۔ ان باتوں کی طرف غور
دینے کی ضرورت ہے۔

میں سوشلسٹ پارٹی سے تعلق
رکھتا ہوں اور آج میں یہ یقین کے
ساتھ کہہ سکتا ہوں قصور کے ساتھ کہہ
سکتا ہوں کہ ممبری پارٹی نے کبھی
بھی وائٹس پر وشواس نہیں کیا اور
کبھی بھی وائٹس پر وشواس نہیں
کئے گی۔ ہر جگہ ہم قیمو کریٹیک
پرنسپل پر وشواس کیا ہے۔ ہم
قیمو کریٹیک سوشلزم اس دیس کے اندر
چاہتے ہیں مگر کتنے ہی عمارے
آدمیوں کو پیرونٹیو ڈیٹینشن ایکٹ
میں بند کیا گیا ہے۔ اسی طرح
ریپبلکن پارٹی ہے جو کبھی وائٹس
پر یقین نہیں رکھتی مگر آج
ریپبلکن پارٹی کے آدمی بھی گرفتار
ہیں جو غریبوں کی اچھوتوں کی اور
گروے ہوئے آدمیوں کی نمائندگی کرتے
ہیں۔ صدیوں سے جن کو ادھکاروں
سے ونچت کر رکھا ہے اور جن کو وہ
ادھکار ابھی تک نہیں ملے ہیں ان
کی نمائندگی ریپبلکن پارٹی کرتی
ہے۔ میں کہتا ہوں جتنی مخالفت
ہم نے ہرٹس گورنمنٹ کی کی ہے اور
جو ظلم و ستم ہم نے انگریزی سرکار
کے سپہ ہیں ان سے ہزار گنا زیادہ
ظلم و ستم ان اچھوتوں اور چھوٹے
چھوٹے بھائیوں نے اٹھائے ہیں۔ مجھے
یا تو تعجب ہوتا ہے صدیوں گزر گئے
انہوں نے آج تک آواز کھوں نہیں
اٹھائی ریولٹ کھوں نہیں کیا۔ میں
یہ نہیں کہتا کہ وہ بغاوت کریں مگر

[شری ہمارے لال کوریل مطالبہ]
 آپ ان کے جذبات کو سمجھئے کہ آج
 یہی دیکھ رہے ہیں کہ ایک گاؤں میں
 ایسا نہیں جہاں ہائی کاسٹ اور
 اچھوت ایک ہی گولہ سے پانی بہتے
 ہوں۔ ان کو آج یہی گاؤں کی ہائی
 کاسٹ کی بستی کے گولہ سے پانی
 لینے کی اجازت نہیں ہے۔ میں
 دھوئے کے ساتھ کہہ سکتا ہوں۔ اور
 گورنمنٹ نے اپنی سمجھوتہ کو دیکھ کر
 اب ان کی بستیوں میں گولہ
 کھودے ہیں انکی امداد کی ہے۔ ان
 کے لئے الگ گولہ کھودے ہیں۔
 الگ ہوٹل میں ان کو بھرتی کیا ہے۔
 کھونٹے اسی قوم کے لوگ مخالفت
 کرتے ہیں۔ (Time bell rings)
 تو جو آدمی اتنے ظلم و ستم
 سہا رہا ہے اگر وہ اپنے مذہب سے کچھ
 کہہ دیتا ہے تو آپ اس کو پریوینٹیو
 ڈیٹینیشن میں بند کر دیتے ہیں۔

میں آپ کا بہت شکریہ ادا کرتا
 ہوں کہ آپ نے مجھے اتنا ٹائم دیا۔
 کہنا تو میں بہت کچھ چاہتا تھا
 لیکن چونکہ آپ نے مجھے تھوڑا ٹائم
 دیا ہے اور مجھے جانا بھی ہے اس
 لئے میں یہ کہتا ہوں کہ نارمل لاز
 آف دی کلچر کو استعمال کیجئے۔

مگر یہ پریوینٹیو ڈیٹینیشن ایکٹ ہمارے
 لئے لاگو کرنا زیبا نہیں ہے۔ ہماری
 جمہوریت کے لئے زیبا نہیں ہے اور
 ہمارے مہاتما گاندھی کو جیلوں نے
 جمہوریت کی بنیاد قالی آزادی دلائی
 ان کی روح کو آتما کو اس سے بہت
 دیکھ پھلتے گا۔ اگر آپ اس قسم کا
 قانون لٹائیں گے اور اس کو پاس
 کریں گے۔ پہلے شروع میں آپ نے بنایا
 تھا اب دن دن اس کو ایکسٹینڈ
 کر رہے ہیں۔ آپ نے پاس ڈیفنس
 آف انڈیا ایکٹ موجود ہے اور اس
 کے تحت ڈیفنس آف انڈیا رولز
 موجود ہیں اور اس کے تحت اس
 پریوینٹیو ڈیٹینیشن ایکٹ کی بالکل
 ضرورت ہی نہیں ہے اور جب کہ
 ہمارے پاس ویسے ہی بہت سے
 دوسرے قانون موجود ہیں۔ اس لئے
 میں نہایت ادب سے عرض
 کروں گا کہ وہ جو ہم چاہتے ہیں
 اس کو مانے اور اس پریوینٹیو ڈیٹینیشن
 ایکٹ کی مہم کو اور آگے ایکسٹینڈ
 کرنے کی کوشش نہ کرے۔

†[श्री प्यारे लाल कुरील 'तालिब':
 वाइस चैरमैन साहब । श्रीमान मैं आपका
 ज्यादा बक्त नहीं लूंगा क्योंकि मुझे जाना

†[] Hindi transliteration.

बाहर जाना है। इससे पहले कि अपने विचार आपके सामने रखूँ, महात्मा गांधी के चन्द शब्द जो उन्होंने आज़ादी से पहले कहे थे वह मैं आपके सामने रखूँगा।

[THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA) in the Chair.]

उन शब्द कितनी अहमियत रखते हैं, इसका अन्तर आप इन शब्दों से लगा सकते हैं। उन्होंने "यंग इंडिया", मार्च २, सन् १९२२ ई० के इश्यू में लिखा था :—

"Democracy is not a state in which people act like sheep. Under democracy individual liberty of opinion and action is jealously guarded."

एक दूसरा उनका और बयान है वह भी मैं इसी वक्त आपके सामने पढ़ दूँ :—

"Real Swaraj will come not by the acquisition of authority by a few but by the acquisition of the capacity by all to resist authority when it is abused; in other words, Swaraj should be obtained by educating the masses to a sense of their capacity to regulate and control authority."

यह उस महान हस्ती के अल्फाज़ हैं जो कि उन्होंने आज़ादी से पहले कहे थे। इन अल्फाज़ की कितनी बड़ी कीमत है, यह आप अच्छी तरह से समझ सकते हैं। जम्हूरियत में, प्रजातन्त्र में, और जहाँ पर जनता का राज है—जैसा कि आप पहले कहते हैं कि इस देश में जनता का राज है, यहाँ डेमोक्रेसी है, यहाँ जम्हूरियत है—वहाँ पर शहरियों के कुछ बनियादी हुक्म हुआ करते हैं, कुछ मौलिक अधिकार हुआ करते हैं, और वह मौलिक अधिकार ऐसे होते हैं जो कि किसी हालत में भी खत्म नहीं किये जा सकते, जो कि शहरी के साथ में हमेशा रहते हैं जब तक कि देश के अन्दर जम्हूरियत है, प्रजातन्त्र है, जब तक जनता की हुक्मत है तब तक वह अधिकार उससे छीने नहीं जा

सकते। यहाँ तक कि अगर एमरजेंसी भी हो तो भी मैं कह सकता हूँ कि इन अधिकारों पर कुठाराघात नहीं किया जा सकता। इन बनियादी हुक्म को नहीं छीना जा सकता। यह हमारी जम्हूरियत के साथ रहते हैं, प्रजातन्त्र के साथ रहते हैं, और शहरी के साथ में सदा रहते हैं। यह ऐसे अधिकार हैं जिनको कि हम किसी वक्त पर भी खत्म नहीं कर सकते हैं।

कहा यह जाता है कि इस देश के अन्दर गृष्टे हैं, एन्टिसोशल एलिमेंट्स हैं, जो कि देश का शान्ति को भंग करना चाहते हैं, दुश्मनों के साथ सज बाज करना चाहते हैं, यहाँ की इत्तिला को दूसरे मुल्कों में भेजन, चाहते हैं। हो सकता है कि ऐसा हो। कुछ ऐसे आदमी हैं। लेकिन जहाँ तक राजनौतिक दलों का, सियासी दलों का ताल्लुक है, कोई सियासी दल ऐसा नहीं है, कोई सियासी पार्टी ऐसी नहीं है जिसने कि यह कहा हो कि हम वायलेन्स पर विश्वास करते हैं, हम वायलेन्स के जरिये से हुक्मत को बदलना चाहते हैं या वहाँ को शान्ति को भंग करना चाहते हैं। कोई पार्टी आप बता दें, यहाँ तक कि कम्युनिस्ट पार्टी भी यही कहती रही है, उसने भी यहाँ कहा है कि हम वायलेन्स नहीं चाहते हैं और नानवायलेन्स तरीकों से, पार्लियामेंटरी तरीकों से हुक्मत बदलना चाहते हैं। तो इस पार्टी ने भी कई दफा इस किस्म के बयानात दिये हैं। अब सवाल यह पैदा होता है कि इन पार्टियों के अलावा अगर हम देखें तो प्रिवेन्टिव डिटेन्शन एक्ट में जिन लोगों को गिरफ्तार किया गया है, उनमें ज्यादातर हमारा सियासी जमायतों के लीडर्स थे, वर्कर्स थे मैं अपनी पार्टी के मुताल्लिक बता सकता हूँ कि मेरे खयाल में शायद ही कोई ऐसा लीडर रहा हो जो प्रिवेन्टिव डिटेन्शन में न गिरफ्तार हुआ हो। हमारे प्रभु नारायण थे, जो लोक सभा के मेम्बर थे उन्हें इसके

[श्री प्यारेलाल क्रील 'तालिब']

मातहत गिरफ्तार किया गया। एक मिस्टर पटनायक थे, उनको गिरफ्तार किया गया। और हमारी पार्टी के स्टूडेंट लीडर बी० सी० मिश्रा को भी प्रिवेन्टिव डिटेनशन में गिरफ्तार किया गया। शेख अब्दुल्ला को ११ साल से गिरफ्तार कर रखा है। आप हिन्दुस्तान की या दुनिया की तारीख में बताइये कि किसी शाहस को इतनी मियाद के लिये डिटेन किया गया हो। इतने धरसे से उनके ऊपर मुकदमा चल रहा है। और सैकड़ों, हजारों गवाह पेश हुए हैं। अभी तो चन्द ही पेश हुए हैं और मालूम नहीं वह कितनी मुद्त तक जेल में रहेंगे। क्या यह जम्हूरियत है, क्या यह प्रजातन्त्र है? आप उनके खिलाफ कदम उठाइये, मगर जल्दी उठाइये, जल्दी से जल्दी उनको सजा दीजिये। ११ साल को सजा बहुत होती है। अगर वह कल भी किये होते तो पांच छः साल में छूट जाते। अगर उन्हें उम्र कैद की भी सजा होती तो भी आज जेल के बाहर होते, लेकिन अब भी वह जेल के अन्दर हैं। यह हमारी जम्हूरियत के लिये शर्मनाक बात है।

अब इन सियासी लीडरों के अलावा जो गुन्डा एलीमेन्ट है उसके मुताल्लिक जब जिक्र किया जाता है तो मैं बड़ा ताज्जुब करता हूँ कि आपने जरा गौर से इंडियन पैनल कोड को नहीं देखा कि वह कितना एग्जास्टिव है। हम अगर पैनल कोड को बड़े ध्यान से देखें तो मालूम होगा कि कोई भी ऐसा आफेन्स नहीं है इस देश के अन्दर कि जिसके बारे में आप इंडियन पैनल कोड के अन्दर जिक्र नहीं पायेंगे। आप इसके मुताबिक सजा दे सकते हैं। मैं आपकी इस तरफ तबज्जो दिलाऊंगा कि इंडियन पैनल कोड में और खास तौर पर क्रिमिनल प्रोसिजर कोड में एक पूरा का पूरा चैप्टर है। चैप्टर ६ आफेन्सेज एगैस्ट दी स्टेट, जिसमें बहुत

सारी बातें कही गई हैं और उन में से दो तीन को पढ़ कर मैं आपको सुनाऊँ कि एमरजेंसी के दौरान या लड़ाई के दौरान क्या क्या प्राविजन इसमें हैं—

"121. Waging, or attempting to wage war, or abetting waging of war, against the Government of India.

121A. Conspiracy to commit offences punishable by section 121.

122. Collecting arms, etc., with intention of waging war against the Government of India.

123. Concealing with intent to facilitate design to wage war.

124. Assaulting President, Governor, etc., with intent to compel or restrain the exercise of any lawful power."

ऐसी कई दफायें आपको दोनों एक्ट के अन्दर मिल जायेंगी जिनके मातहत आप गिरफ्तार कर सकते हैं। वैसे ही अगर कोई सिडिशन करे, यानी कोई स्टेट के खिलाफ काम करता है और प्रीच करता है, इसके लिये खास तौर पर प्राविजन रखा गया है जिसके मातहत आप उनको खिलाफ कार्रवाई कर सकते हैं : और आगे पढ़िये तो राइट्स के मुताल्लिक उसमें कहा गया है—

"144. Joining unlawful assembly, armed with deadly weapon,

145. Joining or continuing in unlawful assembly, knowing it has been commanded to disperse.

146. Rioting.

148. Rioting, armed with deadly weapon.

151. Knowingly joining or continuing in assembly of five or more persons after it has been commanded to disperse.

152. Assaulting or obstructing public servant when suppressing riot. etc.

153. Wantonly giving provocation, with intent to cause riot—if rioting fee committed.

153A. Promoting enmity between classes."

अभी हमारे मिस्टर मौर्य को यह कह कर डिफेंस आफ इंडिया क्लब के मातहत गिरफ्तार किया गया कि वह शिडयूल्ड कास्ट और मुसलमान एक तरफ और दूसरी तरफ हिन्दुओं के बीच में नफरत फैला रहे थे, और इसी विना पर इनने डिफेंस आफ इंडिया क्लब के तहत गिरफ्तार किया गया। आपको उन्हें इसके मातहत क्यों गिरफ्तार करना चाहिये था? हमारे कानून में वैसे ही एक दफा है—Promoting enmity between classes—जिसके मातहत कार्रवाई की जा सकती थी। और भी बहुत सी ऐसी दफायें हैं, जैसे कि Harboursing persons hired for an unlawful assembly. This is Chapter IX—Offences by or relating to public servants, इस तरह से बहुत से ऐसे प्रोविजन उनमें हैं और इसी तरह से क्रिमिनल प्रोसीजर कोड में आप देख लीजिये, यानी मैं अभी दूसरे स्पेशल एक्ट की तरफ ध्यान नहीं दिला रहा हूँ, मगर यह जो एक्ट मैंने आपको बताया यह देश भर में मशहूर है। प्रिवेन्शन आफ आफफेंस के लिये सेक्शन है। बाकी और के मैं नमूने दे रहा हूँ।

"Criminal Procedure Code—Chapter IV—Prevention of offences—

106. Security for keeping the peace on conviction.

107. Security for keeping the peace in other areas.

108. Security for good behaviour from persons disseminating seditious matter.

109. Security for good behaviour from vagrants and suspected persons.

110. Security for good behaviour from habitual offenders."

इसके आगे अन-ला-फुल असम्बलीज के मुतालिक है। सेक्शन 92E—Use of armed forces—you can even call in the armed forces. फिर पब्लिक न्यूसेंस पर भी एक सेक्शन है। इसके अलावा कोई स्टेट ऐसा नहीं होगा जहां पर कोई न कोई स्पेशल एक्ट नहीं होगा, जिसके मातहत कार्रवाई की जा सकती है। कई भी अप्रॉक्सिमेट हो उसके खिलाफ नारमल लाज आफ दी कन्ट्री मौजूद हैं।

हम तो कहते हैं कि जम्हूरियत के उम्मीलों को हमें कायम करना है ताकि आइन्दा आने वाली नस्लें इन उम्मीलों को और इन तरीकों को फॉलो करें। आपने एक मिसाल आने वाली नस्लों के लिये रखनी है। मैंने अभी महात्मा गांधी के अलफाज आपके सामने रखे। असल में हम कौम की खिदमत कर रहे हैं। हम गवर्नमेंट के कान खींच रहे हैं। हम बता रहे हैं कि आप ऐसी चीज कर रहे हैं जो जनता के मफाद के खिलाफ है, जनता के बुनियादी हक के खिलाफ है। जब नारमल लाज आफ दी कन्ट्री मौजूद हैं उनको आप होर्ड्स के खिलाफ इस्तेमाल कर सकते हैं, प्राफिटियर्स के खिलाफ इस्तेमाल कर सकते हैं। जिस तरह से जिनके खिलाफ आप चाहें इस्तेमाल कर सकते हैं। मुझे आप बतायें कि कौन से ऐसे आफफेंस हैं जिन पर आप नारमल लाज के मुतादिक पैनशमेंट नहीं दे सकते हैं, सजा नहीं दे सकते हैं। इन बातों की तरफ सौर करने की जरूरत है।

मैं सोशलिस्ट पार्टी से ताल्लुक रखता हूँ और आज मैं यह यकीन के साथ कह सकता हूँ, फ्रण्क के साथ कह सकता हूँ कि मेरी पार्टी

[श्री प्यारेलाल कुरील "तालिब"]
 ने कमी भी वायलेन्स पर विश्वास नहीं किया, और कमी भी वायलेन्स पर विश्वास नहीं करेगी। हमेशा हमने डेमोक्रेटिक प्रिन्सिपल पर विश्वास किया है। हम डेमोक्रेटिक सोशलिज्म इन देश के अन्दर चाहते हैं। मगर कितने ही हमारे आदमियों को प्रिवेन्टिव डिटेन्शन एक्ट में बन्द किया गया है। इसी तरह से रिपब्लिकन पार्टी है जो कमी वायलेन्स पर यकीन नहीं रखती। मगर आज रिपब्लिकन पार्टी के आदमी भी गिरफ्तार हैं, जो गरीबों की, अछूतों की और गिरे हुए आदमियों की नुमाइन्दगी करते हैं। सदियों से जिनको अधिकारों से वंचित कर रखा है और जिनको वह अधिकार अभी तक नहीं मिले हैं उनकी नुमाइन्दगी रिपब्लिकन पार्टी करती है।

मैं कहता हूँ जितनी मुश्कालफत हमने ब्रिटिश गवर्नमेंट की की है और जो जुल्मों सितम हमने अंग्रेजी सरकार के सहे हैं उनसे हजार गुना ज्यादा जुल्मों सितम इन अछूतों और छोटे छोटे भाइयों ने उठाये हैं। मुझे तो ताज्जुब होता है—सदियों गुजर गई उन्होंने आज तक आवाज क्यों नहीं उठाई, रिवोल्ट क्यों नहीं किया। मैं यह नहीं कहता कि वह बग़ावत करें मगर आप उनके जज़्बात को समझिए कि आज भी देश भर में एक गांव भी ऐसा नहीं है जहां हाईकास्ट और अछूत एक ही कुएं से पानी भरते हों। उनको आज भी गांव की हाई कास्ट की बस्ती के कुएं से पानी लेने की इजाजत नहीं है। मैं दावे के साथ कह सकता हूँ। और गवर्नमेंट ने अपनी मजबूरी को देख कर अब उनकी बस्तियों में कुएं खोदे हैं, उनकी इमदाद की है, उनके लिए अलग कुएं खोदे हैं, अलग होस्टल में उनको भरती किया है, क्योंकि आला कोम के लोग मुश्कालफत करते हैं।
(Time bell rings) तो जो आदमी इतने जुल्मों सितम सह रहा है अगर वह अपने मुँह से कुछ कह देता है तो आप उसको प्रिवेन्टिव डिटेन्शन में बन्द कर देते हैं।

मैं आपका बहुत शुक्रिया अदा करता हूँ कि आपने मुझे इतना टाइम दिया। कहना तो मैं बहुत कुछ चाहता था लेकिन चूंकि आपने मुझे थोड़ा टाइम दिया और मुझे जाना भी है इसलिये मैं फिर कहता हूँ कि नारमल लाज आफ दी कन्ट्री को इस्तेमाल कीजिये। मगर यह प्रिवेन्टिव डिटेन्शन एक्ट हमारे लिये लागू करना जेबा नहीं है। हमारी जम्हूरियत के लिये जेबा नहीं है। और हमारे महात्मा गांधी का जिन्होंने जम्हूरियत की बुनियादी डाली, आजादी दिखाई उनकी रूह को, आत्मा को इससे बहुत दुख पहुंचेगा अगर आप इस किस्म का कानून बनायेंगे और इसको पास करेंगे। पहले शुरू में आपने बनाया था अब दिन-ब-दिन इसको एक्स्टेंड कर रहे हैं। आपके पास डिफेंस आफ इंडिय एक्ट मौजूद है और इस के तहत डिफेंस आफ इंडिया रूलस मौजूद हैं और इसके रहते इस प्रिवेन्टिव डिटेन्शन एक्ट की बिल्कुल जरूरत ही नहीं है और जबकि हमारे पास वैसे ही बहुत से दूसरे कानून मौजूद हैं। इसलिये मैं निहायत अदब से सरकार से अर्ज करूंगा कि वह जो हम चाहते हैं उसको माने और इस प्रिवेन्टिव डिटेन्शन एक्ट की मियाद को आगे एक्स्टेंड करने की कोशिश न करे।]

3 P.M.

SHRI B. D. KHOBARAGADE: Mr. Vice-Chairman, Sir, I strongly oppose this Bill because this is a most undemocratic and inglorious Bill and smacks of despotism. In a democracy, individual freedom, individual liberty and rule of law are of great importance and are paramount, and therefore, any Bill or any law, which tries to restrict the liberty and freedom of an individual, must be opposed by every individual who claims to be a* democrat.

