

preliminary ground has been cleared on the various projects to which the offer of credit will relate

As the House will appreciate, I am not in a position to give details of the matters discussed or cleared or the points awaiting settlement, as this would prejudice the negotiations not only with E N I but with other parties too, in the midst of which we are presently

REQUEST FOR CIRCULATION OF PAKISTAN PRESIDENT'S LETTER RE THE BERUBARI QUESTION

SHRI BHUPESH GUPTA (West Bengal) Sir, yesterday I made a request that since we would be debating The Constitution (Ninth Amendment) Bill and The Acquired Territories (Merger) Bill this afternoon, we should get the letter of President Ayub Khan circulated. Something about it is there in the papers in Bengal but we do not like to read it from the papers which purports to be the text of the letter. That letter, it seems, bears on these discussions and so this letter, President Ayub Khan's letter, should be circulated. It is a brief letter, the Prime Minister said, in the other House. So we can consider it before we start the debate

THE PREVENTIVE DETENTION (CONTINUANCE) BILL, 1960

—Continued

SHRI JASWANT SINGH (Rajasthan) Mr Chairman, this Preventive Detention Bill was first introduced in 1950 before the Constituent Assembly of India when that Assembly at that time was functioning as a Legislature. It was my good fortune to have been a member of that august body at that time and the words of Sardar Patel who introduced that Bill at that time are still ringing in my ears. When he introduced this Bill in 1950, he stated

that for three nights he could not sleep, because he had an unpleasant duty as the Home Minister of the country, to bring this Bill before the Legislature and he also gave expression to the hardships that a detenu had to undergo and he gave his own experience and that of the Prime Minister to show how bad this law was. But he had to face at that time a particular situation which he had before him. He had a particular purpose and he gave the assurance that he had every hope that within a year this purpose would be achieved and this law would no more exist. In the first instance, it was enacted only for a year. Then, after his time and after his sad demise, his place was taken by Shri Rajagopalachari, as Home Minister, and he brought in a proposal to prolong this law or to continue it for another two years. But he also expressed feelings of remorse that this had to be done, that this law had to be continued because of certain conditions. Then by instalments the period grew from one year to two, from two years to three. We have been seeing that and now for the fourth time it is desired to continue it for another three years. Now, let us compare the feelings that were there when it was first introduced with those that we now see. Slowly and slowly see how in a casual manner and without any remorse this Bill is being introduced. I can well understand that. When a crime is first committed by somebody, his conscience bites him. But when the crime is committed a second time, that conscience gets a little dum or dull and therefore as time passes, the criminal becomes a hardened criminal. And, therefore, I do not blame the Government that at this stage they should like to continue this Bill in such a light-hearted manner.

AN HON MEMBER: They will have good sleep.

SHRI JASWANT SINGH: I hope they will have a good sleep.

SHRI BHUPESH GUPTA (West Bengal) They sleep like Khumbakarna!

SHRI JASWANT SINGH Now, Sir, I would like to refer to another matter. Many of our leaders in the time of the British and the Congress organisation as such under the leadership of Mahatma Gandhi reacted violently when the British Government brought in the Rowlatt Act. They feared the hardships and injustices that they would have to undergo. It should, however, be said to the credit of the foreign Government that they never enforced the provisions of the Rowlatt Act and if we compare the two Acts, the Rowlatt Act and the Preventive Detention Act, we would find that the provisions of the Rowlatt Act were more liberal than the provisions of the Preventive Detention Act. At least, there was some semblance of courts and legal procedures under the Rowlatt Act while here those safeguards are not there. It is very strange that our leaders who have suffered injustices and inconveniences under a foreign Government and who revolted against those injustices and hardships, when they come into power, should be very anxious to inflict those very injustices on others. It is a very strange thing indeed and I hope the House will bear this in mind.

While moving for consideration of the Bill yesterday, the Minister took very great pains to explain the provisions of the Bill and the difficulties that the Government were facing. He spoke for nearly an hour explaining these things. He said that because of the threat of resort to direct action and satyagraha this Act was necessary to be continued and he added that in a democracy satyagraha and direct action had no place. I would like to know from the hon. Minister who is now before us as to what remedy the people have for the high-handedness or injustice perpetrated by the Government? Our Constitution gives us full right provided we do not break the law. I would say presently as to why it becomes necessary. When the States were reorganised three or four years ago, Government in its wisdom did not give the Maharashtrians and the Gujaratis a State of their own.

Naturally this hit against them and they resorted to satyagraha and direct action. Because of this direct action, Government had to yield and create the new States of Gujarat and Maharashtra where they could develop properly.

SHRI SHEEL BHADRA YAJEE (Bihar) Why not through elections?

SHRI JASWANT SINGH Elections were also there and the Gujarat Parishad and the Samyukta Maharashtra Samiti came out in overwhelming majorities in the Legislature. Some of the top leaders of the Congress and ex-Ministers were badly defeated and they had to be provided for by making them Governors.

SHRI DAHYABHAI V. PATEL (Gujarat) As Vice-Chancellors

SHRI JASWANT SINGH Both, Vice-Chancellors and Governors. My hon. friend asked, "Why not through elections?" We had the elections also and we know how to deal with our own Government. Direct action therefore, is absolutely called for and is within the law today. Hundreds of thousands of people in Maharashtra, women and children, young and old, were shot at random and they were held as detenus. Some of the leaders, people who have a reputation of being reputed citizens of the country, were held as detenus. They say that direct action has no place in democracy. It does not behave people living in glass houses to throw stones at others. I would like to ask the hon. Minister as to why the Congress organisation resorted to direct action in Kerala. Was it not the Congress that spearheaded action there?

SHRI N. SRI RAMA REDDY (Mysore) It was not the Congress which led the direct action in Kerala. It was Mr. Padmanabhan, a Nair leader.

MR. CHAIRMAN That is all right.

SHRI BHUPESH GUPTA Now, it is only Mr. Padmanabhan. They were not there. Wonderful!

SHRI JASWANT SINGH: I would like to know as to why they took this direct action in Kerala. It must be said to the credit of the Communists that they never held anybody as a detenu. They were in a position to hold even the Congress President, Mrs. Indira Gandhi and Mr. Dhebar, the ex-President of the Congress because they went there to foment trouble. They did not do that; they had certain principles of which everyone should be proud. They never touched anybody nor did they hold anybody under the Preventive Detention Act. The Congress now decries the Muslim League but it joined the Muslim League to turn out the Communist Government from Kerala and soon after their object was achieved, the Prime Minister said that he did not know about the election manifesto of the League. He was not prepared to accommodate the League. That is a different matter but I am saying this only to show that direct action is permitted in the case of the Congress. I think a provision should be made in this Act that the Congress can take any action it likes and must not be brought within the purview of the Preventive Detention Act but that non-Congressmen, even if their activities are not harmful or abominable should be brought within the purview of the Act. We would then have understood the thing.

SHRI BHUPESH GUPTA: Congress leaders think that they are God's own children.

SHRI JASWANT SINGH: We will soon be facing another problem, and that is the transfer of a part of Berubari to Pakistan. The Congress Government wants to do it because the Prime Minister has given a word that this part of Berubari . . .

MR. CHAIRMAN: We will discuss it later on.

SHRI JASWANT SINGH: I am only making a ment on, Sir. Are the people of West Bengal not justified in expressing their resentment when a

thing like this happens and when thousands of people are uprooted? In such a situation, are they not to resort to satyagraha as well as direct action?

The Home Minister told us that there had been no misuse of the powers conferred under the Preventive Detention Act. In this connection, I would like to refer to two High Court judgments. There are hundreds of cases where innocent people have been hauled up and put behind the bars, particularly in Rajasthan and I can quote any number of instances but yet the Home Minister says that there had been no misuse of powers. I would invite your attention to two judgments and request you to see as to what they have to say in regard to the misuse of power by the Government. The first judgment relates to Rajasthan and was delivered by the High Court of Rajasthan. The High Court says, dealing with the case of Rabindra Kumar Sardarilal *versus* the Rajasthan Government where they gave one charge saying that he was a *goonda* and subsequently other charges also followed, that, "If the local police is helpless in securing conviction of a criminal, he should not be detained under the Preventive Detention Act." This is what the High Court of Rajasthan says in regard to the misuse of powers by the Government. Then, Sir, the High Court of Mysore in a case before it—Sangappa Mallappa Koduppi *v.* Mysore Government—says that—the contention of the Mysore Government was that he was a member of a gang; he was a *goonda*—the Preventive Detention provisions are actually taking the place of the Criminal Procedure Code and they are being utilised for the purpose of detaining habitual criminals. All these cases show that the Government is utilising the Preventive Detention Act as a short-cut to maintain law and order. Sir, we will have no objection if they were to make it a permanent law since they are not . . .

AN HON. MEMBER: They cannot make it a permanent law.

SHRI JASWANT SINGH It will be a permanent law as long as the Congress Government lasts in this country because the period of extension will go on rising from three to five and then to ten years. As long as they are not ousted from power, this law will continue. So we will admire their wisdom and courage of conviction if they make it a permanent law so that the House will not be bothered every now and then by a discussion of this type.

SHRI BHUPESH GUPTA Don't give them that advice.