As pointed out by my friend, Mr. Kureel, there are a number of laws in this land which can be effectively enforced to check the bad elements and the goonda element* in this coun-

try. As a matter of fact, if we go through the statistical information, we find that the Preventive Detention Act has been used not to check the bad elements in the society, not to check the anti-social elements, but has been used mainly to suppress the opposition parties. May I draw your attention and the attention of the House to Statement 11 in this Report? In this Statement it has been mentioned that in Gujarat 16 people were detained for violent activity, and 2 for communal agitation, and that this violent activity had been started—as alleged by the Government—by the Hindu Mahasabha and the Bharatiya Jana Sangh. Now, can we believe that Hindu Mahasabha is a violent organisation, or one which believes in violence? And can we also believe, Sir, that the Bharatiya Jana Sangh is an institution or organisation which believes in violence? Then there is the West Bengal's case, where 258 persons were arrested, and out of them, 255 for goondaism. Why? Because the Workers' Party of India started some agitation there, they were arrested. And on the first page of this Statement we find that 160 people were detained in West Bengal, and these people belonged to Jamat-e-Islami; and out of those 160 people, 159 persons were declared as goondas. I mean, those organisations, those political parties who are agitating to redress the grievances of their communities, who are trying to redress the grievances of the down-trodden people in this country are classified as goondas and detained, and their members are put behind bars. This is what we come to know from the statistical information given in this case.

Sir, it has been mentioned by the hon. the Home Minister in the other House that if all the parties declare that they abjure violence, then there will not be any need for the Preventive Detention Act or the Defence of India Act. Sir, it has been declared in this House by many party spokesmen that they do not believe in violence. Even the Communist Party

has declared that they would not indulge in any violent activity, and we are to believe them.

THE MINISTER OF STATE 1* m
MINISTRY OF HOME AFFAIRS (SHRI R.
M. HAJARNAVIS): Does the hon. Member believe that?

SHRI B. D. KHOBARAGADE: At least so far as this particular statement is concerned, I am prepared to accept it. (*Interruptions.*) Therefore, when all opposition parties are, when even the Communist Party is, prepared to abjure violence why is there the necessity for this particular Bill?

Sir, it raises a fundamental ques-don. In a democratic set-up, are not the opposition parties, are not the communities, entitled to agitate if they find that injustice is being done to them? I think, if there is great injustice done those people must be allowed to agitate to redress their grievances. May I draw your attention to the recent Bill which was introduced in the Lok Sabha about two days back? It is regarding Goa. That Bill seeks that the jurisdiction of the Bombay High Court which was extended to Goa, is to be withdrawn now. Why? Why is it to be withdrawn? Why Goa is removed from the jurisdiction of the Bombay High Court? Sir, only about one week back the people of Goa have given a verdict that Goa wants to merge with Maharashtra, and, therefore, it was the duty and responsibility of the Government to accept the verdict of the people, and take early steps for the merger of Goa with Maharashtra. But that is not done. The next day, the Prime Minister of this country, whom we always consider to be a great democrat, issued a statement to the press that Goa will not be merged with Maharashtra because—he said—he wanted to respect the views of the people, of the people of Goa. I do not know what he means by the 'people of Goa'. Does he mean the people in Portugal, because the people in Goa have given a clear

[Shri B. D. Khobaragade.] verdict that Goa should be merged with Maharashtra? Now you are not taking steps for early merger of Goa with Maharashtra; on the contrary, you introduce a Bill in the other House, which takes away Goa out of the jurisdiction of the Bombay High Court. Therefore, you are trying to separate Goa from Maharashtra.

SHRI JOSEPH MATHEN (Kerala): How can the hon. Member call it a verdict as long as the party in power did not get a clear majority?

SHRI B. D. KHOBARAGADE: Surely, you can see that they have formed a Government there; you can consider the number of members who have been elected on that issue (Interruptions). The people of Goa have given the clear verdict, and the Congress Party, who wanted to maintain the *status quo* in Goa, was utterly routed from Goa; they could not get one single member elected from Goa. Out of the thirty candidates set up, seventeen Congress Party candidates had to lose their deposits. That was the case in Goa. Therefore, as my friend, Mr. Pathak, had said that public opinion should be respected, do we find that the public opinion is being respected in Goa where people have expressed their desire to merge with Maharashtra? Therefore, Sir, the responsibility for all the agitations, for all these activities, lies on the shoulders of the Government; they cannot deny that responsibility. Therefore, Sir, in a democratic set-up, if the organisations start 'agitations—of course, they must be peaceful agitations—if they start peaceful agitations, then they should not be deprived of their democratic right to do so. If they want to redress their grievances, they should be allowed to redress their grievances by resorting to peaceful agitation.

Sir, the other day the hon. Minister, Mr. Hajar-navis, made a statement in this House regarding the arrest of Mr. Manrva. He was arrested in Delhi; he was attending Parliament session and he was arrested without a

warrant. And what were the grounds given by the hon. Minister? That he was creating some sort of trouble, communal hatred between Hindus and Muslims, and between Hindus and the Scheduled Caste people. He went on to say that he used very strong language and asked the people, the Scheduled Castes people, to revolt against the Government. Is there anything wrong? Can Mr. Hajar-navis say he has done wrong? People who have been made to suffer for thousands of years, if they say that they want to remove those bonds of slavery, if they say that they must revolt against this communalism and casteism and the Government which tolerates this communalism and casteism, what harm is there? Did he do anything wrong? And another Congress Member, Mr. Tapase, says that Gandhiji believed in that policy, in that philosophy. It is alleged that Mr. Maurya said that he wanted to throw out the Government. Well, what do the Opposition parties want to do? We want to throw out the Congress Government. We are the spokesmen of the people outside and we want to throw out the Congress Government.

SHRI R. M. HAJARNAVIS: I respect the sentiments of the hon. Member. Now he is exercised. But all these questions are to be settled in a court of law. Therefore I think it would be better for him not to refer to it.

SHRI B. D. KHOBARAGADE: We want to throw out the Government. All the Opposition parties want to throw out the Government if they can get an opportunity. But so far as my party, the Republican Party, is concerned, we want to throw out the Government by peaceful ways and not by violent methods. What wrong do we do, if we ask the people not to vote for the Congress and overthrow the Congress Government? Is it an offence? It is not an offence. Why should then people be detained under the Preventive Detention Act or the Defence of India Rule? I do not understand it.

Now, Sir I may give another instance. Mr. George Fernandes was arrested. He belonged to the Socialist Party. He was a member of the Defence Council of Maharashtra. If he could be a member of the Defence Council, it means that he was helping the country in furthering the efforts for defence of this country. Why should he be arrested? He was arrested because he had demanded that the taxi drivers' in Bombay should be paid more, and because the demand was not accepted, he gave a clarion call to all taxi drivers to go on strike. What wrong did he commit? I do not understand it. He was immediately arrested and put behind the bars under the Defence of India Rules.

May I give another instance? The Editor of the daily "Navbharat", which is published from Nagpur, has been prosecuted under the Defence of India Rules. Why? Because he published a news item that a police constable was harassed by a police sub-inspector. The constable was sick. He was having temperature and, therefore, could not perform his duty properly. He, therefore, wanted to go on leave. But he was compelled to do parade and the result was that he ultimately died. This simple thing was published in the "Navbharat".

SHRI R. M. HAJARNAVIS: The news was incorrect.

SHRI B. D. KHOBARAGADE: It was incorrect, you could have contradicted it. What was the necessity of prosecuting him under the Defence of India Rules? There were other common laws prevalent. Why did you not invoke the provisions of those laws? And even now that Editor is being harassed and some cases are pending against him.

Therefore, Sir, from all these facts, from all these instances we knew that the Preventive Detention Act is being used to suppress the Opposition parties. Had it been used to suppress antisocial elements, to check goondas, then we would not have objected to.

There would have been objection even then but not such a serious objection. Today go to Bombay, go to Nagpur, go to villages, you will find goondas in white khadii clothes and white caps creating all sorts of troubles but nobody can dare touch them. What happens to these people? Therefore, Sir, my submission to you is that this most despotic and undemocratic Bill should not be allowed to be passed by this House. I strongly oppose this Bill. I thank you very much for giving me the opportunity to say a few words.

SHRIMATI K. BHARATHI (Kerala): Mr. Vice-Chairman, Sir, since this Bill is only for the extension of the life of the existing Act, normally no great furor was expected. Sir, we on this side of the House also would have been only too happy to welcome a state of affairs in which such Acts do not find a place on the Statute Book.

Sir, the Preventive Detention Act is being described as a "black Act", "lawless law", etc. by the very people who create an atmosphere in this country, thereby compelling the Government to retain the so-called black Act. It is said, Sir, that 'that Government is best which governs least'. But we find in the present set-up, considering human limitations and the limitations of the society in which we live that a certain measure of control is inevitable. The question to be decided is whether this control is exercised in the best interests of the society, with the approval and approbation of the people, whether this control constitutes to the development of the society into a climate of freedom and cohesion. If this control leads to the smothering of freedom, if it leads to thralldom, it is something ominous. Sir, on the other hand if it is a necessary evil, like the shell that protects the chick in the embryo, or like the calyx and epicalyx—I am a botanist—which protects the flower in the bud, it should be welcomed. The calyx seems to smother the tender petals in the infant stage. But they yield and recede slowly as the petals mature and grow and bloom out. The calyx remains obscure-

[Shrimati' K. Bharathi.) at the bottom, offering the quantum of strength and protection needed for the flower. Sir, it is our duty to protect our infant democracy which is just like the flower in the bud. We cannot live in this work-a-day world on the abstract conception of freedom, freedom to spoil everything. These conceptions havj to be applied with states- i manship. I do not think that anybody with any conscience can say that the party that came into power stifled the growth of democracy—like a gullible 'child—like the knave politician who wanted to hold on to power at the cost of abiding values.

Sir, it is with great sacrifice and suffering that the Government have done everything to staibilise democracy. If today India is the biggest and stablest of democracies, it is due to the foresight of the ruling party and Government. We have seen all around us the staggering of democracies, big and small alike, yielding place to despotism. Sir, it may be 'because the people in these democracies were not passionate in their devotion to democracy; maybe, because there was no party which was able to hold the people together and lead them on the path of democracy; maybe, because tUt.re were internal and external challenges which destroyed the normalcy needed for the growth of democracy; or, Sir, maybe because the men who found themselves at the helm of affairs were reluctant to take the risk of losing power by adopting democracy. Whatever may be the reasons, there is no doubt that the external and internal conditions decide the pattern of society, a people have to choose whatever their wishes and aspirations might be. Sir, look at the tortoise which toils its way on land and water carrying a huge fortress on its back. It would also like to be free as the bird in the sky, to soar high up in the heavens like a Rajhansa. But in that particular set-up in which it was constrained to evolve, it had to carry its fortress on its back for its own survival. Sir, the limitation of environment was always there for us

to retain this load of a Preventive Detention Act. It is not a comfortable position for any Government. I do not say that it is because of Mr. Bhupesh Gupta and Company alone that we are handicapped with this fortress on our back.

I c'ome fñm. Kerala and I want 10 enlighten Mr. Bhupesh Gupta on a minor point about which his memory seems to be very short. He referred to the Communist Government in Kerala that they never used the Preventive De13ftU.ii Act against anybody. There was no need for the Communist Government in Kerala to use this Act because the Government themselves were organising and propagating goon-daism through -Hg.l-props and various other organisations. Now, I also want to tell him that for the last two years, not a single Communist was detained in that State under this Act but at the same time there were a few instances where blackmarketeers and profiteers were detained for meddling with food-grain laws.

Anyway, though we are lucky when compared with our neighbours, we have our own limitations also which make these small irksome measures inevitable. As long as there are people in this country today who are not dedicated to democracy, who think and act in fascist Uuts, whose loyaltiea are decide .1 by considerations wh ch are anti-nañionai, we have to put up with these irksome measures. In the present context, these things assume added significance when our frontiers are menaced by enemies, who have no compunction to make use of the basest in human beings.

Let us look at the question in this way. Is it not better if we can, by a few swift and decisive moves, defeat the vivise-jucn.ot. who challenge the unity of this count y thin preparing to fight a civil war as they fought in America, a hundred years ago? The Preventive Detention Act has to be used like the fire brigade to put out the small fires that may grow into forest fires, if not checked or put out I in time. I am sure nobody can accu«»

the Government of having misused the Preventive Detention Act for party ends and abused it. Hitherto it had been used with great restraint and caution and it will be used with restraint in the future also.

SHRI A. M. TARIQ: Sir, I just want to make a submission. When another hon. Member was in the Chair, there were some words between myself and Mr. Pathak and I do not think it was so serious. I would request you to expunge those words of Mr. Pathak and mine too.

SHRI DAHYABHAI V. PATEL: Why?

SHRI G. S. PATHAK: Actually when I was talking 'of Pakistan, he interrupted me and said 'Go to Pakistan' intending that he should go to Pakistan and see the cases of preventive detention there.

SHRI DAHYABHAI V. PATEL: He said 'You will have to go to Pakistan'. We object to it. The record must be kept correct always.

SHRI G. S. PATHAK: I intended him to see what is going on there under preventive detention.

SHRI DAHYABHAI V. PATEL: The record of the House is not the private preserve of Congressmen. The recorded proceedings must go in. (*Interruptions*). Let us go by the tape-recorder. What does the tape-record say?

SHRI A. M. TARIQ: I will request you and through you every hon. Member, especially my hon. friend Mr. Gupta, my senior friend Mr. Patel and Mr. Chandra Shekhar that it is not a question so far as an individual is concerned. It is a question of my nation and my people and the whole country. So, I request them not to make it a political problem. It is everybody's problem. It is not Tariq to go to Pakistan, it means Mr. Pathak and Mr. Gupta must go to Pakistan. But, it was not something which was serious. Let us expunge it for the

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benefit of this country and not allow outsiders to exploit a small incident

SHRI DAHYABHAI V. PATEL: I would very much like to agree to the very reasonable appeal of my friend but I think it is against the law. You cannot do it and I do not think we should allow any evasion of the law.

SHRI BHUPESH GUPTA: In the course of his speech Mr. Pathak said so many things against so many. Normally everything should be expunged. In fact the whole speech should be expunged. I am prepared for it but just because he said something against Mr. Tariq and just because they belong to the same Party—they are sitting together— . . .

SHRI A. M. TARIQ: That is not so . . .

SHRI BHUPESH GUPTA: ... and an internal, domestic arrangement has been made . . .

SHRI A. M. TARIQ: No.

SHRI BHUPESH GUPTA: I am in sympathy with Mr. Tariq, I mean he criticised the speech, but I would like it to be recorded that here in a person, an hon. Member, who claims himself to be a big lawyer, that this is the kind of statements he makes even with regard to his party-men, about his integrity as an Indian citizen. We have not the slightest doubt . . .

SHRI G. S. PATHAK: I protest. No reflection was cast on Mr. Tariq's integrity I have stated what I meant and Mr. Tariq accepts that this is what I stated. He wants to expunge it and I have no objection but if there is any . . .

SHRI CHANDRA SHEKHAR: This is not a domestic affair. It is not a private . . .

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA): Mr. Chandra Shekhar . . .

SHRI BHUPESH GUPTA: Mr. Vice-Chairman, you are guided naturally by the Rules of which you are much more conscious than I am.

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA) : I have called Mr. Chandra Shekhar . . .

SHRI BHUPESH GUPTA: Just for the convenience of Mr. Pathak who exhibited certain temper and said all these, it should not be done. As for Mr. Tariq, he is an esteemed friend, we are all in sympathy with him but Mr. Pathak should be shown in his true colours.

SHRI G. S. PATHAK: No. I protest. There were so many interruptions and during those interruptions I was not being allowed to speak and then when Mr. Tariq said this and then I said: "You will have to go to Pakistan to see certain things, to see what is preventive detention there."

SHRI CHANDRA SHEKHAR: My only submission is, it is not a private affair between two Members. Whatever is said in the House, I think it is said in a serious mood. If Mr. Tariq and Mr. Pathak want to make any amendment to the speeches they have every right to make statements here and clarify their position, but how can their utterances in this House be expunged? If they want to clarify, you may permit Mr. Tariq and Mr. Pathak to explain and they may make clarifications but nothing can be expunged.

SHRI BHUPESH GUPTA: You kindly listen to what he has said. He said: 'You may go to Pakistan'. All I would urge is this is not unparliamentary. It is very parliamentary, that is to say, it is not covered by the Rules which permit expunctions. Therefore, you cannot expunge it. All I can say is that if Mr. Pathak is repentant about it, he should get up and say: "Due to inadvertence, I said something which I should not have said. I apologize to Mr. Tariq and the House and I withdraw.* Let it be recorded.

SHRI JOSEPH MATHEN: The sense of the House should be taken.