SHRI JASWANT SINGH Then, Sir, the Home Minister threw a challenge in this House that no one had been detained because of party affiliations. Sir, we have been supplied with two statements. One relates to the period 31st December, 1958 to 31st December, 1959. I would request the hon. Home Minister to turn to page 9 of his statement. And, Sir, they have given the party affiliations there. In West Bengal, they have shown 87 Communists, 6 Marxists, 6 RSP, 2 R.C.P.I., 2 SUC, 1 DV, 1 BP, 1 STD and 1 RSS. Similarly in the statement supplied to us for the period

SHRI J. S. BISHT (Uttar Pradesh) You have read out the party affiliations but what were the reasons for their detention?

SHRI JASWANT SINGH The reasons were that they belonged to these parties, they were not Congressmen. I will come to that point also.

Sir, the other statement is for the period 31st December, 1959 to 30th September, 1960 and this is the latest. And on page 12, you will find the same thing. I do not want to waste the time of the House by reading out but the same story is there. Now Sir, a claim has been made on behalf of the Congress that there was such a serious trouble in Assam—it was a very very serious thing—and yet it was said that no action had been taken under the Preventive Detention Act. Sir, we can very well understand it because

who were the villains of the piece in the Assam trouble? It was none but the Congress and senior Congressmen and with what face could the Congress take action against others? Because then they will be making invidious distinctions and it will be very glaring. So the reason why they did not resort to Preventive Detention Act in Assam is very clear.

Then my hon. friend, Mr. Bisht, said that I should say why action had been taken against those persons. Well, I would like to ask this, in a vast organisation like the Congress are there no anti-nationals? Are there no goondas? I would like to know whether in such a big organisation such elements do not exist. Certainly they do and the hon. Minister knows it very well. Therefore, Sir, the claim of the Government that action has not been taken because of party affiliations is not sustained.

Again Sir, the Home Minister told us that the number of detenus was decreasing year by year and he read out the statements in support of that. But what is the guarantee that next year this number will not increase? The Government has not given us any assurance that they will not use this measure. They will use it when necessity arises and so we are not convinced of this argument that the Government has advanced.

Sir, the chief spokesman on behalf of the Treasury Benches yesterday was Mr. Pathak and he advanced very peculiar arguments to justify the Preventive Detention Act. We all know very well that he was labouring hard to justify something which was unjustifiable and though he is a well-known jurist in northern India his task was very difficult so much so that he could do no justice to the case on behalf of the Government. He said that this was not the time when the principle of the Bill could be discussed because the Bill had been passed by at least five Parliaments. Sir, it is a very funny argument, coming as it does from a jurist of the reputation

of Mr. Pathak, that since five Parliaments had discussed this five times, we should not discuss it any longer. Do we not bring amendments many times to the Acts that had already been passed? How many times we have repealed Acts passed by previous Parliaments? Sir, it is surprising that he should have advanced an argument like this. Of course, we sympathise with him because the task that has fallen on his shoulder is a difficult one. He cannot justify . . .

MR. CHAIRMAN: All right; leave the rest to others.

SHRI JASWANT SINGH: Similarly, hon. Members have said that we consider ourselves to be a democracy. And the cradle of democracy is still in the United Kingdom and we have adopted many of their political views in our Constitution. In the U.K. and the U.S.A., there are no such enactments and we should not also have it here. And Mr. Pathak contended that in England even worse enactments existed. He said yesterday.

"There is a Memorandum issued by the United Kingdom Government which was first issued in 1948 and again repeated in 1957. The Ministers there have got to select certain services as security risk services and they have got to make a list of such services. If there is any person in public service found to be a communist or who had been a communist or has been under communist pressure, he is at once to be given leave with pay. The matter goes before an advisory board consisting not of Judges but of three civil servants. That advisory board makes a recommendation to the Minister and the Minister is entitled either to transfer that civil servant or to dismiss him."

Sir, this refers to the screening of the Services; it has nothing to do with the Preventive Detention Act. And this question was dealt with yesterday by Dr. Kunzru and I do not want to

dilate on it. My hon. friend, Mr. Pathak, was confusing the issues between the Preventive Detention Act and the screening of Services. Sir, do I take it from him or from the Home Minister that we do not have this kind of screening of our Services?

Lastly, he used another argument which was that mentally Indians were not discipline-minded and that the conditions in England could not be compared. From hoary times and from time immemorial we have been taught this: "Yatha Raja Yatha Praja". Though there are no monarchs now, our rulers are the Congress Government. What do we see every day in the Congress organisation? The Chief Minister of a State would not resign, when the Prime Minister wants him to resign. There are fights in one State or the other over so many things. In their organisation there is some trouble or the other and the high command is bothered day in and day out with their family troubles. Therefore, if we, the masses, do not look up to our present rulers for their qualities of head and heart, we cannot be blamed. Therefore, I again submit that the fault lies with the Government itself that the country is undisciplined.