HON. MEMBERS: No.

SHRI BHUPESH GUPTA: This is not the A.I.C.C. This is Rajya Sabha. (Interruptions).

SHRI A. M. TARIQ: There is procedure, there are conventions and there is also one word and that is 'generosity'. Being younger in age to my friends on that side, I do not want to make this incident a political question and I do not want to make it a history of the Parliament or the Indian nation. I beg of them, I will request them as a Kashmiri, as a Member of Parliament to please allow this House to expunge these words. Please do not have any revenge. Excuse me, I request you, I beg of you to allow this thing to expunge these words.

DR. A SUBBA RAO: Why? What prevents Mr. Pathak to withdraw his words?

SHRI BHUPESH GUPTA: Why does he not say that? Let Mr. Pathak say that he said it, he is sorry for it and he apologizes to Mr. Tariq . . .

SHRI G. S. PATHAK: I am not sorry for it. What I said was, when he interrupted me about Pakistan, I was talking about preventive detention. I said 'You will have to go to Pakistan to see that.' He will have to see what is preventive detention there. That is what I said. Mr. Tariq has understood me. He has not misunderstood me. I said what I said before and I agree to the expunction of that remark. He made a request to the Vice-Chairman for the expunction of that remark.

SHRI BHUPESH GUPTA: He said . . .

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA): I am on my legs, Mr. Gupta. Please sit down.

SHRI BHUPESH GUPTA: But this is a serious point of procedure . . .

SEVERAL HON. MEMBERS: Obey the Chair. Sit down.

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA): Mr. Gupta, I am going to clear the position.

SHRI BHUPESH GUPTA: Please do.

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA): I have.....

SHRI G. MURAHARI: But the hon. Member . . .

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA) : No, Mr. Murahari, please don't get up. I have heard the whole thing. There is no procedure by which I can expunge what has been said earlier. The explanation of Mr. Tariq and also that of Mr. Pathak are there and they have gone on record, and that is the end of the matter.

SHRI DAHYABHAI V. PATEL: Before you close this chapter, may I say that there are perpetual interruptors from that side so that it becomes difficult?

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA) : Interruptors are there on all sides.

SHRI DAHYABHAI V. PATEL: Mr. Pathak is misunderstood when he is interrupted, but what about us? When we are interrupted by Members who do not understand the language, Members who do not know the procedure of the House, who comes to our help?

SHRI K. SANTHANAM: I suggest that if there is any mis reporting, that can be corrected by the hon. Member when the proof comes to him.

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA): The next speaker, Mr. Abid Ali.

श्री आबिद अली : माननीय उपसभा-ध्यक्ष जी, मैं इस बिल का हार्दिक समर्थन करता हूँ और समर्थन करते हुए सरकार से एक निवेदन करना चाहता हूँ कि उसे ज्यादा होशियारी की जरूरत है। जमहूरियत अच्छी

चीज है, इसको सब मानते हैं और मानना भी चाहिये, लेकिन कुछ ऐसे लोग भी आपके इस हिन्दुस्तान में मौजूद हैं, जो कि जमहूरियत का इस्तेमाल करके जमहूरियत को मिटाना चाहते हैं। उनसे आपको सावधान रहना चाहिये।

डिफेंस आफ इंडिया बिल्स जिस वजह से अमल में आये, हर ईमानदार हिन्दुस्तानी यह चाहता है, दुआ करता है, कोशिश करता है, और हर कुर्बानी के लिये तैयार है कि वे सब कारण जिनकी वजह से डिफेंस आफ इंडिया ऐक्ट आया, वह कारण खत्म हो जायें और डिफेंस आफ इंडिया बिल्स और इमर-जेंसी भी बहुत जल्द खत्म हो जाये। उसका जिक्र इस सिलसिले में करना जरूरी नहीं है। वह तो खत्म होना ही है। लेकिन डिफेंस आफ इंडिया बिल्स और इमरजेंसी खत्म होने पर भी, जो अनासिर आपके मुल्क में हैं और रहेंगे, उनके बारे में काफी इस्तजाम करने की जरूरत है—गुंडे हैं, कम्युनिस्ट हैं, ब्लैक-मार्केटियर्स हैं, और सर्विसज में भी बेईमान और रिश्वतखोर लोग मौजूद हैं, चाहे वह मिनिस्टर क्यों न हों। अगर किसी भी मिनिस्टर ने नामुनासिब काम किया, रिश्वत ली, या बे-मुनासिब काम किया, उसके खिलाफ भी यह जरूरी है कि प्रिवेंटिव डिटेन्शन ऐक्ट का इस्तेमाल करना चाहिये। तो मैं अर्ज कर रहा था कि सर्विसज में भी ऐसे लोग हैं जो जाने हुए बेईमान हैं, जो रिश्वत लेते हैं, बिल खसूस इम्पोर्ट और एक्सपोर्ट डिपार्टमेंट में और कई जगह पर अफसरान मिलेंगे, बलर्क्स मिलेंगे, दूसरे लोग मिलेंगे, जो नामुनासिब काम कर रहे हैं। हमारा मुल्क आजाद है, लेकिन वह कितनी भी तरक्की करे, अगर हमारा कैरेक्टर नहीं है, अगर हम बेईमान हुए जा रहे हैं, अगर आज की जेनरेशन उस बेईमानी की लहर में फंस कर, उससे प्रभावित हो रही है, तो हमारा मुस्तकबिल उन सब तरक्कियों के बावजूद भी काला है। उसको हमें और आपने, सबने रोकना है, उसके लिये

[श्री आविद अली]

बहुत कुछ करना है। यह आपका प्रिवेंटिव डिटेन्शन ऐक्ट सबके दिमाग ठीक करेगा। मेरी आपसे अर्ज है कि जो आपने सर्विसेज को इतने सब प्रोटेक्शन दे रखे हैं, उसमें बेईमान लोगों के खिलाफ, रिश्तखोर लोगों के खिलाफ कार्रवाई करना बहुत मुश्किल हो गया है। रिश्त बहुत बढ़ गई है। कुछ दिन पहले मेरे यहां एक मेहमान आए थे, जो एक खास भालूमात हासिल करना चाहते थे। वह दफ्तर गए, पचास रुपये दिए और फाइल हासिल कर ली, फाइल से जितनी जानकारी उसे हासिल करनी थी, वह कर ली। तीन दिन से वे परेशान थे कि यह चीज मिलेगी या नहीं। लेकिन पचास रुपये रिश्त देने के बाद उनका काम बन गया और वे शाम को चले गए। मुम्किन है जो कोशिश मिनिस्टर साहब कर रहे हैं, उसमें वे कामयाब होंगे और हम सब दुआ करते हैं, कि वे कामयाब हों। लेकिन उसकी कामयाबी में थोड़ा शक इसलिये हो रहा है कि जब तक आप कायदे नहीं बदलेंगे, आईन ने जो इनको हक दे रखा है, उसमें आप फर्क नहीं करेंगे, उस वक्त तक आपकी कोशिशें कामयाब नहीं हो सकतीं। इसलिये मेरी अर्ज है कि प्रिवेंटिव डिटेन्शन ऐक्ट का इस्तेमाल करके जाने हुए बेईमान, रिश्तखोर, बदमाशों के कामों पर निगरानी करें—तीन घंटे आज लोग दफ्तरों में काम कर रहे हैं। उनमें से कुछ को जेल में भेज दीजिए, उसके बाद आप देखेंगे, क्या नतीजा निकलता है।

एक तो वे अनासिर हैं और दूसरे गद्दारों को पकड़ना होगा। आपको मानना पड़ेगा कि गद्दार आपके मुल्क में थोड़े नहीं हैं। सामने से मेरे भाई ने कुछ इंग्लैंड का जिक्र किया, दूसरे मुल्कों का जिक्र किया। उनसे मैंने पूछा कि जरा रशिया और चाइना का जिक्र करो कि वहां क्या होता है। अगर खुदा न करे, ये हुजूमत में आ जायें, तो न कोई ऐक्ट रहेगा, न कानून रहेगा, वहां सिर्फ तलवार की धार

रहेगी। जहां भी जिसने उनके खिलाफ आवाज उठाई कि उसका सिर उड़ा दिया जायेगा। लेकिन आज जो अनासिर मौजूद है, उसके लिये आप क्या कर रहे हैं? हमारी मशीनरी इतनी ढीली है कि एक तरफ हमारा अमल डिफेंस के मामले में मुनासिब हो ही रहा है, लेकिन ये खूब बढ़ रहे हैं, आपकी सरहद पर काफी बढ़ रहे हैं, यहां तक कि जैसा कि मैं पहले अर्ज कर चुका हूं, उनकी इतनी हिम्मत हो गई है कि ये कह रहे हैं कि सुभाष बाबू नेता जी, आमीं आफ लिबरेशन लेकर आ रहे हैं और लोग उनकी मदद करें, चीनी तुम्हारे दुश्मन नहीं हैं; वे तुम्हें आजाद करेंगे, कांग्रेस ने तुम्हें आजाद नहीं किया।

तो इस किरम के अनासिर मुल्क में मौजूद हैं। मुखालिफ पार्टियां जानती हैं कि हमारे आज के होम मिनिस्टर जमहूरियत को कितना मानते हैं, उसके उसूल की कितनी इज्जत करते हैं और यह भी सही है कि आज के हमारे होम मिनिस्टर साहब पक्के कांग्रेसी होते हुए भी मुखालिफ पर कुछ ज्यादा मेहरबान हैं। मेरी अर्ज है कि इतनी मेहरबानी जमहूरियत के उसूल के लिहाज से कुछ ज्यादा हो जाती है, यह आप समझते हैं, लेकिन हमेशा यह खयाल रखिये कि जमहूरियत की भी हिफाजत करना आपका फ़र्ज अब्वलीन है। आपका मुल्क ऊंचा है। आप जानते हैं कि जहां तक मुल्क का सवाल है, उसकी इंटेंग्रिटी और मुल्क की सिक्यूरिटी इन सब चीजों के ऊपर सब कुछ फिदा होना चाहिये, सब इसके ऊपर न्यौछावर है। ये लोग जो बड़ी बड़ी बातें करते हैं, अफसोस इस बात का है कि ये डेमोक्रेसी को बिलकुल मानते नहीं हैं, उसको तबाह और बरबाद करना चाहते हैं, उनके चीखने, पुकारने और प्रोपेगेंडे की वजह से आप प्रभावित हो जाते हैं। चोर चोरी करने के बाद भागता है और भागते हुए चीख पुकार करता है कि चोर भागा, चोर भागा, ताकि लोग उसे चोर न समझें।

श्री शील भद्र याजी (बिहार) : सब भाग भी गए ।

श्री आबिद अली : मेरा उनसे ताल्लुक नहीं है ।

श्री बिलकुमार मन्नालालजी चौरङ्गिया : शील भद्र याजी जी का ताल्लुक है ।

श्री आबिद अली : मेरा उनसे क्या ताल्लुक ? मैं जिन्हें गद्दार समझता हूँ, मैं जिन्हें हिन्दुस्तान का दुश्मन समझता हूँ अच्छा है वे मेरी नज़रों के सामने भी नहीं हैं । मगर मेरी गुज़ारिश तो आपसे है । तो मैं यह अर्ज़ कर रहा था कि चोर खुद कहता है कि चोर भागा, चोर भागा और खुद भी भागता है, ताकि लोग उसे न पकड़ें और हालत यह है कि चोर कोतवाल को डंडा मारने के लिये खड़ा हो जाता है और कोतवाल उससे डर जाता है । आप सही हैं, आपका रास्ता सही है, आप सही तरीके से जा रहे हैं और आगे भी जाना चाहते हैं, लेकिन डेमोक्रेसी के माहौल में आप उनकी चीख पुकार से भटक जाते हैं । आप आल इण्डिया रेडियो में देखिये कि जब उन्होंने चीखा कि हमारी खबरें कम आती हैं, तो देखिये उनकी खबरें ज्यादा आने लगीं, कांग्रेस की कम आने लगीं । सिर्फ इसलिये कि वे चीखे । आपके अफसरान भी उनके चीखने से घबराते हैं, मिनिस्टर्स भी घबराते हैं उनके, चीखने से । ऐसा आजकल का हमारा असल है । हमारी आयन्दा आने वाली कौम यह कहेगी कि जिस गांधीजी के लीडरशिप में हम लोगों ने देश को आज़ाद कराया, हज़ूर, अगर आपका यही असल रहा, तो यहां की कौम कहेगी, आज़ाद करा के मुल्क जिन्हें सौंप गये उन्होंने इस आज़ादी की बुनियाद इतनी कच्ची रखी कि देश को हमेशा के लिए पछ-ताना पड़ेगा । इसलिए हज़ूर, आप इस बात से सावधान हो जाइये । जनाब वाला, ज़रा आप इससे होशियार हो जाइये और यह खयाल कीजिये कि यह वक्त का तकाज़ा है ।

मैं यह अर्ज़ करना चाहता हूँ कि अंग्रेज़ों के जमाने में अगर राम गोपाल और रामस्वरूप के बीच में मुकदमा होता था, तो अंग्रेज़ विलकुल ईमानदारी से फैसला करते थे । लेकिन जब किसी एटकिन्सन और रामदुलारे के बीच में झगड़ा होता था, तो वे एक हद तक अंग्रेज़ का साथ देते थे और अगर पोलिटिकल सवाल आ जाता था, तो उस जमाने में अंग्रेज़ी कोर्ट में अंग्रेज़ी जजों ने क्या क्या किया, यहां पर बयान करने की जरूरत नहीं है । मेरी अर्ज़ यह है कि १०० गुनाहगार छूट जायें और एक बेगुनाह को सज़ा न हो यह मामूली मामलों में बहुत मुनासिब और ज़रूरी है । मगर जब मुल्क का सवाल आता है, मुल्क के भविष्य का सवाल आता है, मुल्क की सिक्योरिटी का सवाल आता है, मुल्क की इन्टे-ग्रिटी का, तो मेरी अर्ज़ यह है कि उस वक्त १०० बेगुनाहगारों को भी सज़ा हो जाये तो कोई परवाह नहीं, लेकिन एक भी गुनाहगार नहीं छूटना चाहिये । यह दृष्टि जब तक नहीं रहेगी, तब तक सरकार अपना फ़र्ज़ अदा नहीं कर रही है, ऐसा माना जाएगा । चाहे सपू साहब कुछ कहें । वे एक जज थे और एक खास माहौल में पले हुए हैं । जिस समय कांग्रेस आज़ादी के लिए जंग कर रही थी, वे एक ऊंचे जज थे और बड़ी बड़ी जगहों पर काम करते थे । उन्हें इस धारे में कुछ मालूम नहीं है । मालूम उन लोगों को है जिन्होंने आज़ादी हासिल करने के लिए अपना खून बहाया है । कांग्रेसियों ने हिन्दुस्तान को आज़ाद करने के लिए अपनी हड्डियाँ दी हैं और वे ही इसकी इज्जत करना जानते हैं । जो लोग गद्दार हैं, वे इस मुल्क की क्या इज्जत करेंगे । जिन लोगों ने इस मुल्क में काम किया है, इसकी आज़ादी में काम किया है, आज़ादी हासिल करने में कुर्बानी की है, वे ही इस मुल्क की इज्जत करना जानते हैं । वे तो शरीक और ऊंचे आदमी हैं और हम उनकी इज्जत करते हैं, इसमें कोई शक नहीं है । लेकिन ऐसे महानुभावों के मशवरे से आप ज़रा अपने को दूर ही रखिये तो ज्यादा अच्छा होगा ।

[श्री आबिद अली]

आप इस मुल्क में जो दसावाज लोग हैं, गद्दार हैं और बेईमान हैं, उनसे भी आप होशियार रहिये। मैं यह नहीं कहता कि आप होशियार नहीं हैं, मैं अच्छी तरह से जानता हूँ कि आप खूब होशियार हैं। लेकिन यह भी देखिये किस तरह से ये लोग चीखते और पुकारते हैं, जैसा कि मैंने अभी जिक्र किया आल इंडिया रेडियो के बारे में और वह अपना काम कर गये एडवर्टाइजमेंट के बारे में। जो अखबार गवर्नमेंट की ज्यादा मुखालिफत करते हैं, उन्हें ही ज्यादा एडवर्टाइजमेंट मिलता है ताकि उनकी मुखालिफत कम हो। अगर किसी अखबार को एडवर्टाइजमेंट लेना हो, तो वह अगर एडवर्टाइजमेंट सेक्शन के किसी अफसर के खिलाफ कुछ बात लिख दें तो उसको एडवर्टाइजमेंट मिलने लगता है। आखिर यह कौनसा तरीका है? इस बिल के बारे में अर्ज करते हुए मैंने इन चीजों का जिक्र इसलिए कर दिया कि हमारे मुल्क में यह एक तरह का मुनज्जिम तरीका बन गया है कि गवर्नमेंट को डरा कर धमका कर और दबा कर, चीख पुकार कर अपना उल्लू सीधा करते हैं। इसलिए आप जरा होशियार होइये। जो आदमी बदमाश से बदमाश, बेईमान से बेईमान, गद्दार से गद्दार है, उसको आप डिफेंस आफ इंडिया रूल के मातहत पकड़ लें। लेकिन यहां पर आप ऐसे आदमी को छोड़ देते हैं जो कि इस रूल के मातहत पकड़ा जाता है और इसलिए छोड़ देते हैं कि वह इक्लेशन में खड़ा होना चाहता है चाहे उसकी डिपोजिट जस्ट हो जाये। लेकिन यहां पर लोग चीखते पुकारते हैं कि Democracy in danger. Person who is standing for election is in jail. वह तो इसलिए इलेक्शन में खड़ा किया गया ताकि आप उसको छोड़ दें और आपने उसको छोड़ दिया।

एक माननीय सदस्य : वह तो भाग गया।

श्री आबिद अली : जो आदमी इतने दिनों से भाग रहा है उसको आपने छोड़ दिया और वह भाग भी गया। इलेक्शन में लड़ने

का तो एक बहाना था। पुराने जमाने में लोग सुनते थे कि जब कोई किसी पर हमला करता था, तो ऐसी चीज को सामने ले आते थे जिसको वे पवित्र मानते थे। जिस चीज को दुश्मन पवित्र समझता था उसको वह सामने ले आता था। अगर वह दुश्मन को मारना चाहता है तो कैसे मारे; क्योंकि फौज तो पीछे है और सामने वह चीज है, जिसको हम पवित्र समझते हैं। अगर वह मारता है, तो उसको लगती है और अगर नहीं मारता है तो दुश्मन आयेगा। तो क्या आप भी उनी जमाने में हैं। मैं औरंगजेब के बारे में जिक्र करना चाहता हूँ जिसके ईमान के बारे में सब अच्छी तरह से जानते हैं। खानदेश का बागी लश्कर जब औरंगजेब की मस्जिद में खुद बंद हो गया और औरंगजेब के लश्कर के आदमियों को मारने लगा, तो उसके आदमी डर गये और कहने लगे कि अब क्या होगा। इस पर औरंगजेब के लश्कर वालों ने औरंगजेब से हुक्म मांगा कि ये लोग मस्जिद में घुस गये हैं और वहां से गोली चला रहे हैं, क्या किया जाये। औरंगजेब ने कहा कि मस्जिद की ईंट तो आदमी अपने हाथ से रखता है, इसको उड़ा दो। कल अच्छी मस्जिद बना दी जायेगी। यह तरीका होना चाहिये। मेरा वक्त खत्म हो गया है, लेकिन कहने का अभी बहुत कुछ है।

मैं यह अर्ज करना चाहता हूँ कि कम्युनिस्ट लोगों के बारे में गुप्ता साहब बड़े जोर शोर से कह रहे थे। लेकिन मैं आपके सामने यह रखना चाहता हूँ कि जब केरल में कम्युनिस्टों की सरकार थी तो वे लोग किस हद तक चले जाते थे। जब केरल में कम्युनिस्टों की सरकार थी, तो वे लोग हर सर्विसेज में घुस गये थे और सब जगह उन्होंने अपने ही आदमियों को काम में रख दिया। लेकिन जब कांग्रेस वाले कुछ करते हैं, तो वे चीखते और पुकारते हैं कि सरकार कांग्रेस वालों को ठेके दे रही है। इस पर आप झकटे रहते हैं, डरते रहते हैं और करते कुछ नहीं।

जब कम्युनिस्ट केरल में थे, तो उन्होंने अपने ही आदमियों को ठेके दिये, ताड़ी के मामले में अपने आदमी भर दिये। इतना ही नहीं उन्होंने बिरला जी से एक एग्रीमेंट कर लिया कि आप यहां पर मिल लगाओ और मजदूरों के मामले में लेबर डिपार्टमेंट कुछ नहीं करेगा। आप उनकी हिम्मत देखिये कि किस तरह से और किस हिम्मत के साथ वे एग्रीमेंट करते हैं कि आपके मिल में जो मजदूर काम करेंगे उनके बारे में हम कई साल तक कुछ दखल नहीं देंगे। इतना आश्वासन उन्होंने उस एग्रीमेंट के माफ़त दे दिया था। मैं इसकी तफ़सील में नहीं जाना चाहता हूं। तो मैं यह कहना चाहता हूं कि जो लोग घमकाते हैं, चीखते हैं, वे ही इस तरह की बातें करते हैं। हज़ूर यह ज़माना डिफेंसिव का नहीं है Best defence is offence. इसलिए आप अपने ज़रायज़ को समझिये और ज़माने का जो तकाज़ा है उसका ख़याल कीजिये, आयन्दा के तकाज़े का ख़याल कीजिये और मुख़ालिफ़त की कोई परबाह न कीजिये। आपने यह कह दिया है कि इतने आदमी जेलों में हैं। आप यह क्यों कहते हैं कि १०० आदमी रखें, आप यह क्यों नहीं कहते कि २,००० आदमी रखेंगे। आप हर एक आदमी को जेल में रखें जो हिन्दुस्तान के मफ़ाद के खिलाफ़ काम करता है। इसमें ज़रा भी संकोच की ज़रूरत नहीं है क्योंकि मुल्क आपके साथ है, रहेगा और कामियाबी आपकी है।

SHRI DAHYABHAI V. PATEL: Mr. Vice-Chairman, Sir, it is not easy to make up one's mind on the proposition that is before us. For every believer in democracy — for every believer in the principle of individual freedom and the democratic rights of the people, it is very difficult to support a measure of this type.

[THE VICE-CHAIRMAN (SHRI AKBAR AU KHAN) in the chair.]

But on the other hand one has to see how the law is being administered in this country. In the context of what has happened in the past two years particularly after the emergency, one is inclined to reconsider the situation *and scratch one's head. We have heard that in the Mother of Democracies during the war period a legislation of this¹ type was passed. It was with great regret that they did it and as soon as the emergency there was over the people in detention were released. I would draw the attention of this House to the remarks of no less a person than Mr. Winston Churchill whose policies we opposed for many reasons but who was an upholder of democracy in his own country. If we want to set up a proper type of democracy in this country let us learn some of the lessons that are available there. I know, Sir, there are friends like the last speaker who will hold up the bogey of Communists against us every time. May I ask in all humility what you are doing about the Communists in your own party? We hear very loud voices every time in this House on every occasion. What are you doing about them? When the Defence of India Bill was introduced in this House I had told the then Home Minister that we supported the measure. We said our opposition to the Government was not on every measure. We supported the Government on the Defence of India Bill. But we hoped that the Government would take courage and take action against many people who had been undermining the defence, whether they sit on those Benches or on these Benches. There is the classical example of Mr. Krishna Menon, while in charge of the Defence Ministry. If you read the Reports of the Public Accounts Committee you will see how thoroughly he undermined the Defence Ministry, how he wasted funds, not utilised funds. What did Government do? Are we going to give powers like preventive detention to that Government?

सरदार रघबीर सिंह पंजह्वारी
(पंजाब) : डाह्याभाई जी, यह तो आपक
पिताजी लाये थे।

SHRI DAHYABHAI V. PATEL: I quite agree. The hon. Member draws my attention to the fact that It was my father who brought forward this measure. Mr. Bhupesh Gupta quoted from his remarks and from what he had said: Will the Congress Party be able to produce another Sardar Patel, an administrator of that type, a man who was incorruptible who kept the feel of everything? I am sure I and many other Members of this House will agree to give them powers under the Preventive Detention Act. But they have produced people of other type, people who are susceptible to several influences. We have the Serajuddin case.

SHRI JOSEPH MATHEN: Unfortunately, Sardar Patel was not able to produce a son like himself.

SHRI DAHYABHAI V. PATEL: You are not discussing his son. It will be a long time before you discuss me and whether you discuss me or not, you better think of the rot that is taking place in your own party. See Where you are going. Why do you point at these Benches when there have loud voices of communism in your own party? What are you doing about them? My friend opposite was talking of blackmarketeers and the need to prevent them. Why do we get these blackmarketeers? Do we not get them because of the greed of the Congress Party for more and more money? Have we not heard of the Mundhra episode? Have we not heard of the reverse Mundhra episode? And why was that so? In both cases it was because the Congress wanted more and more money for election purposes, apart from anything else. Why did you not agree to the united demand of all Opposition Parties including the Communists if you please, to ban the taking

of political donations? Because you had not agreed to this, one cannot but come to the conclusion that the Defence of India Rules, or the Preventive Detention Act is not against the Communists but against people who have opposed the Government in power. That is misuse of the Rules particularly /in peacetime. Where is the emergency today? Do we know it? We are told that there is the emergency. People must tighten their belts. We heard of how the emergency was celebrated in Jaipur very recently when there was the Jaipur session of the AICC and we are told that there is going to be a repetition of that somewhere else, in Bhubaneswar. Well, we will see the blue-eyed boy of the Prime Minister, celebrating at Bhubaneswar also in the same spirit. So you should not talk of the Defence of India Rules or the Preventive Detention Act.

THE VICE-CHAIRMAN (SHRI AKBAR ALI KHAN) : Let us confine ourselves to the Bill.

SHRI DAHYABHAI V. PATEL: Mr. Vice-Chairman the remarks of the previous speaker provoked me into saying this. I had no intention of saying all this. It is for these reasons that we are constrained to oppose the continuance of this type of power to a Government which is not qualified which has not proved itself capable of administering the Rules properly.

When the war came, when the emergency came, an appeal was made to labour to work hard. Everywhere you got response, Irrespective of parties. The defence workers, the factory workers, everybody put in their best, but not the labour leaders. The labour leaders on both sides got busy. We want more. The factories are earning more. And there was no thought of the country. As I said, when the Defence of India Rules were brought into force, there was competition between my friend who sits there and my friend who sits

here in trying to get the votes of labour and to become more popular. The country was forgotten. The emergency and everything else was forgotten. It boiled down to a question of getting votes and the elections. If the Preventive Detention Act is going to be used for this purpose, how can you expect anyone with a conscience, anyone who believes in democracy, to support the Bill?

We have heard that there is a certain type of blackmarketeer who cannot be dealt with otherwise than under the Defence of India Rules. Mr. Vice-Chairman, I would like to draw your attention to something that was said in the other House, by an hon. Member of that House, if you please. He said that he purchased half the quantity. One thousand quintals of gur were allowed to be imported. Half of it was given to his two societies. The cost was from Rs. 57 to Rs. 61. Allowing Rs. 2 to Rs. 2½ for transport, the cost should be Rs. 60 to Rs. 63. On the floor of that House that hon. Member admitted that he had to pay a bribe to get the wagons, to get transport. Under the normal rules of this country, the person who pays bribe is guilty as much as the person who takes it. I would like to know what the Home Minister was doing when this statement was made in front of him not many days ago? Only a few days ago he said that he was constrained to give the bribe.

श्री विमलकुमार मन्नालालजी चौरडिया :
वे भ्रष्टाचार उन्मूलन में लगे हुये थे ।

SHRI DAHYABHAI V. PATEL: The next point is that the rule requires the co-operative societies to make no more than a profit of 6½ per cent. I understand this society made a profit of 30 per cent, on this quantity that was imported, after paying bribe. The bribe was supposed to be Rs. 7. The cost in the books of the

society would, therefore, come to Rs. 67 to Rs. 70. It was sold on a profit of 30 per cent. The ordinary traders, who got the balance, were selling it at Rs. 20 less than this rate. Yet the Congress leaders sitting in the next House were making this admission in front of the Home Minister. If the Home Minister will only examine the conditions of Delhi, the land transactions, the land development about which we hear so much in both Houses he will find that it is only in conformity with this pattern. And yet the present Home Minister expects us, this House and this country to give him the same powers that an illustrious predecessor of his was given and which he took very reluctantly and apologetically with an assurance that it would not be continued.

With the Congress Party every exception is becoming the rule just because it suits its convenience. We are opposed to this. We are proud that this country can call itself a democracy, although surrounded by totalitarian countries all around. We are proud that it is one of the few countries that can boast of a parliamentary system of Government in the present context under this threat which is growing larger and larger and enveloping all over. Yet, I am afraid, I cannot vote to give this Government more power. My fear is that I have been expressing it for the last few days and I would like the Congress Party to take heed. Yesterday I warned my capitalist friend* saying that it was the wooden handle of the axe that fell the forest trees. I would like to warn the Home Minister and the back-benchers sitting behind him. Take heed. You have got the same people sitting in your ranks and those handles will use you to take power. When it suits them they will use the axe against you. You gave them an opportunity a few months ago of staging a drill or demonstration of how they will come to Delhi.

[Shri Dahyabhai V. Patel.] The next time they come they will not be sitting there. Your own rules will be applied against you. You will be all in detention.
(*Interruption*).

4 P.M.

My friend there does not understand. Only this afternoon we had a sample of the tragedy that occurs when people who do not understand interrupt hon. Members when they are talking sense. Poor Mr. Pathak made a slip of the tongue because somebody interrupted him. Sir, I have been pleading with the Chair, with the House, and pleading with the other parties to curb the tendencies of such people. These interruptions are not going to deter me. If I make a mistake, I will correct myself straightway. I will not have to go into the lobby and confabulate with somebody else to get something expunged. That will not be my position. But if people on that side go on like that, as I told you yesterday, I will interrupt every Minister, I will block the proceedings of this House if the Congress Party does not take heed. The hon. Member who is in the habit of interrupting everybody here without understanding the subject of what is being talked must be curbed. This is my appeal to you, Sir, and through you to the party. If not, you will compel us to retaliate, whether preventive detention or not. We are not going to be deterred by this sort of thing.

THE VICE-CHAIRMAN (SHRI AKBAR ALI KHAN) : I assure you that the Chair will see to it that order is kept in the House.

SHRI BHUPESH GUPTA: At least in one place we do not have preventive detention in this House.

SHRI DAHYABHAI V. PATEL: Mr. Vice-Chairman, it is for these reasons that with great reluctance I cannot in spite of myself agree to vote such powers to such a Government, and therefore I oppose this Bill.

DR. K. L. NARASIMHA RAO (Andhra Pradesh): Mr. Vice-Chairman, this Bill was first introduced in Parliament in the year 1950. The then Home Minister, Sardar Patel, introduced this Bill just within one month after the inauguration of the Constitution. He was anxious to avoid this Bill but in the country's interest he had to move for the passage of this Bill. At the time of the passage of this Bill there was actually some trouble from the Communist Party. They were behaving in a dangerous way and were trying to subvert the country's public peace. That is why the Bill was introduced for the first time then.

Sir, the objects of this Bill are maintenance of public order, defence of India, maintenance of supplies and services, protection of India from foreigners, etc. This Bill is intended to deal with such persons who could not be otherwise produced in the court but whose detention is essential for the protection of the civil liberties of the millions of people of the country.

About the argument that this Bill curtails the civil liberties of certain sections, we must consider the fact that the civil liberties of millions of people are threatened by the violent activities of these persons, and these persons have to be detained for preventing their violent activities.

Sir, in a democratic country such as ours we believe in freedom and individual liberty. Every political party has a right to propagate its own views so as to persuade the people to act according to their views. But simply because they differ from the decisions taken by the Government, they cannot be left free to carry on a campaign of active resistance against Government, and they cannot preach hatred and indulge in subversive activities to displace the Government. Sir, whether good or bad, laws passed by the Parliament and by the State Legislatures must be obeyed by the people.

Sir, some hon. Members in the other House named this Act as a 'lawless law' and 'a black Act'. We are at a loss to know how this is a lawless law. This was passed by Parliament. The representatives of the country have passed it, and as such it is a lawful law, constitutionally or otherwise. It is a popular law also because it is accepted by the majority of the people. Sir, many of us do not believe that obedience to law is the first condition for the successful functioning of a democracy. We pass laws here and we defy them outside. In fact the respect for law has become very low and people even for minor grievances think of starting 'satya-graha'. They resort to breaking laws as if law-breaking is the only weapon left for them to redress their grievances. For instance, take the language movement. If there is a difference of opinion, they will not abide by the law of the land but they resort to breaking the law leaving to the winds other ways of representation, leaving aside the wishes of the people. Even the top-most men in the party have scant respect for the law and naturally the infection is carried down to their followers.

Disruptive elements are there in the country, and in the border areas an atmosphere is created and propaganda is being carried on that Chinese rule is preferable to Indian rule.

This Bill merely seeks extension of the period for another three years, and this extension has become necessary in view of the fact that there are still diverse elements, political, social and communal, which could be instigated by people for their own exploitation and for their own selfish ends. As such, as long as these conditions continue in the country, *for* the security of the country Government must be armed with extraordinary powers. Sir, this may be a black Act according to some people

but, unfortunately, there are blacker men in our land doing very black deeds and so, this Bill restrains those people from indulging in those activities. Do the hon. Members of the Opposition seriously mean to say that such elements should not be restrained, should not be taken into custody? In fact the hon. Minister was pleased to say that this Act did not apply to legitimate and peaceful ways of expressing grievances.

It is evident from facts that this Bill has not been enforced vindictively against any particular party. It is provided with sufficient safeguards so that the innocent people may not suffer. The Advisory Board which deals with these cases, consists of retired Judges of eminence and they are provided with vast powers. The Board is independent of the Government and of Government officials. The Government must provide them with the necessary information about the cases of these detenus. All the persons detained must be provided, within five days, with the grounds of detention and they should be given all opportunities to represent themselves before the Judges and this Board must give its verdict within 12 weeks of detention and they must say whether the detention must continue or whether the person should be set free. If they declare that the person should be set free and that there are no sufficient grounds for detention, he must be set free, and the Government has no other option. With these safeguards, there is no scope for the miscarriage of justice especially at the hands of such eminent men constituting the Board. Extraordinary conditions still exist in our country. As such, the extension of this Act is necessary in view of the fact that there are still anti-national and anti-social elements in the country, and to restrain their activities, this Act is well suited in the present conditions of the country.

श्री विमलकुमार मन्नालालजी चोरडिया : उपसभाध्यक्ष महोदय, जो यह प्रिवेन्टिव डिटेन्शन बिल प्रस्तुत किया गया है उसका विरोध करने के लिये मैं खड़ा हुआ हूँ। १९५० में यह कानून बना था, पांच बार इसको फिर से दो-दो साल के लिये बढ़ाया गया है और छठी बार अब की हमारे सामने प्रस्तुत किया गया है। यह अस्थायी प्रकार का कानून है और इसका मतलब यह है कि जब अत्यावश्यक हो तभी इस प्रकार के कानून को रखा जाय। लेकिन आज देश की परिस्थिति ऐसी नहीं है कि दूसरे कानूनों के होते हुए इस कानून की आवश्यकता हो। किन्तु, हमारी सरकार न जान क्यों इसके पीछे पड़ी हुई है। वैसे तो हमारी सरकार जनतन्त्र का नाम लेती रहती है, मगर इस तरह के जनतन्त्र में बाधा डालने वाले और जनतन्त्र पर कलंक के स्वरूप के कानून को बनाये रखना चाहती है। हम इस बात से कभी भी इन्कार नहीं करते कि अगर देश-द्रोह के कार्य पर किसी आदमी के खिलाफ कार्यवाही की जाय तो कानून के अनुसार उसको दंड मिलना चाहिये और इसीलिये हमने बड़ी खुशी के साथ डिफेंस आफ इंडिया एक्ट के बनाने में सरकार का समर्थन किया और वह इसलिये कि हम चाहते हैं कि देश की सुरक्षा हो और उसके अन्तर्गत सरकार को अधिकार मिलने चाहिये। मगर वह प्रिवेन्टिव डिटेन्शन एक्ट आज हमारे लिये कोई खास लाभ का नहीं रहा। हमारे यहां पर पुराने कई कानून हैं जिनके अन्तर्गत गुनाह करने वालों को सजा दी जा सकती है।

इस कानून का स्टेट्यूट बुक में रखना कुछ न्यायसंगत प्रतीत होता नहीं और ऐसा लगता है कि जो हमने संविधान के अन्तर्गत नेचुरल जस्टिस के अधिकार दिये हैं उनमें भी हम बाधा डालना चाहते हैं। उसमें हमने अधिकार दिए हैं कि कोई आदमी वकील

की सलाह ले सकता है, वकील के द्वारा अपना केस कन्डक्ट करवा सकता है, चौबीस घंटे के अन्दर मैजिस्ट्रेट के सामने उसे पेश करना पड़ेगा, उसके साथ किसी प्रकार की ज्यादाती नहीं होगी और यह सारी की सारी व्यवस्था इस कानून के अन्तर्गत हम एकदम से बन्द कर देते हैं और कानून के द्वारा जो हमने अपनी व्यवस्था कर रखी है और संविधान द्वारा प्रदत्त अधिकार जो हैं उनके ऊपर हम प्रतिबन्ध लगाना चाहते हैं, उनको सीमित करना चाहते हैं। वैसे तो हमारे मित्रों ने इसके बारे में चर्चा करते हुए यह भी बताया कि एक बोर्ड होता है, ट्रिब्यूनल होता है, उसमें हाई कोर्ट के जज रहते हैं, ये सारी व्यवस्था रखी है, लेकिन बोर्ड के सामने जब बह जाता है, उसके सामने रिप्रेजेंटेशन देता है उसके बाद भी वह उसका खुलासा मांगते नहीं।