Then, lastly, . . .

MR. CHAIRMAN: 'Lastly' you have said already.

SHRI JASWANT SINGH: One minute.

SHRI BHUPESH GUPTA: This is his last 'lastly'.

SHRI JASWANT SINGH: One minute more and I shall finish.

Now, there is the agitation going on in Punjab, and Master Tara Singh, the leader of the Akalis, has been held under the Preventive Detention Act. I would like to know from the Government whether they can by their present policy stem the tide. What has happened after he has been held under the Preventive Detention Act? The

[Shri Jaswant Singh.]

trouble is growing more and more and deeper, and the Government has succeeded . . . * * *

MR. CHAIRMAN: Order, order

SHRI JASWANT SINGH: In splitting the Akalis

SHRI SHEEL BHADRA YAJEE: Let him withdraw the word.

MR. CHAIRMAN: I am expunging it. Don't bother.

SHRI JASWANT SINGH: But at the same time, can they succeed in stemming the tide of this agitation?

THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI B. N. DATAR): The hon. Member has not used a good expression.

MR. CHAIRMAN. It has been expunged. Why are you talking?

SHRI JASWANT SINGH: The hon. Minister also uses many such phrases. I, as a soldier, have spoken the truth. But that apart, it has been removed and I have nothing to say. If anything, they can speak these things. Therefore, we from the Opposition side oppose this Bill tooth and nail.

SHRI J. N. KAUSHAL (Punjab): Mr. Chairman, I rise to support the motion which has been brought before this House by the hon. Home Minister.

[MR. DEPUTY CHAIRMAN in the Chair]

I associate myself with all that has been stated by him in justification of the measure. I only want the House to note a few things which the Home Minister had stated while introducing this measure. He said that it was not a palatable task which he was doing and he also said that the extension of the Preventive Detention Act had to be sought from the House as a matter of duty towards the millions who reside in this country. It is the com-

pulsion of events which has forced the Government to come forward with this measure. I want the House to give proper consideration to the two phrases which the Home Minister has used, namely, 'compulsion of events' and 'a sense of duty towards the millions who reside in this country.' I venture to say that both these reasons are very valid reasons for the extension of the Preventive Detention Act. Now, the measure before the House is a measure for the extension of an Act, which is already on the Statute Book. The point was raised yesterday whether it was strictly legal to discuss the principles underlying this Bill. With very great humility I submit that it is not strictly relevant and legal to discuss the principles underlying the measure. The measure is already on the Statute Book and it has been on the Statute Book for the last ten years. The main question is: should it be allowed to lapse or there is necessity for its continuance? Therefore, the real point before the House is this. Are the conditions in the country normal? Are the conditions such that a measure of this type is not needed? But if we have to discuss the principles, I would with very great respect submit that the balance is, again, on the side of continuance of the measure, because what are the principles underlying the Bill? The principles are, whenever any person acts in a manner which is prejudicial to the safety of India, to the safety of the States, when peace and public order are in peril, when he acts in a manner which is detrimental to the maintenance of supplies and services essential to the community, that such a man be detained. I do not know if anybody can say: "No, allow such a man to act with equanimity. Allow him to break the national security, but kindly do not detain him." Such an argument can only be available to those persons who are so minded. Otherwise, as has been stated more than once from this side, it is the primary duty of every State to see that subversive activities of so grave a character as has been laid down in article 22, are curbed with a strong hand. We are not dealing with ordi-

* * * Expunged as ordered by the Chair

nary criminals. If somebody says that the ordinary law of the land should be enough to deal with these criminals, then I would say he has to understand that the ordinary law cannot bring these people to book in the ordinary way. And that is why the Constitution makers have put article 22 in the Chapter on Fundamental Rights. We know that even the Fundamental Rights which have been guaranteed by our Constitution are not absolute and unlimited Fundamental Rights. If anybody reads article 19 a little carefully, it is stated that those Fundamental Rights can also be restricted, as they generally are in the interests of public morality, in the interests of public decency and in the interests of public order. Therefore, there is no such thing as a fundamental right which grants liberty to a person to abuse others, to defame others, to break the public law and public order and yet say 'It is my fundamental right to create mischief'. We have never heard of that. There is no fundamental right, except the one which has been guaranteed by the Constitution. And the Constitution-makers have only guaranteed Fundamental Rights to responsible citizens of this Republic. Those who do not behave in a responsible manner have no Fundamental Rights. They are taken as proper laws by the Supreme Court and the various High Courts of the country. They have always held such laws to be valid laws whenever they put reasonable restrictions on such people. Those laws have never been struck down by the Supreme Court. Therefore this sort of argument that this is an extraordinary law, this is a lawless law, that this is a law which has no basis is a hollow argument. People do not take the trouble of examining the Constitution. People do not take the trouble of finding out the genesis as to why such laws are passed, and those laws are passed by our own Parliament. We are not governed by laws which were framed by the foreign imperialist powers. Therefore my submission to the House is that the Constitution-makers have wisely put article 22 not in the Chapter of emer-