Representations by detenus during the period 1st October, 1962 to 30th September, 1963—इसमें कुल २८६ लोगों के खिलाफ केसेज चले और उन्होंने रिप्रेजेंटेशन दिये। सब कुछ उन्होंने किया मगर उसके बाद उनसे कुछ इन्फार्मेशन नहीं मांगी गई कि तुम इसके सपोर्ट में क्या कहते हो, इसके कोर-बोरेड में क्या कहते हो और इसका मतलब यह है कि जो एक्जीक्यूटिव के द्वारा रिपोर्ट पेश होती है उसी के आधार पर वह देखदाख कर अपना निर्णय देने का प्रयत्न करते हैं, उसी के आधार पर चला जाता है। मैं यह जानना चाहूंगा कि क्या कारण है कि एक भी केस में यह आवश्यकता क्यों नहीं पड़ी कि या तो प्रासीक्यूट करने वाले से इन्फार्मेशन मांगने की आवश्यकता पड़े या डिफेंड करने वाले से इन्फार्मेशन मांगने की आवश्यकता पड़े। एक भी केस उसमें ऐसा नहीं जिसमें इस तरह की व्यवस्था की गई हो और इस दृष्टि से यह ऐसा लगता है कि एक्जीक्यूटिव की रिपोर्ट पर, जैसे चाहें वे करें, उसको डिफेंड करने के लिये किसी

काउन्सल की सलाह न लेने का, किसी काउन्सल को प्रस्तुत करने का मौका नहीं देना चाहिये। यह जो जैसा चाहें करें वाली बात है यह ठीक नहीं है।

देशद्रोही तत्वों का जहां तक सवाल है मैं उनके खिलाफ कार्यवाही करने से सहमत हूं। हम चाहते हैं कि हमारी सरकार देशद्रोह तत्वों को बन्द करे। हम तो यह कहते हैं कि जब कई प्रमाणों से यह साबित होता है कि कुछ खास तत्व हमारे यहां ऐसा है जो बिल्कुल देशद्रोही कार्य में सन्लग्न है, और जैसा कि पूर्ववक्ता ने अभी बताया कि हमारी सरकार सख्त ऐक्शन नहीं लेती है, तो हमारी सरकार को चाहिये कि सख्त कार्यवाही करे। मगर हमारे यहां यह प्रिवेन्टिव डिटेन्शन ऐक्ट भी है, डी० आई० आर० भी है, सब कुछ है, फिर भी हमारे देश में देशद्रोही तत्व काम करते जाते हैं। जो हमारे कानून बनते हैं उनके द्वारा कुछ उन कामों में कमी हो रही है, ऐसा नहीं दिखाई देता।

यह भी कहा गया कि मुख्यतः गुंडों के खिलाफ इस कानून को काम में लाया गया। गुंडों ही के कारण यह सारी की सारी व्यवस्था है, यह बात हमारी समझ में नहीं आई कि क्या केवल गुंडों को रोकने के लिये ही हमें प्रिवेन्टिव डिटेन्शन ऐक्ट की आवश्यकता है, क्या दूसरा कोई कानून हमारे पास नहीं है? हमारे यहां कई कानून मौजूद हैं जिनके अन्तर्गत उनके विरुद्ध कार्यवाही की जा सकती है। तो इस प्रकार का स्टेटमेंट देखकर कुछ आश्चर्य लगता है कि हमारी कांग्रेस सरकार भी अपने आप को छिपाने के लिये या अपनी गलतियों को छिपाने के लिये किस तरह से उनको रंग देती है।

इसमें एक जगह लिखा है कि एक गिरफ्तारी जो हुई है वह "वन रिजल कांग्रेस-मैन" की हुई है। हाँडिंग इस प्रकार है :

Political affiliation, if known, of the person detained. तो वह डाइरेक्टली कांग्रेस में था। पोलिटिकली तो अलग से पार्टी रिजल कांग्रेसमैन की कोई नहीं है, जहां तक मेरा ज्ञान है। तो उसमें सीधा यह लिखना था कि वह कांग्रेसमैन था। मगर यह रिजल कांग्रेसमैन की कौन सी पार्टी देश में बन गई, इस पर होम मिनिस्टर साहब प्रकाश डालेंगे तो ज्यादा अच्छा होगा। मुझे तो ऐसा लगता है कि जिससे कांग्रेस की बदनामी न हो इसलिये रिजल शब्द लगा दिया।

इस तरह से हमारा जो यह कानून है यह कुछ लोगों के लिये सख्त है और कुछ लोगों के लिये नरम और कुछ लोगों के लिये काम नहीं करता। हमारे पूर्ववक्ता भिव ने अभी गुड़ के स्कैंडल के बारे में कुछ कहा। समझ में नहीं आता कि एक छोटे व्यापारी के मामले में यह बात होती तो हमारी सरकार बिल्कुल सख्त ऐक्शन लेती। जैसाकि सबको मालूम है इस गुड़ के कांड में कई गड़बड़ें हुईं, कुछ लेनदेन का हिसाब हुआ और ज्यादा कीमत पर गुड़ बेचा गया। हमारा जो इसेन्शियल कमोडिटीज़ ऐक्ट बना हुआ है उसके रूल के अन्तर्गत जो व्यापारी सामान बेचता है उसको अपना नाम, पता, वस्तुओं की कीमत और सारे वाउचर वगैरह तैयार करके रखने पड़ते हैं मगर उनके लिये वह सारा हिसाब कुछ है नहीं। कई बातें हैं जो हमारी सरकार करती है जो कि हमारी समझ में नहीं आती। इसके विपरीत जब हमारे श्री एम०वी० लाल गुड़ के मामले में दिल्ली शहर से बाहर गए सिर्फ यह कहने कि दिल्ली में भाव ज्यादा है और यू० पी० में कम है इसलिए गुड़ के आने जाने में किसी तरह की रोक नहीं होनी चाहिये, तो उसके लिये हमारी सरकार तैयार नहीं हुई और उन्हें जेल के सीखच्चों में बन्द कर दिया। हमारी समझ में यह बात नहीं आती है कि सरकार लोगों को अन्ड्यू एड्वान्टेज देने के लिये

[श्री विमलकुमार मन्नासाहनी जी की ओर से]
 इस तरह का प्रतिबन्ध गुड़ में लगाती है ताकि ब्लैक मार्केट पनपे, यह किस तरह की व्यवस्था है ? फिर कहने वाले कहते हैं कि हमने पैसा वापस करने के लिये कह दिया है । अगर कोई चोरी करता है और बागें कहता है कि मैंने माल चुपचा और घर में वापस करता हूँ, मेहरबानी करके मुझे छोड़ दीजिए, तो यह उचित बात मान्य नहीं होती है । जिन तत्वों को आप समाप्त करना चाहते हैं उन्हीं को बढ़ावा देते हैं और जब वे अपराध करते हैं तो उन्हें छोड़ देते हैं । तो आपका कानून कैसा है ? किसी के लिये तो आप सख्ती करते हैं और किसी के लिये नहीं करते हैं, यह बात ठीक नहीं लगती है ।

बम्बई में एक चीहान गए थे और इस लिये गये थे वहाँ पर कि एक कान्स्टेबल और हैड कान्स्टेबल के घर के लोग मूक प्रदर्शन करें कि हम को खाना दिया जाय, हमारे पेट के लिये रोटी का प्रबन्ध किया जाय और हमारे बच्चों को स्कूल भेजा जाय, इसकी सुविधा भी जाय । उन्होंने इस तरह से प्रदर्शन किया कि हमारी तनख्वाह बढ़ा दी जाय लेकिन हमारी सरकार ने पी० डी० ए० के मातहत उनको गिरफ्तार कर दिया । क्या हमने अनन्त इसीलिये बनाया कि किसी को बोलने नहीं दिया जायेगा । जैसे चीतान के शासन में होता है उसी तरह से मैं इस कानून को भी संज्ञा देता हूँ । अगर कोई बोलता है तो उसको बन्द कर दिया जाता है और फिर आप कहते हैं कि हमारे देश में अनन्त है । इस तरह से हमारी सरकार चाहती है कि हमारा कानून और अनन्त बराबर कायम रहे और अगर कोई बीमगा तो इसके अन्तर्गत उसको बन्द कर दिया जायेगा ।

काश्मीर के नाजक़दम इसरानी का मुक़दमा केवल यह था कि उसने पुलिस आफि-
 सों के कारे में जो आपस में मिलकर रिजलत कायम की उसकी जादवी पकड़ ली और उसका क़दम प्रचार किया और चर्चा की ।

उनके खिलाफ पी० डी० ए० का इस्तेमाल किया गया और उन्हें गिरफ्तार कर लिया गया ।

पी० डी० ए० का भयंकर प्रियुष हमारे काश्मीर में हो रहा है और उसका तांडव नृत्य आप वहाँ पर घण्टी तरह से देख सकते हैं । कोई भी पार्टी वहाँ पर अपनी पार्टी मीटिंग नहीं कर सकती है । कोई भी आदमी वहाँ पर कुछ नहीं कह सकता और अगर कहता है तो उसको इस ऐक्ट के मातहत गिरफ्तार कर लिया जाता है । मैं माननीय मंत्री जी से पूछना चाहता हूँ कि मेहरबानी करके आप वहाँ के बारे में तलाश कीजिए कि काश्मीर की हालत इस तरह की क्यों है । वहाँ पर आदमी क्यों नहीं अपनी जान खोल सकता है ? यह इसी प्रकार के ऐक्ट की ही शक्ति है कि हमारी काश्मीर सरकार ने इतने अधिक अधिकार लिये हुए हैं कि वहाँ पर किसी आदमी की हिम्मत नहीं कि वह अपनी जान खोल सके । जैसा कि मैंने कहा कि श्रीवास्तव का शासन है तो वहाँ पर दरमसन में इस समय चीतान का शासन चल रहा है । आप जोरदार शब्दों में कहते हैं कि हमारे देश में अनन्त है लेकिन अनन्त में अपनी जो सम्भी आवाज बुलन्द करता है उसको आप गिरफ्तार कर देते हैं । इसलिये यह आवश्यक है कि हर एक आदमी अपनी आवाज को बुलन्द कर सके और उसमें किसी तरह की रुकावट न हो, इस दिशा में हमारी सरकार को कुछ न कुछ करना चाहिये ।

यहाँ पर भयंकर कांड हो जाते हैं, गुड़ के कांड हो जाते हैं । अगर विचारों कहते हैं कि हमारे होस्टलों में व्यवस्था घण्टी नहीं है, हमारे कालेज का एफिजिएंस कमिया जाये तो उन पर लाठी-चार्य हो जाता है । तो मैं सरकार से पूछना चाहता हूँ कि आप इसी को अनन्त कहना चाहते हैं कि जैसा सरकार करेगी वैसा सबको चलना पड़ेगा ? किसी को यहाँ पर बोलने की इजाजत नहीं होगी, किसी

को अपनी मांग पेश करने की इजाजत नहीं होगी, तो क्या यही आपका जनतन्त्र है ? अगर आप चाहते हैं कि सब लोग हमारी बात मानें तो आप उसके लिये कानून बना दें कि जो हमारी आज्ञा होगी वही चलेगी और किसी को कुछ बोलने की आवश्यकता नहीं है, तो इस तरह की बात ठीक नहीं लगती है।

इसी तरह से हमारे माननीय पाठक साहब ने भाषण दिया और बतलाया कि कहीं पर एक आदमी ने भाषण दिया कि अमुक आदमी का मर्डर होने वाला है और उस आदमी का मर्डर करने के लिये वह आदमी दिल्ली आ रहा है और उस को पहले ही गिरफ्तार कर लिया गया है। तो मेरा नम्र निवेदन है कि . . .

श्री गोपाल स्वरूप पाठक : वह एक्साइट कर रहा था।

श्री विमलकुमार मन्नालालजी चौर-डिया : एक्साइट कर रहा होगा लेकिन उस को रोक लिया गया। वह मर्डर नहीं कर रहा था लेकिन हवा फैला रहा था। क्या आप के क्रिमिनल प्रोसीजर कोड में कोई कानून की व्यवस्था नहीं थी जिस के अन्तर्गत उस को रोका जा सकता था ? हमारे यहां बन्दी बनाने के अधिकार हैं कि जो लोग इस तरह का आफेंस करते हैं उन्हें गिरफ्तार किया जा सकता है। वे तो एक बड़े वकील हैं और मैं उन के बारे में कुछ नहीं कह सकता हूं। लेकिन मेरा यह नम्र निवेदन है कि क्रिमिनल प्रोसीजर कोड की धारा के मातहत उन को रोका जा सकता है। उन के ऊपर यही एक्ट लागू किया जाय इस की आवश्यकता नहीं थी। इसलिये मेरा नम्र निवेदन है कि सरकार इस कानून को तो कहीं पर सख्ती के साथ लागू करती है और कहीं पर नरमी के साथ लागू करती है। यह अच्छा जनतन्त्र है जहां पर किसी के साथ सख्ती होती है और कहीं पर किसी के साथ नरमी का बर्ताव किया जाता है। कई लोगों को जो जनता की सच्ची बात कहते हैं,

जनता पर जो अन्याय होता है, उसको प्रकट करते हैं, खुले रूप में कहते हैं, उन्हें गिरफ्तार कर लिया जाता है।

जब यहां पर पुराना रोलेट ऐक्ट पास होने को आया था तो उस वक्त हमारे प्रधान मंत्री जी के पिता जी, श्री मोतीलाल नेहरू जीने, जो भाषण दिया था उसको मैंने खूब अच्छी तरह से पढ़ा। वह कानून भी उसी कानून की तरह था और उन्होंने बड़े जोरदार शब्दों में उस समय उस कानून का विरोध किया था, इस बिल का विरोध किया था। ये सारी बातें प्रोसीडिंक्स की किताब में मौजूद हैं और अच्छी तरह से छपी हुई हैं। यह सोचना कि आज हम सत्ता में हैं और जो पुराने कर गये हैं उसी ढंग से हम करेंगे और जब विरोधी आयेंगे तो इस कानून का विरोध करेंगे, तो हमारा जो यह नाप करने का माप है वह ठीक नहीं लगता है।

एक माननीय सदस्य : आप यही कर रहे हैं।

श्री विमलकुमार मन्नालालजी चौर-डिया : मैंने आबिद अली साहब का भाषण सुना और उन्होंने ने कहा कि अंग्रेज ऐसा करते थे कि अगर किसी अंग्रेज और हिन्दुस्तानी का मुकदमा होता था तो अंग्रेज जज अपने अंग्रेज का पक्ष लेता था। तो मैं निवेदन करना चाहता हूं कि आज भी वही बात हो रही है। यदि किसी कांग्रेसमैन के सामने कोई दूसरा आदमी आता है तो कांग्रेसमैन का पक्ष लिया जाता है। यदि ब्लैक मार्केट करने वाला कांग्रेसमैन है तो उसको बचाने की कोशिश की जाती है। अगर ब्लैक करने वाला कोई दूसरा है तो उसको जेल में डाल दिया जाता है। ये कुसियां वही हैं और उसका ही असर है कि वैसे बातें अब भी चली आ रही हैं। मुझे ऐसा लगता है कि हमारी जनतंत्र की दुहाई देने वाली सरकार हमारे पूज्य बापू के प्रजातन्त्र के सिद्धान्त का प्रतिपालन करने वाली सरकार अब इस पर आ गई है।

[श्री विमलकुमार मन्नालालजी चौरङ्गिया]
 कि हमारा शासन किसी तरह से टिका रहे। वह इस बात की चिन्ता नहीं करती कि देश का शासन किस तरह से अच्छा हो। जिस तरह से शासन टिका रहे उस चीज के लिये वह प्रयत्न करती है और उस प्रयत्न के अन्तर्गत जैसा भी कानून वह चाहती है बनाती है। जैसा कि भस्मासुर शिवजी का वरदान लेकर आया था, वह जिस चीज पर हाथ रखता वही समाप्त हो जाती थी। इसी तरह से हमारी सरकार भी वही करना चाहती है और वैसे ही कानून बनाना चाहती है कि जिस के ऊपर हाथ फेरे उसी को अपनी कस्टडी में ले ले। तो मैं यहां पर यह कहना चाहता हूं कि जिस तरह का परिणाम उस राक्षस का हुआ जिस को यह वरदान दिया गया था, उसने माया के बगीभूत हो अपने ही सर पर हाथ रख दिया और उस का अन्त हो गया, उसी तरह से आप का भी वही परिणाम होने वाला है कि आप इस कानून से अपने आप समाप्त हो जायेंगे। तो ऐसी स्थिति न हो जाय, इसलिये मैं निवेदन करना चाहता हूं कि आप मेहरबानी कर के इस तरह से चले जिस से देश का हित हो।

यह जो आप का कानून है वह प्रजातन्त्र की कसौटी पर ठीक नहीं बैठता है। आप ने सोने का तो १४ कैरेट का कानून बनाया है, किन्तु यह तो १० कैरेट, जीरो कैरेट भी नहीं बैठता। यह जो कानून है, ऐसा लगता है कि हमारे प्रजातन्त्र और राष्ट्र के हित की जो कसौटी है उसमें यह एक कलंक के समान है और पीले धब्बे के बजाय एक काला धब्ब बनाने देता है। आप लोग इस भावना में आ गये हैं कि हमारी सत्ता किस तरह से कायम रहे और हमारा कोई विरोधी नहीं रहे, इसीलिये आप इस तरह का काला कानून बना रहे हैं। मेरा नम्र निवेदन है कि यह जो कानून आप पास करने जा रहे हैं

वह प्रजातन्त्र के लिये एक कलंक है और साथ ही साथ कांग्रेस शासन के लिये भी कलंक है, जिन्होंने आजादी के लिये लड़ाई लड़ी। जिस तरह से अंग्रेजों ने जब वे यहां पर थे और इस तरह का कानून बनाया था उसी तरह से आप भी आज ऐसा कानून बना रहे हैं और लोगों को गिरफ्तार कर के जेलों में डाल रहे हैं। (अन्तर्बाषा) मैं भी या उन्हीं में, आप को मालूम नहीं होगा मेरा पुराना इतिहास। सम्भवतः आप होंगे भी नहीं। इसलिये कि वे जानते हैं कि किस तरह शासन की व्यवस्था होनी चाहिये, किस तरह से समाज में कानून चलना चाहिये। आज वे स्वतन्त्र हो गये हैं और इसलिये वे अंग्रेजों के पद चिन्हों पर चलना चाहते हैं। तो मैं यह निवेदन करना चाहता हूं कि अगर आप उन्हीं धाराओं पर चलते रहोगे तो यह न्यायसंगत प्रतीत नहीं होता है।

अन्त में मैं यही निवेदन करना चाहता हूं कि सरकार इस काले कानून की वापस ले ले और इसे स्टैट्यूट बुक पर रखने का कष्ट न करे।

श्री गोपीकृष्ण विजयवर्गीय (मध्य प्रदेश):
 उपसभाध्यक्ष महोदय, यह जो बिल सदन के सामने आया है, मैं इसका समर्थन करने के लिये खड़ा हुआ हूं। इस पर काफी बहस हो चुकी है और अब कोई बहुत ज्यादा दलीलें देने की जरूरत नहीं है। लेकिन मेरा खयाल यह है कि इस कानून का विरोध करने के लिये लगभग सभी विरोधी पार्टियां एक साथ मिल गई हैं। कम्युनिस्ट तो इस का विरोध करते ही हैं, लेकिन जनसंघ, स्वतन्त्र पार्टी और दूसरी पार्टियां भी इस एक मामले में फैला ड्रवलम हो गई हैं। इससे मुझे बड़ा आश्चर्य मालूम हो रहा है।

श्री विमलकुमार मन्नालालजी चौरङ्गिया : भारत का नक्शा सुन्दर बन, इसलिये सब पार्टियां एक हो गई हैं।

श्री गोपीकृष्ण विजयवर्गीय : किस तरह से दूसरी पार्टियां कम्युनिस्ट पार्टी के साथ फैलो ट्रेवलर्स हो जाती हैं, यह इस बात का नमूना है कि इस कानून को रद्द कराने के लिये सब पार्टियां कम्युनिस्टों के साथ फैलो ट्रेवलर्स बन गई हैं ।

इस बात को सब को महसूस करना चाहिये कि इस देश पर बाहर खतरा है, भीतर खतरा है, और दंगा फसाद, वायलेंस का डर अभी हटा नहीं है, और वह मौजूद है । पिछले दो साल में हमारे मुल्क में कुछ फसलें खराब हुईं और हमारी आर्थिक स्थिति कुछ थोड़ी बिगड़ गई और उस के कारण जो देश में थोड़ा असन्तोष पैदा हुआ उस का फायदा उठाने का प्रयत्न भी कुछ व्यक्ति करते हैं । यह कानून पार्टियों पर लागू नहीं होता है कि जिस से किसी पार्टी को डर हो । लेकिन कोई व्यक्ति ऐसे हो सकते हैं जिन पर यह लागू हो । सब लोग एक से नहीं होते हैं । किसी पार्टी में सारे आदमी खराब नहीं होते हैं । विरोधी पार्टियों में भी सारे आदमी खराब नहीं होते हैं । लेकिन कुछ ऐसे एलिमेंट्स हैं जो इस असन्तोष का फायदा उठा कर के जो कि कुदरती तौर पर मुल्क पर आ गया है, उसको बढ़ावा दे सकते हैं । वायलेंस के लिए । उन के अखबारों को, उन के भाषणों को आप देख सकते हैं कि आज भी खतरा मौजूद है क्योंकि जानबूझ कर असन्तोष को बढ़ाया जा रहा है । कई पार्टियां और कई व्यक्ति ऐसे हैं हमारे मुल्क में जिन्होंने पहले भी गैर-कानूनी हड़तालें करवाई थीं और आगे भी गैर कानूनी हड़तालें हो सकती हैं । किसी सीमा तक हड़तालें हमारे देश में संभव हैं और वे कानूनी भी हैं, लेकिन कुल काम को ठप्प करने वाली हड़तालें अगर कराई जायें, तो हड़ताल का जो हक दिया गया है उस पर प्रतिबन्ध लगा दिया गया है और गैर-कानूनी तौर पर कोई हड़ताल नहीं हो सकती है । लोग जलूस निकालें, मीटिंग करें, अखबार निकालें, इस की पूरी

आजादी है । इसी तरह से जो आर्टिकल २१ में पर्सनली लिबर्टी के अधिकार दिये गये हैं उन की हम इज्जत करते हैं और हम चाहते हैं कि व सब को मिलने चाहिये । लेकिन आर्टिकल २२ में यह अधिकार भी दिया गया है कि अगर प्रिवेंटिव डिटेन्शन की जरूरत हो गैर-मामूली हालात में तो वह पावर्स भी कांस्टीट्यूशन में दी गई हैं ।

आज हम लोग अपने मुल्क में सिर्फ कानूनी नजरिये से नहीं चल सकते हैं जैसा कि हमारे माननीय सभू साहब ने कहा जो कि कानून के दायरे में बहुत ऊंचे आदमी हैं । जब रोलेट एक्ट का विरोध हो रहा था तो इस में शक नहीं है कि उस समय मेरी उम्र छोटी थी, लेकिन मैं ने भी उस के विरोध में हिस्सा लिया था । तो उस जमाने का कानूनी नजरिया रखने वाले लोग आज भी यह महसूस करते हैं कि कैसे हम ऐसा कानून बना रहे हैं जो मामूली तौर पर ठीक नहीं है, यह कानून किसी को अच्छा नहीं लगता है और खास करके उन लोगों को जो खुद भी कभी जेल में रहे । जिनको जेलों में रहने का मौका मिला है वे कभी इस को पसन्द नहीं करेंगे । लेकिन जब देश की हुकूमत हमारे हाथ में आई है और उसको हम शान्तिपूर्वक डेमोक्रेटिक सोशलिज्म के रास्ते पर ले जा रहे हैं, तब भी यदि कोई बेजा तौर पर असन्तोष फैलाता है तो उस को रोकने के लिये सरकार के पास कुछ न कुछ अधिकार होने ही चाहिये । यदि झगड़े, फसाद, दंगे, साम्प्रदायिक असन्तोष, डकैतियां वगैरह मामूली कानून से हल हो जा सकती तो यह कानून बनाया ही नहीं जाता । अदालतें तो हैं ही ईसाफ करने के लिये, लेकिन बहुत से ऐसे वकील साहेबान हैं जो बहुत आसानी से बड़े बड़े डकैतों और चोरों को भी बचा देते हैं, जिससे मुल्क को नुकसान होता है । इसलिये ये पावर्स गवर्नमेंट लेना चाहती है । जब हम ने गवर्नमेंट को देश की रक्षा के लिये चौकीदार बनाया है, तो चौकीदार को अगर हम बन्दूक और तलवार हाथ में नहीं देंगे तो कैसे काम चलेगा ?

[श्री गोपीकृष्ण विजयवर्गीय]

जब आप ने एक चौकीदार रखा है, तो कोई न कोई पावर्स उस को आप को देनी चाहियें।

जो फैक्ट्स एंड फिगर्स हम को दिये गये हैं उन में सिर्फ २०६ केसेज बतलाये गये हैं। उन में से २०६ ला एंड आर्डर के सम्बन्ध में हैं जिन्होंने ने हिंसा की तरगीब दी और ऐसे लोग डिटेन किये गये। तीन जो हैं वे सिक्योरिटी के सम्बन्ध में डिटेन किये गये। कुछ कम्प्युनल एक्टिविटी और नागा होस्टिलिटी के लिये पकड़े गये। कुछ इन्डियन सर्विसेज एंड सप्लाइज के लिये पकड़े गये—दस केसेज ऐसे भी हैं। इस तरह से जो इस का प्रयोग हुआ है वह इतने बड़े करोड़ों के मुल्क में बहुत थोड़े लोगों पर हुआ है। जब केसेज इतने थोड़े हैं तो मैं यह जरूरी समझता हूँ कि ऐसा कानून देश में रहना चाहिये ताकि शान्ति हर जगह बनी रहे। इस के अलावा जो हमारा चौकीदार मुल्क की रक्षा और हिफाजत कर रहा है उस को यदि आप कोई हथियार नहीं देना चाहते हैं तो इतना बड़ा मुल्क चल कैसे सकेगा।

मैं यही कहना चाहता हूँ कि हम ऐसे जबरदस्त जमाने से गुजर रहे हैं जब खतरे और रिस्क बहुत ज्यादा हैं, हिफाजत का सवाल है, दुश्मन हमारे दरवाजे पर है। कुछ भाइयों ने कहा कि यह कानून दूसरी पार्टियों के लिये है, लेकिन वे सिर्फ लफ्ज "रिबैल" देख सकते हैं। कांग्रेस पर भी इसका उपयोग हुआ है। इसलिये इसमें यह डरने की बात नहीं है और यह कहना उचित नहीं है कि कांग्रेस गवर्नमेंट दूसरों को नुकसान पहुंचाने के लिये यह कानून बना रही है। इस लिये यह अधिकार गवर्नमेंट को दिया जाना चाहिये।

इसके अतिरिक्त इस कानून में बहुत से सेफ गार्ड रखे गए हैं। पांच दिन के अन्दर उसको आउन्ड्स दी जानी चाहिएं। एक महीने के अन्दर उसको मौका दिया जायेगा। कोई कायम किया जायेगा और उसके सामने वह पर्सनली पेश हो सकता है। ये तमाम

सेफगार्ड्स इसमें मौजूद हैं। इस लिये इसका कोई डर नहीं है कि इसका दुरुपयोग होगा। मैं फिर इस कानून की पूरी ताईद करता हूँ।

श्री चन्द्र शेखर : माननीय उपसभाध्यक्ष महोदय, राजनीति में साधारण तौर पर संतुलन रखना बड़ा कठिन काम होता है और ऐसी हालत में जब कि शासनाखंड दल के लोग उस संतुलन को न बना रखने के लिये तत्पर हों तो कठिनाई और बढ़ जाती है। यह जो सारा नजरबन्दी कानून है और इसकी अवधि को बढ़ाने के ऊपर इतना एतराज होता है, इसका यह मतलब नहीं कि हम लोग यह नहीं जानते कि समाज में बुराईयां हैं। इसका यह मतलब नहीं कि हम यह नहीं जानते कि समाज में कुछ ऐसे तत्व हैं जिन पर रोक लगाना जरूरी है। अर्थात् हमारे मित्रों ने बताया कि सन् १९५० से यह कानून हमारे देश में बराबर बढ़ता चला आ रहा है। सन् १९५० में जो भाषण दोहराए गये थे संसद् के सामने, वही भाषण आज भी दोहराए जाते हैं। सन् १९५० से लेकर सन् १९६३ तक, इन १३ वर्षों में आजादी की हवा में सांस लेने के बाद भी अगर इस हिन्दुस्तान में अपराध करने वालों की तादाद कम नहीं होती, अगर गुंडा-गिरी की तादाद कम नहीं होती, तो क्या शासन ने कभी एक बार भी रुक करके यह सोचा है कि इसका कारण क्या है? क्या इस का कारण यही है कि मनुष्य के जीवन में कुछ ऐसे तत्व हैं जो कभी सुधारे नहीं जा सकते? क्या कारण इसका केवल एक ही है कि कुछ विरोधी पार्टियां और कुछ ऐसे लोग हैं जो देश में बरबादी और तबाही लाना चाहते हैं? क्या देश में कम्युनिस्ट पार्टी और ऐसे देशद्रोही तत्व हैं और उनके दबाने के लिये इसका इस्तेमाल होता है? श्रीमान्, मैं बहुत अदब के साथ कहना चाहता हूँ कि यह बात नहीं है। बात यह है कि जिस मंशा से यह कानून बनाया गया था

कि थोड़े दिनों में इसकी जरूरत नहीं पड़ेगी, उस मंशा को पूरा करने में हम इस लिये कामयाब नहीं हो सके कि शासन को जिस दिशा में जाना चाहिये था उस दिशा में शासन जाने में नाकामयाब रहा ।

अभी एक माननीय सदस्य ने एक बात कही जिससे मुझे बड़ा कष्ट हुआ । जब माननीय डा. ह्याभाई पटेल बोल रहे थे तो उन्होंने किसी तरह से जिक्र किया माननीय सरदार पटेल जी का और पीछे से एक माननीय कांग्रेसी सदस्य ने कहा कि सरदार पटेल आप जैसा पुत्र भी नहीं प्राप्त कर सके । मैं नहीं जानता कि राजनैतिक प्रश्नों पर चर्चा करते समय इस तरह की बातों की क्या आवश्यकता है और उस समय मुझे सब से अधिक कष्ट इस बात पर हुआ कि माननीय गुलजारी लाल नन्दा उस पर भी प्रसन्न थे । मैं यह कहूंगा कि सन् १९५० में सरदार वल्लभ भाई पटेल को ये अधिकार दिए गए थे, लेकिन आज के हिन्दुस्तान में माननीय गुलजारीलाल नन्दा और माननीय हजरतबीस को ये अधिकार न देने के कुछ विशेष कारण हैं । सरदार पटेल का विशेष व्यक्तित्व था और उस जमाने के सियासी माहौल में, उस जमाने के राजनैतिक माहौल में और आज सन् १९६३ के वातावरण में और सियासी माहौल में बहुत फर्क है । उस माहौल को बिगाड़ने की जिम्मेदारी विरोधी पार्टियों पर अगर ५ फीसदी है तो ६५ फीसदी जिम्मेदारी शासन को अपने ऊपर लेनी पड़ेगी । अगर वह इस जिम्मेदारी को लेने के लिये तैयार नहीं हैं, तो एक सरदार पटेल इस दुनिया में नहीं रहे, अनेकों हजरतबीस आयेंगे और चले जायेंगे और यह कानून हमारे स्टैट्यूट बुक पर बना रहेगा ।

इसलिये मैं यह कहता हूँ कि इस प्रश्न को सोचते समय इसे दूसरे नजरिये से सोचिये कि क्या जो अधिकार हम सरकार को देते हैं उसका सोच विचार कर के इस्तेमाल किया जाता है । हमारे एक माननीय

सदस्य ने कहा कि जब चौकीदार रखते हो तब उसको अधिकार भी दो । हम चौकीदार को अधिकार देने को तैयार हैं लेकिन चौकीदार की जहूनियत को देखना भी जरूरी होता है और यह भी देखना पड़ता है कि चौकीदार के हाथों में अगर बन्दूक दे देते हैं तो उसके हाथ उस बन्दूक को सही दिशा में चला भी सकते हैं या नहीं, कहीं ऐसा तो नहीं होने वाला है कि वह उस बन्दूक से अपनी आत्महत्या ही कर ले । मैं माननीय मंत्री महोदय से पूछता हूँ कि १९५० में आपको यह कानून मिला था और १९६२ में चीन का हमला हुआ था तो १२ वर्षों तक इस कानून के होते हुए भी उस समय देशद्रोहियों की तादाद कैसे बढ़ी, आपके शासन में देशद्रोहियों की, एस.वाय.ने.रिंग की, खुफियागिरी करने वालों की तादाद कैसे बढ़ी ? क्या इसकी जिम्मेदारी श्री गुलजारी लाल नन्दा लेने को तैयार हैं, क्या इसकी जिम्मेदारी श्री हजरतबीस लेने को तैयार हैं ? अगर नहीं तैयार हैं तो इसके लिए कि शायद आप बहुमत में हैं तो कानून के जरिए आप यह अधिकार ले सकते हैं लेकिन हिन्दुस्तान का दिल व दिमाग आपको यह अधिकार देने को तैयार नहीं है क्योंकि एक तरफ तो इस अधिकार का जो सही इस्तेमाल होना चाहिये वैसा इस्तेमाल करने में आप नाकामयाब रहे हैं, इस निकम्मे प्रशासन के हाथों में यह अधिकार वैसा ही था जैसे कि एक मूढ़ आदमी के हाथ में बन्दूक दे दी जाय और वह सही दिशा में गोली न चला सके, और दूसरी तरफ इस कानून का इस्तेमाल—कहा जाता है कि राजनैतिक कार्यों के लिये नहीं किया जाता लेकिन वैसा नहीं है—जब भी सरकार को अधिकार हम देते हैं उसका इस्तेमाल किस तरह से किया जाता है, जनाबेबाला, आप उस से परिचित हैं । आज प्रोफेसर मुकुट बिहारी लाल जेल में हैं । माननीय नन्दा जी या माननीय हजरतबीस जी उठ कर कह सकते हैं कि विरोधी दल में बैठने वाले गुस्से में बोलते हैं, मैं नहीं जानता, लेकिन

[श्री चन्द्र खेर]

अगर माननीय हजरतवीस को जेल में बन्द कर दिया जाय तो उन के दिल और दिमाग में क्या होगा, उनके ऊपर कैसे गूजरेगी? प्रोफेसर मुकुट बिहारी लाल कोई डकैत नहीं हैं, कोई गुंडे नहीं हैं, उन्होंने अपनी सारी जिन्दगी महामना पंडित मदन मोहन मालवीय के चरणों में बैठ कर समाज की सेवा में लगाई है और मैं यह कह सकता हूँ कि उन के बराबर के त्याग करने वाले हो सकते हैं लेकिन इस सदन में कोई दूसरा आदमी नहीं है जो कहेगा कि मैं ने उन से ज्यादा त्याग किया है? वह इस समाज की सेवा के लिये आज जेल में क्यों हैं? केवल इस लिये जैसा कि हमारे भाई माननीय चौरङ्गिया जी ने कहा कि वह गुड़ के ऊपर लगे हुए प्रतिबन्ध को तोड़ने के लिये तैयार थे, वह चाहते थे कि यह प्रतिबन्ध न लगा रहे? जनावेवाला, पांच, सात दिन पहले मैं ने इसी सदन के अन्दर थामस साहब को कहा था कि वे तैयार हों और फूड मिनिस्ट्री की इन्वायरी करायें और मैं आज भी दावे के साथ इसे कहता हूँ। हमारे पाठक साहब कह सकते हैं कि निष्पक्ष अदालत के सामने जज के सामने, सारा मामला जाता है, लेकिन अगर किसी निष्पक्ष अदालत के सामने सारा फूड मिनिस्ट्री का मामला जाय तो आज प्रोफेसर मुकुट बिहारी लाल जेल में नहीं होंगे, जेल में थामस साहब होंगे, जेल में उनकी फूड मिनिस्ट्री के लोग होंगे जिन्होंने कि सारे कानून को इस लिये तोड़ा मरोड़ा है कि जनता के साथ अन्याय किया जाय। यह राजनीतिक सवाल भी नहीं है। श्रीमान्, मैं आप से यह कह देना चाहता हूँ कि यह प्रजा सोशलिस्ट पार्टी का सवाल नहीं है। मुझे अभी ठीक खबर तो नहीं लगी है लेकिन आज भूदान के लोग उस प्रतिबन्ध को तोड़ने के लिये गाजियाबाद के उसी स्थान से सत्याग्रह करने वाले थे जहाँ कि प्रोफेसर मुकुट बिहारी लाल ने किया था। सर्वसेवा-संघ ने प्रस्ताव पास किया, ग्रामोद्योग कमिशन ने प्रस्ताव पास किया मगर यह हुकूमत इस काम

को करने के लिये तैयार नहीं है। क्यों? इसलिये कि उसके पीछे बैठे हुए अफसर उसे गलत राय देते हैं। तो इन चौकीदारों के हाथों में अधिकार देने का क्या मतलब होता है?

माननीय हजरतवीस साहब हमारे पास आते हैं कि हम को प्रिवेंटिव डिटेंशन का भी अधिकार दो लेकिन माननीय हजरतवीस साहबको कोई पुलिस सब-इंस्पेक्टर इलाहाबाद से या लखनऊ से एक रिपोर्ट दे देगा तो मैं जेल में चला जाऊंगा और हजरतवीस साहब पुलिस की रिपोर्ट को ला कर यहाँ पढ़ देंगे। चूँकि अदालत के सामने मामला जरे गौर है इसलिये मैं उसकी तफसील में नहीं जाऊंगा लेकिन क्या कोई भी गृह-मंत्री यह कह कर अपनी फुर्सत पा सकता है कि मीर्या ने आठ महीने पहले कोई भाषण दिया था और आज वह उस के लिये गिरफ्तार होता है? क्या है? माना कि उन्होंने अपराध किया लेकिन आठ महीने की जो यह देरी हुई वह क्या है? आठ महीने के बाद अचानक एक दिन दिल्ली में गिरफ्तार कर लिये गये हैं और उसका कोई विवरण नहीं दिया जाता है। एक दिन माननीय हजरतवीस आते हैं और कहते हैं कि पुलिस की हमारी यह रिपोर्ट है जो कि एक सब-इंस्पेक्टर ने इलाहाबाद की कोतवाली में बैठ कर के लिखी होगी और वह हमारे सामने पढ़ देते हैं और फिर आ कर के हम से कहते हैं, पार्लियामेंट से कहते हैं, कि हम को अधिकार दो, गवर्नमेंट को यह अधिकार दो। यह अधिकार दिया जाता है एक सब-इंस्पेक्टर को, यह अधिकार दिया जाता है उस थाने के मुहरीर को जो कि जिस समय भी चाहे, जिस समय भी सोचे कि इनको प्रिवेंटिव डिटेंशन के अन्दर लाना है तो ले आये और बन्द कर दे और यह हुकूमत ऐसी काबिल हुकूमत है कि ला कर उसे ही पढ़ देती है। श्रीमान्, मैं आप से यह अर्ज करना चाहता हूँ कि यह सवाल जो है वह एक बुनियादी सवाल है कि अगर हुकूमत के सोचने का तरीका, नज़रिया नहीं बदलता है न

इन सारे अधिकारों का दुरुपयोग होने वाला है ।

एक दूसरे केस का जिक्र मैं और करूंगा । अभी तीन दिन पहले की बात है, बिहार में गोमियो एक जगह है जहां पर कि एक्स-प्लोसिव फैक्ट्री है, बारूद का कारखाना है और कुछ दिन पहले बसावन सिंह एम० एल० सी०, जो बिहार प्रजा सोशलिस्ट पार्टी के नेता हैं—माननीय तारकेश्वर पांडे जी यहां बैठे हैं कम से कम ३५ वर्ष से वह उनको जानते ही होंगे—गिरफ्तार किये गये और आज वह जेल के अन्दर है डिफेंस आफ इंडिया एक्ट में . . .