gency powers, because when an emergency comes, then the entire Chapter on Fundamental Rights gets suspended. In normal times if people behave in a manner as is indicated in article 22, then their right of having a free trial can be taken away by the Government by enacting the Preventive Detention Act. Therefore, my submission to the House is that even on principles enshrined in the Constitution nobody can come forward and say that this is a bad law and that this is an unconstitutional law. The validity of this law was tested as long ago as 1950 in the well known Gopalan's case and the Supreme Court said that it was a perfectly constitutional piece of legislation. I do not know what the origin of this phrase 'lawless law' is. Probably somebody wants to convey that this law does not give the ordinary guarantees to a person to defend himself. I would say that a person who acts against the security of the country, who acts against the maintenance of supplies and services, has no right to get a fair trial. He is not behaving like an ordinary citizen. He is behaving like an enemy of the country, and no country has ever permitted such people to behave in that manner. I would even go further than this. Any Government which permits such things with equanimity will not be allowed to govern the country. They have no business to stay if they cannot even detain such persons who behave in that anti-national manner. My submission to the House is that the Preventive Detention Act is not meant to deal with ordinary criminals. You would kindly bear one thing in mind, and that is that people say that they had the right to defy laws when there was a freedom struggle. The Congress Party told us Mahatma Gandhi told us to resist the laws, to break the laws. My submission to the House is that there is a very great fallacy in that argument. At that time the laws were framed by a foreign Government.

SHRI H. P. SAKSENA (Uttar Pradesh) : They were bad laws and therefore they were defied.

SHRI J N KAUSHAL Quite right. They were bad laws. They were laws which were not framed by us. We had every right to defy such laws. If somebody preaches that the laws which are framed by a free Parliament, the laws which are passed by us here while standing as representatives of the people should be defied with impunity, then my submission is that he is not understanding the ordinary responsibility of a free citizen. The very basis of democracy is, as has been stated more than once on the floor of the House that we have to obey the laws framed by the Parliament, and the only alternative to get rid of those laws is to educate the people, to go to the masses and tell them that here is a Government which is not framing good laws and that therefore they should change the Government. But then you have to do it in a peaceful manner. That is the only guarantee which has been given by the Constitution. Otherwise if you say that you have the permission to lead organised and violent processions and demonstrations in order to get rid of laws framed by Parliament, then my submission would be that that is a complete negation of democracy. Therefore, if somebody says "We are carrying on a peaceful agitation, and yet the Government is using the Preventive Detention Act", then he is sadly mistaken. The statistics do not bear that out. The statistics on the other hand only show that the Government has utilised that Act only when it was very much needed. Otherwise we would find the number of detenus in the country running into thousands and thousands. We have 40 crores of people living in this country and yet the number of detenus is only 106. Therefore, my submission to the House is that if this Bill is to be tested on the principles enshrined in the Constitution or even on the principles as they say, of the natural right of a citizen, it is a good piece of legislation. Yet the Government says that their desire is to do without such an Act, that their desire is to get rid of such an Act as soon as the conditions permit, because

they do not want this to stand as a permanent feature on the Statute Book. But then the argument employed on the other side is "Why are you coming to us in instalments? Why do you not ask the Parliament to place it permanently on the Statute Book?" It is a very strange type of argument. The question is this law is not an ordinary law. This is an extraordinary law to deal with an extraordinary situation, and therefore the House has to decide each time whether the situation is such that the law is needed or not.