श्री तारकेश्वर पांडे (उत्तर प्रदेश) : मैं उन के अच्छे कामों को जानता हूं ।

श्री चन्द्र शेखर : उन्होंने अच्छा काम ही किया है । उन्होंने एक अच्छा काम यह किया कि वहां के कारखाने के मजदूरों में असंतोष था और उस असंतोष को एक सही दिशा में ले जाने के लिये प्रयत्न किया और उन के संगठन की जो मांगें हैं उनको पूरा कराना चाहा । क्या यह हुकूमत यह समझती है कि एक्सप्लोसिव फैक्ट्री में जो मजदूर हैं यदि उन में भी असंतोष रहेगा तो क्या हमारी सुरक्षा बची रहेगी ? बिना मजदूरों में संतोष हुए कोई एक्सप्लोसिव फैक्ट्री नहीं चल सकती है, आज माननीय हजरतबीस साहब यह बात नहीं जानते हैं तो मैं क्या करूं उसमें तो उनको सहयोग करना चाहिये था लेकिन सहयोग करते हैं दूसरी तरफ, मिलमालिकों से, और जो उस असंतोष को चैनेलाइज करना चाहते हैं, उसको नई दिशा में, सही दिशा में ले जाना चाहते हैं उन को पकड़े कर जेल के अन्दर डाल देते हैं । यह आखिरकार देश में क्या होने वाला है ?

हमारे माननीय मित्र श्री आबिद अली साहब ने बड़े जोरों से तबरीर की, कम्युनिस्टों

के खिलाफ बड़ी नाराजगी जाहिर की । मैं उन की भावनाओं की बड़ी कद्र करता हूं लेकिन मुझे तरस आता है जब कुछ लोग ऐसा समझते हैं कि कम्युनिस्ट कहीं से ऐसे ही पैदा हो गये हैं । दस कम्युनिस्ट को उठा कर जेल में बन्द कर देंगे तो उस से कम्युनिज्म की समस्या हमेशा के लिये समाप्त हो जायेगी । यह एक सामाजिक समस्या है । श्रीमान्, जब देश में असन्तोष रहेगा, जब देश में भूख रहेगी, जब देश में पीड़ा रहेगी तो उस पीड़ा का, उस भूख या प्रकटीकरण किस रूप में होगा ? उसे अगर सही रास्ता नहीं मिलेगा तो गलत रास्ते पर लगे जायेंगे । कम्युनिस्ट पार्टी के लोग कोई गुंडा नहीं हैं, वह लोग ऐसे लोग हैं जो सोच समझ कर समाज को एक नई दिशा में ले जाना चाहते हैं । यह दूसरी बात है कि हमारे नजरिये से वह गुमराह लोग हैं, वह सही रास्ते को, मूल तत्व को, मानवता के रास्ते को, छोड़ देते हैं और मानवता की जो प्रेरणा है वह इन में इसलिये समाप्त हो गई है कि ईर्ष्या और द्वेष ने उसे घर दबाया है । तो क्या आज के समाज में जो ईर्ष्या है, द्वेष है नाबराबरी है, गरीबी है, भुखमरी है उसको ज्यों का त्यों बरकरार रखते हुए आबिद अली साहब प्रिजेंटिव डिटेंशन एक्ट के द्वारा कम्युनिज्म को खत्म कर देंगे ? नहीं, वह खत्म होने वाला नहीं है, जब तक ये सारी समाज की बुराइयां ज्यों की त्यों बनी हुई हैं और जब तक आप इन बुराइयों को समाप्त नहीं कर देते हैं, तब तक अगर आप इस तरह का आन्दोलन चलाइयेगा कि कम्युनिस्टों को बन्द कर दिया जाय तो कोई लाभ नहीं होगा, वह पार्टी नहीं रहेगी तो कोई और दूसरी पार्टी चली आयेगी । इसलिये मैं आप से कहता हूं कि इस प्रिजेंटिव डिटेंशन का इस्तेमाल इस काम के लिये नहीं होता है कि समाज की इन बुराइयों को दूर किया जाय बल्कि इस का इस्तेमाल ऐसा होता है कि अगर समाज की बुराइयों को दूर करने की किसी की ओर से कोशिश हो रही है तो उस की कोशिश को नाकामयाब किया जाय ।

[श्री चन्द्र क्षेत्र]

तो यह सब से दृष्टि एतराज हमारा इस सवाल के ऊपर है। हमारे माननीय आविद अली ने जो कहा, जो सुझाव दिया उस को शायद माननीय हजरतबीस साहब नहीं मानेंगे कि समाज की प्रगति में, देश के रास्ते में जो कुछ लोग हकावट डालते हैं—चाहे चोर बाजारी करने वाले लोग हैं, चाहे घूसबोरी करने वाले लोग हैं—उन को पकड़ा जाय। और उन्होंने ने यह भी कहा कि अगर कोई मिनिस्टर भी ऐसा है तो उस को भी प्रिवेंटिव डिटेन्शन के अन्दर पकड़ा जाय, लेकिन क्या हजरतबीस साहब इस तरह का आश्वासन इस सदन को दे सकते हैं कि इस का इस तरह से इस्तेमाल होगा? अभी एक माननीय सदस्य ने कहा कि कांग्रेस वालों के खिलाफ भी इस का प्रयोग हुआ है इसलिये इसके ऊपर एतराज नहीं हो सकता। कौन कांग्रेस वाले हैं? जो रिबेल कांग्रेस वाले हैं उनके खिलाफ हुआ है और किसी कांग्रेसी के खिलाफ नहीं हुआ है।

मैं तीसरी बार इस सदन के सामने यह बात कह रहा हूँ कि पंजाब के एक आदमी तेजा सिंह स्वतन्त्र को कल और बैंक की डकैती के केस में केवल इसलिये रिहा किया गया कि हिन्दुस्तान की सियासत में सबसे ऊँचे आदमी पंडित जवाहरलाल नेहरू की इस बात में दिलचस्पी थी कि उस के ऊपर से मुकदमा उठा लिया जाय। मैं ने तीन बार इस सदन के सामने यह कहा है। मैं सारा केस बताता हूँ। उत्तर प्रदेश में, नैनीताल में, रामनगर में बैंक-डकैती केस हुआ और उस में लोगों की गिरफ्तारियां हुई, १३ या १४ आदमी—मैं संख्या ठीक नहीं जानता—आज आजीवन कारावास की सजा भुगत रहे हैं, ४ या ५ आदमी फ़रार थे और पांच सात वर्षों के बाद उत्तर प्रदेश की हुकूमत को लिखा गया, पंजाब की हुकूमत को लिखा गया कि इन के ऊपर से मुकदमा वापस करो, उत्तर प्रदेश के मुख्य मंत्री ने उस समय कहा कि मुकदमे वापस नहीं हो सकते क्योंकि ला डिपार्टमेंट तैयार नहीं है,

होम डिपार्टमेंट तैयार नहीं है। दूसरा खत लिखा गया और मुकदमे वापस ले लिये गये मैं पूछना चाहता हूँ कि कौन सी देश भक्ति इस में थी, कौन सी उस में कानून की मर्यादा थी। एक ही मुकदमे में कुछ लोग आजीवन कारावास की सजा भुगतें, और कुछ लोगों पर से वह मुकदमा उठा लिया जाय, क्या यह प्रिवेंटिव डिटेन्शन ऐक्ट का इस्तेमाल है और क्या इसी तरह से कानून की व्यवस्था इस मुल्क में बनाई जा रही है?

मैं दूसरी बात आप से यह कहूँगा कि कुछ लोग आते हैं और उल्टी सीधी रिपोर्ट देते हैं। मैं ख.स.ती.से माननीय हजरतबीस साहब से कहूँगा कि पुलिस के अधिकारी या गृह-विभाग के अधिकारी जो उन को रिपोर्ट देते हैं, वे कभी मौके पर जाकर जानने का कण्ट नहीं करते, शायद किसी का भ्रमण सुनने के लिये भी नहीं जाते और जिस आदमी के बारे में जो दिनाम बन गया है उस के बारे में वह रिपोर्ट दे देते हैं। बड़ी पुरानी एक कहानी है। मैं कह कर एक एक मिनट में समाप्त करूँगा।

हमारे यहां पुरानों की एक कहानी है। शिव जी के दरबार में दो लोग रहते थे, एक कार्तिक्य जी, एक गणेश जी—दोनों शिवजी के पुत्र थे। एक प्रश्न उठा कि कार्तिक्य भले कि गणेश भले। यह तय किया गया कि दोनों दुनिया का परिभ्रमण कर के घूमें और जो जल्दी घूम के दरबार में आ जायेगा वह सब से बड़ा गौरवशाशी माना जायेगा। हुआ क्या? कार्तिक्य बेचारे काम करने वाले आदमी, अच्छे आदमी थे। वे दीड़ कर सारे ब्रह्माण्ड की परिक्रमा कर आए और गणेश जी अपनी जगह पर बैठे रहे और जब उन को पता लगा कि कार्तिक्य आ रहे हैं तो उन्होंने ने बैठ कर एक जगह “शिव” लिखा और उस की परिक्रमा कर ली और फिर दरबार में जा कर शिव जी से कह, कि हम महान हैं क्योंकि हम पहले आ गए। प्रश्न उठा: आप

कैसे महान ? उन्होंने ने कहा कि सारी सृष्टि 'शिव' में समायी हुई है इसलिये उस का भ्रमण कर के जो आता है वही पराक्रमी है, पुरुषार्थी है। मान लिया गया। गणेश जी की पूजा होती रही लेकिन उस गणेश जी को दुनिया का पता नहीं था कि दुनिया में कौन सी नदियाँ हैं, खेह हैं, नाले हैं, पहाड़ हैं। आज वही हालत हिन्दुस्तान की दुरुमत की है। वजीरे आजम पंडित नेहरू के चारों तरफ घूमने वाले गणेश हैं, उन गणेश के चारों तरफ घूमने वाले छोटे गणेश हैं। हजरतबीस साहब के दरबार में भी इसी तरह से कुछ अधिकारी घूम के आते हैं और कहते हैं कि सारी दुनिया में अनन चैन है। तो मैं आपको बता रहा हूँ कि अगर इस देश को बनाना है, अगर इस देश को समझना है और अगर इस देश में से दोष हटाना है, अगर आप चाहते हैं कि प्रिवेन्टिव डिन्शन एक्ट की अवधि फिर न बढ़ती पड़े, तो गणेश बनना छोड़ कर कार्तिक बनना सीखिये।

समाज की कुरीतियों को दूर करने के लिये समाज की बुराइयों को जड़ में क्या है उस में जाने की जरूरत है और जब तक आप यह नहीं सोचेंगे तब तक यह सुरक्षा के नाम में नजरबन्दी कानून इस देश को बरबाद करने वाला है और तबाही लाने वाला है। इसलिये श्रीमान्, मैं यह कहना चाहता हूँ कि अगर हजरतबीस साहब चाहते हैं कि इस का हल निकले तो एक ही तरीका है—अधिक कानून बनाने की जरूरत नहीं है, जितने कानून आप के हाथ में हैं उन का सही इस्तेमाल करना सीखिये। आप अपनी नीकरशाही को आप अपने शासन-तन्त्र को सजग बनाइये, सचेत बनाइये, ईमानदार बनाइये। नए-नए कानून लगा कर उन के हाथों में दमन की शक्तियों का केन्द्रीयकरण न कीजिये। और अगर केन्द्रीयकरण करेंगे तो आज हमारे ऊपर इस का इस्तेमाल हो रहा है, कल आप के ऊपर इस्तेमाल होगा। एक बार शासन को, नीकरशाही को इस तरह का अधिकार मिल जाता है, फिर उस की कोई रोक नहीं होती।

और मैं अन्त में एक चेतावनी देना चाहूंगा पाकिस्तान के शासक दल के कुछ लोगों ने समझा था कि नीकरशाही का इस्तेमाल कर के अपने विरोधियों को हम हमेशा के लिये दफना देंगे। पाकिस्तान की सियासत में जब एक बार यह कीड़ा लगा तो एक दिन नीकरशाही की यह हालत हुई कि वही अधिकार देने वाले लोग ही हमेशा के लिये खत्म हो गए, उस के साथ ही साथ वहाँ की जमहूरियत भी वहाँ से हमेशा के लिये मिट गई। अगर माननीय गुलजारी लाल नन्दा यह समझते हैं कि प्रोफेसर मुकुट बिहारी लाल को गिरफ्तार कर के हम मौज करेंगे, अगर वे समझते हैं कि बसावन सिंह को जेल में भेज कर हम चैन की बंसी बजायेंगे तो कल यही नीकरशाही, कल यही नजरबन्दी कानून—और मेरे जरिये नहीं, मेरी कभी यह इच्छा नहीं—इन्हें बन्दी बनायेगा। मैं और दोस्तों की बात नहीं जानता, उन को बड़ा गुस्सा होगा लेकिन मुझे बड़ी तकलीफ है, मुझे पीड़ा है इस बात की कि इस देश में स्वशासन को लाने के लिये, इस देश की आजादी को लाने के लिये जिन हजारों लोगों ने बलि चढ़ाई, उन के सामने एक ही अरमान था कि इस देश का एक एक नागरिक सीना तान कर के कह सके कि हम आजाद मुल्क के रहने वाले हैं, हम किसी के पैरों के नीचे दब कर रहने वाले नहीं हैं। अगर इस नजरबन्दी कानून को लगा कर नीकरशाही के जरिये उन अरमानों को दफनाना चाहते हैं, जनता को प्रताड़ित करना चाहते हैं तो हम इस का विरोध करेंगे और जितनी भी हमारी ताकत होगी उस ताकत से हम इस का सामना करेंगे।

श्री गोडे मुराहरि : उप सभाध्यक्ष महोदय, मुझे ताज्जुब होता है कि हमारे गृह मंत्री साहब एक ऐसा काला कानून जो हमारे बुनियादी हकों की जड़ काटता है, ऐसा कानून जो एक व्यक्ति की स्वतन्त्रता की जड़ काटता है और ऐसा कानून जो नागरिक अधिकार को खत्म करता है, उस को हमारे सामने ला कर प्रस्तुत करें। यह जुरत उन की हो गई इस पर

[श्री गोडे मूराहरि]

हम को ताज्जुब है। वैसे उन्होंने बहुत कुछ दलीलें दीं और यह भी कहा कि हमने इसका स्तेमाल गुंडों के खिलाफ ही किया है लेकिन उस वक्त उन्होंने ने ऐसी गलत बयानी की थी कि राजनैतिक उद्देश्य से इस का इस्तेमाल नहीं हुआ। मैं उन को सिर्फ दो, तीन नामों की याद दिलाना चाहूंगा। मेरी पार्टी के लीडर डा० राम मनोहर लोहिया को गिरफ्तार किया गया इसी काले कानून के अन्तर्गत और प्रभु नारायण सिंह जी, जो पार्लियामेंट के मेम्बर थे, उन को भी इसी कानून के अन्तर्गत बन्द किया गया और ये कोई गुंडे नहीं थे। और आज भी हमारी पार्टी के लोग हैं जिन को नजरबन्द किया गया है एक रमा शंकर गुप्ता हैं जो कि एक विद्यार्थी नेता हैं, उन्हें इलाहाबाद में कुछ गड़बड़ी हुई थी तो इस कानून का इस्तेमाल कर के उस सिलसिले में उन को भी नजरबन्द किया गया था। और डिफेंस आफ इंडिया क्लब का जो गलत इस्तेमाल हुआ है उस को भी देख लिया जाय। डिफेंस आफ इंडिया के अन्तर्गत कितने केसेज में उस का इस्तेमाल किया गया, अपने देश को बचाने के लिये, अपने देश के गौरव को उठाने के लिये? लेकिन इस का इस्तेमाल किया गया श्री जार्ज फरनेंडेस को गिरफ्तार कर के जो कि सब से बड़े मजदूर यूनियन के लीडर हैं और जहां उन के आगे कांग्रेस की एक नहीं चलने पाती। इन्टक ने बहुत कोशिश की अपना यूनियन बनाने के लिये लेकिन वे उन के सामने असफल रहे। उस का यह नतीजा हुआ कि जार्ज फरनेंडेस को डिफेंस आफ इंडिया क्लब के नीचे बन्द कर दिया। इन सब चीजों को देखते हुए हम को यह लगता है कि यह कानून जो हमारे सामने लाया गया है इसका इस्तेमाल गुंडों के खिलाफ नहीं बल्कि राजनैतिक उद्देश्य के लिए होगा क्योंकि गुंडों के खिलाफ जो भी हमारे साधारण कानून हैं, उनका इस्तेमाल हो सकता था।

अभी हमारे कुछ दोस्तों ने पढ़ कर बताया कि क्रिमिनल प्रोसीजर कोड में जो

ब्यवस्था है और जो दूसरे हमारे साधारण कानून हैं उनका इस्तेमाल हर एक मामले में हो सकता है तो फिर कोई बजह नहीं है कि इस तरह का प्रिवेण्टिव डिटेन्शन ऐक्ट हमारी सरकार लाई है। इसका तो सिर्फ यही मतलब है कि सरकार जो काला काम करना चाहती है उसको एक कानून का रूप दे कर ढांप लेना चाहती है। वह नहीं चाहती है कि कोई अदालत के सामने जा कर न्याय का तकाजा करे, वह नहीं चाहती है कि कानून के अन्तर्गत कोई न्यायालय में जा कर इस चीज की सफाई दे कि गिरफ्तारी क्यों की गई। इसलिए इन सब चीजों को बंद करने के लिए, इन सब चीजों को अलग करके, अपने काला काम करने के लिए वह कानून हमारे सामने रखा है। वे चाहते हैं कि उनको ऐसा अधिकार दे दिया जाय जिसके जरिये हिन्दुस्तान का कोई नागरिक स्वतन्त्र न रहे क्योंकि जब प्रिवेण्टिव डिटेन्शन हम पास करेंगे तो इस का मतलब यह होता है कि इस सरकार को सर्वाधिकार दे दिया जायगा। कोई ऐसा राजनैतिक दल हमारे हिन्दुस्तान में नहीं होगा जो ऐसा काम करेगा कि इस नालायक सरकार की जो सोलह साल की कत्तूत हमारे सामने है, इस सारे को सामने रख कर, उसको ऐसा अधिकार दे। ऐसा कोई राजनैतिक गुमराह नहीं होगा और इसलिए मैं कहता हूं कि इस सदन में और बाहर भी इस ऐक्ट की इतनी मुबालिफा होगी कि यह जो आप कानून बना रहे हैं इसका कोई मारि नहीं रह जायगा। मैं जानता हूं कि इसका इस्तेमाल सिर्फ राजनीतिज्ञों पर होगा, और हो सकता है कि कहीं इधर उधर गुंडों का भी पकड़े लेंगे इसके अन्तर्गत। हो सकता है कि मंत्री जी ने जो स्टेटिसटिक्स हमारे सामने रखे हैं उस तरह के स्टेटिसटिक्स हमारे सामने रख दिये जाय। नंदा साहब तो स्टेटिसटिक्स हमारे सामने रखने में बहुत माहिर हैं क्योंकि हमने देख लिया कि उस सदन में जब हमारे हिन्दुस्तान की गरीबी

का सवाल आया तो उन्होंने किस तरह से स्टेटिसटिक्स हाउस के सामने रखे थे कि हमारे २७ करोड़ आदमी साढ़े सात आने में गुजारा करते हैं। तो ये इस तरह के जो स्टेटिसटिक्स बनाते हैं तो उसमें कोई ऐसा नहीं है . . .