Sir I pass on to the main point before the House, and that point is whether there is a necessity for the continuance of this law, which they say was passed in 1950 under extraordinary circumstances. My submission to the House is this. The necessity is provided by some very patent facts which cannot be forgotten by any Member of this House. What are those patent facts? The one patent fact which I would state is that so long as we have Parties in this country, so long as we have people in this country who look for inspiration to other countries, who even in times of emergency, even in times of danger, can say that socialist countries can never dream of violating the rights of other countries, that socialist countries are very innocent and that everybody has a right to propagate even against the interests of this country—although he may propagate in the interests of those people with whom our relations for the moment may not be friendly—that sort of thing by itself shows the very great need for the continuance of such a measure. Only yesterday our Prime Minister brought to the notice of this House a speech of this nature where somebody has stated in open meetings that the socialist countries can never dream of violating the rights of the other countries and he was probably referring to what has been happening on our Indo-China border. The country also knows that in those border areas people have been carrying on anti-Indian propaganda. People have also been carrying on espionage. If

somebody in the House can say that in spite of these activities there is no need for such a measure, I would ask you kindly not to listen to him. He is not acting in the best interests of the nation. He is on the other hand just trying to put soft words here and behaving in a manner which is highly detrimental to the interests of this nation. Then kindly examine the speech which Mr Bhupesh Gupta delivered yesterday and you will know the respect which he seems to have for the authority established by law, and laws passed by this Parliament. I would only refer to two of his remarks. He said that if the District Magistrate, if the Chief Commissioner of Police, if every Tom, Dick or Harry has the power to detain people, then we must oppose such a law. I do not know if he thinks that District Magistrates and Chief Commissioners of Police are Toms, Dicks and Harrys. They are the limbs of the Government, who are there to protect the lives and properties of all and if they feel that a situation has arisen where somebody must be deprived of his liberty temporarily for the purpose of protecting the people living in that area, then my friend thinks that a Tom, Dick or Harry is acting and that is how his respect for the law is shown.

Then the other argument which my friend advanced was this "What are we to do if bad laws are passed? We have no other way except to defy those laws." That is exactly the mentality which needs to be curbed. That is the mentality against which such pieces of legislation are needed. Nobody has a right to offer organised resistance to the laws passed by this Parliament. That is defiance of law, that is negation of democracy.

Then Sir, I am amused that Mr Bhupesh Gupta is the greatest protagonist of democracy. It is highly amusing. He is talking of democracy. Does he in fact believe in democracy? On the other hand everybody knows that the Party to which he belongs are not wedded to democracy. Therefore,

my submission is that whenever such a speech is made, it is not to be treated with any great respect.

SHRI MAHESWAR NAIK (Orissa): He is wedded to the Chinese democracy.

SHRI J N KAUSHAL: My friend has drawn attention to the Chinese democracy. Shall I bring to his notice that in China they have divided their people into two classes? That is, people and non-people. Non-people are those who according to the present-day regime are landlords and money-lenders and are persons who are not to their liking. They have no rights. Even the State does not take the responsibility of protecting them. Now, Sir, is my friend.

SHRI BHUPESH GUPTA: What is the definition of a smugglers' democracy in Punjab?

SHRI J N KAUSHAL: I will tell you the definition of smuggling. You forget things when you advance an argument. Yesterday you were saying "Release Master Tara Singh." We do not want him to be detained there. I do not know what is the logic in your argument. I am trying to deal with the arguments which have been taken up by you one by one. If he could say on the floor of this House, "What are we to do if the Government passes bad laws except to defy them?", then my submission would be that people will forfeit their right to be defended in an ordinary court of law.

SHRI BHUPESH GUPTA: On a point of personal explanation, I did not actually say that, although that would be right. What I said was if wages were not given, if people were driven out of their homes, if people suffered, were they to submit to the dispensation of the Government? You make it clear from the proceedings.

SHRI J N KAUSHAL: I cannot yield, I have heard him speak.

SHRI BHUPESH GUPTA: I am sorry for your memory.

SHRI J. N. KAUSHAL: If I am not mistaken, the words were, "What are we to do if bad laws are passed?" Then behind this will be any manner of agitations, food agitation, refugee agitation and other agitations. And then he says, "The Government says it will take action even against peaceful agitation" Government has never said so; it has never taken action against peaceful agitators. Therefore, my submission to the House is that in the heat of his argument, he forgets what he says.

Sir, I would mention two very important things. Don't we know what happened only recently when people decided to paralyse the entire country by the strike of the Central Government employees? Can the Government permit such things to go on so that the entire country would be paralysed? This applies to essential supplies and services like the railways post office and the functioning of other normal activities of the Government when they stood in danger of being paralysed. Don't we know this? Don't we know that the entire country was against the strike and don't we even know that the Government even then used this provision very sparingly? Otherwise, that was the one occasion which provided the correct opportunity for the Government to take action against such things. Where is the guarantee that these things will not happen in this land? Is not that mentality still persisting? Therefore, my submission to the House is this. If somebody says "No, no, all things are normal; every time is peaceful time and therefore you should do nothing and you should not act in this manner", then I would say that it is a wrong argument.