THE VICE-CHAIRMAN (SHRI AKBAR ALI KHAN) : We are dealing with the Preventive Detention Bill.

SHRI G. MURAHARI: I am talking about that only. यह जो प्रिवेन्टिव डिटेन्शन बिल है, इसके बारे में जो स्टेटिसटिक्स उन्होंने बनाया है उसमें भी इसी तरह की गलतियाँ की हैं क्योंकि जहाँ उन्होंने गुन्डाइज्म को और नान बायलेन्स को ब्रैकेट किया है उसमें एक तरफ लिख दिया है कि कुछ लोग राजनैतिक दल के हैं। ये तो १९६२-६३ के फिगर्स हैं लेकिन १९६२ के पहले के फिगर्स में भी हम बता सकते हैं कि ज्यादातर इस ऐक्ट का इस्तेमाल राजनैतिक उद्देश्य से हुआ है। इसलिए मैं इस बिल का सख्त विरोध करता हूँ। हमारा देश स्वतन्त्र है और स्वतंत्र देश के नागरिकों का गला घोटने वाला यह कानून है जिसको कभी भी पास नहीं करना चाहिये। इन शब्दों में मैं उन्हें यहीं सलाह दूंगा कि जो सरकार अपनी जनता के प्रति न्याय नहीं कर सकती है, जो सरकार यह समझती है कि इस तरह से विशेष अधिकार लेकर राज्य चलायेगी, उसको फेंक दिया जायेगा और ज्यादा दिन नहीं टिक सकेगी।

5 P.M.

श्री शीलमद्र याजी : उपसभाध्यक्ष महोदय, देश की सुरक्षा तथा साम्प्रदायिकता के खिलाफ कदम उठाने के लिए जो निवारक निरोध बिल हम पास करने जा रहे हैं उसका मैं तहेदिल से समर्थन करता

हूँ। अभी इस विधेयक के बहस के दौरान मैं जो हमारे विरोधीदल के लोगों ने कहा कि सरकार ने यह एक दमनकारी कदम उठाया है, यह कहना मुनासिब मालूम नहीं देता है। ये लोग बाहर भी कहते हैं कि "लाठी गोली की सरकार नहीं चलेगी, नहीं चलेगी।" या यह एक बेवकूफी का नारा है। जिस सरकार के पास लाठी नहीं है, गोली नहीं है, वह सरकार निकम्मी है और वह सरकार चल नहीं सकती है। जो लोग देशद्रोही हैं, जो देश को बेचना चाहते हैं, जो व्यक्ति बाहर रह कर इस तरह के कुकर्म करते हैं, डकैती करते हैं, चोरी, काला बाजारी करते हैं, यदि हमारी सरकार इस तरह के गुण्डों को जो इस तरह के नारों को मानने वाले हैं नहीं रोक सकती है, तो वह सरकार चलने वाली नहीं है। इसलिए मेरी सरकार से शिकायत है, होम मिनिस्टर साहब से शिकायत है कि वे इतने नरम हैं कि जिसके बारे में कुछ कहा नहीं जा सकता है।

हमारे देश में अब भी भाषावाद का अगड़ा होता है, साम्प्रदायिक अगड़े होते हैं। हमारे चीनी पंथी कम्युनिस्ट भाई कलकत्ते के मैदान में श्री ए० के० गोपालन के नेतृत्व में बड़े बड़े डिमान्स्ट्रेशन करते हैं और हज़ारों लाखों का नैदरिंग करते हैं लेकिन फिर भी उन पर किसी तरह का प्रहार नहीं होता है बल्कि हमारी सरकार से उल्टी शिकायत होती है। हमारे पी० एस० पी० के भी कुछ भाई हैं जो चीजों को समझते नहीं, अपनी नासमझी के कारण कुछ ऐसी बातें करते हैं और इस बिल की मुखातिफ करते हैं। मैं यह बात अच्छी तरह से जानता हूँ कि पी० एस० पी० के जो हमारे भाई हैं वे सच्चे देशभक्त हैं और उनमें देशभक्ति है। लेकिन कभी कभी उनके बगल में रहने से उन्हें भी कुछ

[श्री शैलभद्र यादव]
हवा लग जाती है और इधर उधर की बातें करने लग जाते हैं और उनके हथकण्डे बन जाते हैं।

हमारे सरदार पटेल के लड़के चले गये, नहीं तो मैं उनको लम्बी चौड़ी और कसकर बांत मुनाता क्योंकि उन्होंने हमको थुट्टेन किया था कि जब मिनिस्टर बोलेंगे और कांग्रेस पार्टी के लोग बोलेंगे तो हम बोलने नहीं देंगे। हम इस धमकी की परवाह नहीं करते हैं। सरदार पटेल ए. व. लौह पुरुष थे और उन्होंने सन् १९५० में जब इस कानून को नींव रखी थी तो उस बर्दा फादर के लड़के आज इसकी मुखालिफ कर रहे हैं क्योंकि वह इस चीज को अच्छी तरह से नहीं समझते हैं। हमारे पूज्य सरदार पटेल ने उस समय देखा था कि देश में साम्प्रदायिक वातावरण चल रहा है जिससे देश को खतरा है जिसकी वजह से उन्होंने निवारक निरोध कानून बनाया और तीन तीन वर्षों के लिए यह एक्सटेंड होता जा रहा है। मैं मुखालिफ पार्टी के लोगों से पूछना चाहता हूं कि जब देश में इमरजेंसी है तो क्या इस तरह के कानून की आवश्यकता नहीं है?

हमारे होम मिनिस्टर साहब भी उन विरोधी पार्टी के लोगों के भाषण सुनते सुनते यह कहने लगते हैं कि इस बिल को सख्ती से शामिल नहीं होना चाहिये। लेकिन मैं यह कहना चाहता हूं कि चीनियों के कब्जे में हमारा १४ हजार वर्ग मील का इलाका अब भी पड़ा हुआ है, तो क्या हमारे चीनी पंथी लोग अभी भी क्रियाशील नहीं हैं? आज भी नेताजी सुभाषचन्द्र को वे चार पांच जगह धतलाते हैं। एक तो शैलमारी आश्रम में, एक हरिद्वार के पास, सरहद पर चीनियों के साथ और फौजी के सेक्रेटरी के साथ बतलाते हैं। जो कम्युनिस्ट नेताजी को तोजो का कुत्ता कहते थे और अगर वे बंगाल में आयेंगे तो

उन्हें जूतों का हार पहनाया जायेगा, यह कहा करते थे आज उन्हीं नेताजी के बारे में हमारे चीनी पंथी लोग कहते हैं कि वे अब लिबरेटिंग आर्मी के साथ यहां आ रहे हैं। इस तरह का आन्दोलन और प्रचार हमारे चीनी पंथी कम्युनिस्ट भाई कर रहे हैं। हमारे माननीय सदस्य चन्द्र शेखर जी ने शिकायत की कि हमारे आफिसर और हमारी सरकारी मशीनरी निकम्मी है। यह सब जानते हैं कि उसका अच्छी तरह से उपयोग उन लोगों पर नहीं हो रहा है। इतने वर्षों से वे नानवायलेन्स के भाषण सुनते आ रहे हैं तो उनमें भी कुछ न कुछ कंप्यूजन आ गया है। गांधी जी ने भी कहा था कि जब देश पर आक्रमण हो रहा हो तो आक्रमणकारियों तथा देश के गुण्डों से हिफाजत करने के लिए नानवायलेन्स को छोड़ देना चाहिये और हमको वायलेन्स इस्तेमाल करना चाहिये। लेकिन हमारे इतने दिनों तक गुलामी में रहने के कारण तथा बूढ़े व जैन धर्म की अहिंसात्मक नीतियों के कारण हमारे रंग रंग में नानवायलेन्स, अहिंसा तथा मुस्ती इतनी आ गई है कि हमारा १४ हजार वर्ग मील का इलाका अभी तक चीनियों के ही कब्जे में पड़ा हुआ है।

बड़े अफसोस की बात है कि हमारे देश में अब भी भाषावाद के झगड़े होते रहते हैं और मैं समझता हूं कि झगड़े और होने वाले हैं। हमारे पी० एस० पी० तथा मुखालिफ पार्टी के जो लोग हैं उनकी राजनैतिक दुकानों में अब बिकने को कुछ नहीं रह गया है क्योंकि समाजवाद हमने ले लिया है, बड़े बड़े मुल्कों से, रूस आदि प्रगतिशील देशों से, हमने दोस्ती कर ली है और अब उनकी समाजवाद की ठेकेदारी चली गई है। अब हमारे चन्द्र शेखर जी की दुकान में समाजवाद नहीं है। जैसे मछली बाजार में मछली बेचने वाली औरतों में गाली चलती है तो वे भी गाली दे दे कर इस तरह

का प्रचार कर रहे हैं क्योंकि वे समझते हैं कि डेमोक्रेसी में, समाजवाद में, इस तरह की बात दूसरे देशों में नहीं चलती है। हमारा एक समाजवादी देश है और हमने अपने संविधान में मौलिक अधिकार दे कर लोगों को बहुत आजादी दी है। यदि हम इस नज़रबन्दी कानून को पास नहीं करते हैं तो जो डेमोक्रेसी है वह मौबोनेसी का रूप ले लेगी और हम कुछ नहीं कर पायेंगे। इस बीच में हम सरदार पटेल जी की तारीफ करेंगे, उनके लड़के की नहीं। उनके लड़के को मैं समझता हूँ कि वे योग्य पिता के एक नालायक लड़के हैं। उन्होंने ऐसी ऐसी बातें कह दी जिस से सिर्फ कम्युनिस्ट पार्टी को मदद मिलेगी।

THE VICE-CHAIRMAN (SHRI AKBAR ALI KHAN): Mr. Yajee, you should not use such an expression.

श्री शीलभद्र याजी : नालायक, अनवर्दी पार्लियामेंटरी शब्द है।

SHRI CHANDRA SHEKHAR: On a point of order, Mr. Vice-Chairman, the hon. Member has just referred to Shri Dahyabhai Patel as सरदार पटेल का नालायक लड़का।

THE VICE-CHAIRMAN (SHRI AKBAR ALI KHAN): Mr. Chandra Shekhar, even before you drew my attention I myself took notice of it and I think the hon. Member will withdraw that term.

SHRI SHEEL BHADRA YAJEE: If you order, I will withdraw but that is not unparliamentary term, ^q^f सन का अर्थ ही 'नालायक लड़का होता है।

SHRI LOKANATH MISRA (Orissa): Sir, it should be expunged.

श्री शीलभद्र याजी : मैं आपके हुक्म पर विदग्धा करता हूँ लेकिन आइडिया हमारा उनके सम्बन्ध में नहीं है। तो मैं यह कह रहा था कि आज जल्द इस बात की है कि हमारे देश में भाषावाद के झगड़े होते हैं, अभी हमारी भूमि में चीनी भाँजुद हैं, हमारे सरहदों पर चीनी खड़े हैं, हमने अपने बजट में ८६७ करोड़ की जो रकम सेना के लिये लगाई है वह देश की सुरक्षा के लिए ही लगाई है और सब जगह नये कर के खिलाफ आन्दोलन किया जा रहा है। हमारे लिलुवा रेलवे वर्कशाप में हमारे कम्युनिस्ट भाई हड़ताल करा रहे हैं यद्यपि हमने विहटले कमिशन बनाने की घोषणा कर दी है।

श्री अवधेश्वर प्रसाद सिंह (बिहार): अभी आपने नालायक लफ्ज को एक्सपेंज करने के लिए कहा है। उनका भी एक्सपेंज कर दीजिये जिन्होंने खुद कहा है।

श्री शीलभद्र याजी : उन्होंने कहा तो मैंने इसको विदग्धा कर लिया है।

آپ سپها دهک-یه (شری کهر علی خان): اس میں کوئی کنڈیشن نہ ہے۔

[उपसभाध्यक्ष (श्री शकबर अली खाँ): इसमें कोई कंडीशन न रखिए।]

श्री शीलभद्र याजी : इसलिए मेरी अपनी शासक पार्टी से शिकायत है कि हम लोग कुछ नरम हो गये हैं। हम पर प्रहार होते हैं, इन्टरप्शन होते हैं, कुछ कहते हैं तो इन्टरप्शन करके बोलने नहीं देते। इसीलिए हमारे साथी श्री अवधेश्वर प्रसाद सिंह जी ने जो कि एक बुजुर्ग नेता हैं आपका ध्यान दिलाया है। उन्होंने कई

[श्री शीलभद्र याजी]

बार हमारी सरकार के सम्बन्ध में नालायक शब्द का व्यवहार किया, लेकिन अगर हमने एक बार कह दिया तो उनको चूटी की तरह पिच कर गया। मालूम पड़ता है कि वे थिक स्किन होकर नहीं मुनते हैं। जिस तरह से वे कहते हैं तो उन्हें भी उसी तरह से मुनने के लिए भी बर्दाश्त करना चाहिये।

SHRI LOKANATH MISRA: Sir, it is one thing to refer to a Government as being unworthy but you cannot refer to a person as unworthy.

THE VICE-CHAIRMAN (SHRI AKBAR ALI KHAN): He has unconditionally withdrawn that.

श्री शीलभद्र याजी: हमारी सरकार कोई पत्थर, बूझ तथा मिट्टी नहीं है। सरकार इन्सानों की होती है। अनबर्दा करने का मतलब वहीं हो जाता है कि सरकार में जो व्यक्ति हैं वे नालायक हैं। तो वाइस चेयरमैन महोदय, मैं यह कह रहा था कि जिस कारण के लिए यह जो निवारक निरोध कानून है वे कारण अभी भी मौजूद हैं। हिन्दुस्तान में अभी भी वैसे ही साम्प्रदायिकता की बाढ़ आती है और कभी तो पहले से भी अधिक हो जाती है। भाषावाद का झगड़ा तो अभी भी गोआ में शुरू हो गया है जैसा कि मैंने शुरू में कहा कि अब इन विरोधी पार्टियों की राजनीतिक दुकान में थिकने को कुछ नहीं है इसलिए अब भाषावाद का झगड़ा गोआ में शुरू हो गया है। और दूसरी जगहों में भी ये लोग अपनी लीडरी जमाने के लिये करते ही रहेंगे। तो सब जगह कोई न कोई झगड़े चलते ही रहते हैं। कहीं भाषावाद का झगड़ा होता है, कहीं साम्प्रदायिक झगड़ा होता है। इसके अतिरिक्त देश की सुरक्षा का भी सवाल है। जो सच्चे समाजवादी हैं, जो सच्चे सोशलिस्ट हैं वे यह समझते

हैं कि जो देश में इस तरह के तत्व हैं जो समाजवाद के खिलाफ हैं, जो एंटी-सोशल एलिमेंट हैं उनको ठीक करने के लिये कम्युनिस्ट देशों में सरकार बड़े बड़े कैम्प लगाकर उन नजरबन्दी के कैम्पों में उनका दिमागी इलाज करती है। इसलिये जो सच्चे समाजवादी हैं उनको डरने की कोई आवश्यकता नहीं है, लेकिन जो समाज विरोधी तत्व हैं उनके ऊपर हमारे कानून का प्रहार जरा जोर से होना चाहिये जिससे हमारी डेमोक्रेसी मावक्रेसी का रूप न ले सके।

सन् १९५० में जो हमारे देश की हालत थी, मेरी समझ में आज हालत उससे बदतर हो गई है क्योंकि विद्रोही नागा क्षेत्रों में अत्यन्त अशांति है। आज देश की सुरक्षा को खतरा है। हमारे देश का १४ हजार वर्ग मील इलाका दुश्मनों के कब्जे में है। इसके अतिरिक्त देश में जो इस तरह के चीनी पन्थी एलिमेंट हैं वे आफिशियल कम्युनिस्ट पार्टी की बात भी नहीं सुनते हैं और उनको कलकत्ता में कम्युनिस्ट पार्टी के आफिस में ताला नहीं लगाने देते हैं। एक तरह से इस कानून के द्वारा यदि हम चीनी पन्थी कम्युनिस्टों को अरेस्ट करते हैं तो आफिशियल कम्युनिस्ट पार्टी की मदद करते हैं चूंकि हम समझते हैं इनमें कुछ देशभक्त बन गये हैं। मैं कहता हूं कि यदि हमारी सरकार को देश की आजादी को कायम रखना है, देश की अखंडता को कायम रखना है और समाजवाद को चलाना है, तो उसको समाज-विरोधी तत्व जो हैं उनको पूरी तरह से कुचल देना चाहिये। इसके साथ साथ हमारे देश में जितने राजे-महाराजे हैं, जिनको आप प्रीवी पर्स देते हैं, वे बहुत सामान इकट्ठा कर रहे हैं, दूसरे तरह की तैयारियां कर रहे हैं और उनके कारण बहुत बुरी चीज होने वाली है। इसलिये अगर जरूरत पड़े तो उन पर, भी इस

नजरबन्दी कानून का प्रहार होना चाहिये । और जैसा कि मैंने कहा कि डिफेंस के लिये करोड़ों रुपया हमने बजट में दिया है और उसके लिये जो हमने कर बढ़ाया है, उसके सम्बन्ध में इन लोगों की ओर से कर बन्दी आंदोलन होने वाला है । तो यह कानून जो ऐसे गलत कार्य करें उन सब पर भी इस्तेमाल होना चाहिये । देश की अखंडता कायम रखने के लिये और देश की आजादी बनाये रखने के लिये यह नजरबन्दी कानून बहुत जरूरी है और हर देशभक्त और समाजवादी को इसका समर्थन करना चाहिये । जय हिन्द ।

THE VICE CHAIRMAN (SHRI AKBAR ALI KHAN) : As there are no other speakers . . .

SHRI BHUPESH GUPTA: There are speakers. There will be speakers.

THE VICE-CHAIRMAN (SHRI AKBAR ALI KHAN) : There are no speakers.

SHRI BHUPESH GUPTA: Names will come tomorrow. That is the arrangement. You adjourn. Tomorrow the speakers will come. It is past five o'clock now.

THE VICE-CHAIRMAN (SHRI AKBAR ALI KHAN) : So far as the ust before me is concerned, there are no speakers. So, I adjourn the House till 11 A.M. on Monday, the 23rd December.

The House then adjourned at fourteen minutes past five of the clock till eleven of the clock on Monday, the 23rd December 1963.