Sir, Assam was mentioned in this debate and people on the Opposition side employed very queer arguments. Everybody knows what happened in Assam and I had the privilege of

being sent by this House to make enquiry there along with the Parliamentary Delegation. And do you know what the Report that we discussed here said? Everybody conveniently forgets what the Report said. The Report said that the apparatus of the Government at that time had failed. That was the report. That Government was indicted. Nobody gave any praise to that Government. He said that if the Assam Government had not thought of utilising such a measure, it should not have been placed on the Statute Book and it was no longer needed. On the other hand, the feeling of this House was—and that was the feeling of the Parliamentary Delegation which went there—that if the Assam Government had utilised this piece of legislation which was in their armoury, there could not have been such an unparalleled tragedy in Assam. Therefore we indicted the Government. Today they are ridiculing this law.

Then Mr Bhupesh Gupta was again very vociferous in saying that Congress people should have been detained and no other. I am in fact very sorry for his information. The whole trouble there was fomented by the CPI, the RSP and the PSP and the student leaders who were . . .

SHRI BHUPESH GUPTA: Here, Sir, the hon Member is indulging in double talk.

SHRI J N KAUSHAL: No, Sir.

SHRI BHUPESH GUPTA: You repeat what you were saying now.

MR DEPUTY CHAIRMAN. Order, order.

SHRI BHUPESH GUPTA: Is it right for him . . .

SHRI J N KAUSHAL: I would request my friend . . .

SHRI BHUPESH GUPTA: We have to protect the right of the Party.

MR. DEPUTY CHAIRMAN: Nobody disturbed you when you spoke.

SHRI BHUPESH GUPTA: I do not think this is right. You kindly listen to me. It is not harmful to listen to me. We are not disturbing him. In fact I was preparing the Berubari speech. He said that the Communist Party . . .

MR. DEPUTY CHAIRMAN: He is not yielding; please sit down.

SHRI BHUPESH GUPTA: On a point of order . . .

MR. DEPUTY CHAIRMAN: Order, order.

SHRI BHUPESH GUPTA: I have submitted to you . . .

MR. DEPUTY CHAIRMAN: He is still on his legs.

SHRI BHUPESH GUPTA: That is the moral approach. Let him sit down.

SHRI J. N. KAUSHAL: I am not yielding. You kindly sit down. Take your seat. You sit.

MR. DEPUTY CHAIRMAN: He is not yielding. You please sit down.

SHRI J. N. KAUSHAL: Well, Sir, I have scored my point.

SHRI BHUPESH GUPTA: You have secured your point.

MR. DEPUTY CHAIRMAN: Order, order.

SHRI BHUPESH GUPTA: We are very quiet . . .

MR. DEPUTY CHAIRMAN: Nobody disturbed you when you spoke.

SHRI BHUPESH GUPTA: I know, Sir. I do not repudiate it for the sake of the cause of the people.

MR. DEPUTY CHAIRMAN: Don't disturb.

SHRI BHUPESH GUPTA: I know it, Sir.

SHRI ABHIMANYU RATH (Orissa): On a point of order, I am not a Communist . . .

MR. DEPUTY CHAIRMAN: Please sit down. He is not yielding to you, Mr. Rath.

SHRI ABHIMANYU RATH: On a point of order . . .

MR. DEPUTY CHAIRMAN: There is no point of order.

SHRI BHUPESH GUPTA: Point of order . . .

MR. DEPUTY CHAIRMAN: You have to obey the Chair.

SHRI BHUPESH GUPTA: I make a submission to you. Unless a point of order . . .

MR. DEPUTY CHAIRMAN: Please sit down, Mr. Bhupesh Gupta. You cannot go on like this.

SHRI BHUPESH GUPTA: I do not like this. Can I not make a submission? This is how you treat the leaders of the Opposition Groups here.

MR. DEPUTY CHAIRMAN: What is it?

SHRI BHUPESH GUPTA: I did not want to disturb him.

SHRI ABHIMANYU RATH: I want a ruling. I am not for the Communists. I want to have mere justice. He was a member of that Committee and he had the privilege to go into the details of the Assam situation. Did he have the guts to tell them that . . .

MR. DEPUTY CHAIRMAN: That Report has been submitted to Parliament and has been discussed. Please go on, Mr. Kaushal.

(Interruptions)

MR. DEPUTY CHAIRMAN Order, order

SHRI BHUPESH GUPTA I am drawing your attention I know

MR. DEPUTY CHAIRMAN Mr Kaushal, your time is up

SHRI J N KAUSHAL Five minutes have been taken up by them

What I was saying is this Mr Bhupesh Gupta yesterday stated that if the Assam Government had used this piece of legislation, only Congressmen would have been detained and no other Well this is what he said

SHRI BHUPESH GUPTA On a personal explanation

MR. DEPUTY CHAIRMAN. You have had your say

SHRI BHUPESH GUPTA I did not say that

MR. DEPUTY CHAIRMAN Please listen You have made allegations against Congressmen and they are making allegations . .

SHRI BHUPESH GUPTA I am not making allegations I did not say that You have a logical mind I am not making allegations against them See the proceedings of the House.

SHRI J N. KAUSHAL I am coming nearer home and that is Punjab

SHRI FARIDUL HAQ ANSARI (Uttar Pradesh). No, Sir I want to submit one thing I am not interrupting him

MR. DEPUTY CHAIRMAN He is not yielding to you

SHRI J N KAUSHAL. It is a very strange phenomenon

MR. DEPUTY CHAIRMAN If you want to say anything, you say it after he has finished

SHRI FARIDUL HAQ ANSARI. I want to know how he comes to the conclusion that the PSP is responsible for all that has happened in Assam?

MR. DEPUTY CHAIRMAN You can repudiate it

SHRI J N. KAUSHAL I do not know why my friends are getting so angry When I am expressing my opinion, what business have they got to get up and disturb the entire proceedings of the House? I was giving my own opinion in the matter and that opinion was, if the Assam Government had utilised this provision, it would have been more used against the other parties than against the Congressmen That was what I was saying Nobody has the patience to listen Then they speak

SHRI BHUPESH GUPTA We seek the protection of the Chair Actually

SHRI J N KAUSHAL I have not yielded to them My time has been taken up by them Now what I am going to submit is this Let us 1 P.M. come nearer home, and nearer home is Punjab, the State I belong to I would crave your indulgence for five minutes—I shall not take more time Now my submission is this What is happening in Punjab, everybody knows The Akali party there is carrying on a most misguided agitation Their claim to get a linguistic State is a cloak for their communal demand, and that communal demand has been rejected by the States Reorganisation Commission. Even the delegation of the Swatantra Party that went to Punjab, consisting of Shri K M Munshi, Shri Chatterji, Shri C B Agarwal and Shri Cambel Puri, a retired Judge of the PEPSU High Court, said in their report that

this demand is not linguistic and if it were so, the demand would not be opposed tooth and nail by the Hindus. If the demand is linguistic, then everybody must remember that Punjabi is not the monopoly of the Sikhs alone. Punjabi is the language of the people living in Punjab. It is as much the language of the Hindus as it is of the Sikhs. Now if they want certain rights for Punjabi, then how can they alone become the protagonists of Punjabi and why is not a single Hindu joining them? And I say before this House that the Akalis in Punjab are doing the greatest disservice to Punjab. They are vitiating the entire atmosphere there, and fortunately for us we have a Chief Minister there who has courage, who has determination and who has the foresight to fight these disruptive forces. And again we are surprised when we talk in such a loose manner. It happened a minute previously and the Chair was good enough to expunge that expression. I shall not repeat it. But people must have respect for our Chief Minister must have respect for our leaders. Now what is the Chief Minister doing? The Chief Minister of Punjab is straining his utmost to keep law and order there. And then the argument on the other side was: 'Why is Master Tara Singh detained? Why are not all other people being detained under the Preventive Detention Act?' That is again a very strange argument. Now my submission to the House is that Master Tara Singh was detained when he had declared that he would proceed to Delhi at the head of a Shahidi Jatha, that he would have a whirlwind tour of the whole Punjab and would then try to set ablaze the feelings of Sikhs by giving the garb of religion or by giving it the garb of language. Now can anybody say that the Chief Minister should have kept quiet and allowed the same thing to happen as happened in Assam? Well, we had a Chief Minister who had the courage to detain him and his detention has been tested before the Advisory Board which was presided over by a sitting Judge of the High Court. Then they came to the

High Court and the High Court has also upheld that detention order. Now what I say is only this that if the Chief Minister wants it or if the State wants it, it is for them to detain more people if there is a case for it, rather than waste the time of the courts of the country by putting them on trial. They are not behaving if they want to break up the integrity of Punjab for their own personal ends, if they want to carve out a State where they want to be in a majority, where the Sikhs want to be in a majority. My submission is that the Government of India and the Government of Punjab should never agree to this proposition. And then shall I strike a personal note? I come from PEPSU. We merged our State with Punjab thinking that it was in the larger interests of the country to have a bigger State on the borders of the country, and when we have come to be merged in Punjab, now they want to divide the province again. We now realise that we had made a mistake by merging, we were much better off in PEPSU and our PEPSU State was making very great strides in developmental activities. Now if at all Government is thinking of dividing Punjab—which I know is not the Government's intention, Government is resisting it and Government would resist it till the end—then my submission to the Government is to give back our State of PEPSU. We never went to Punjab for all these troubles.

One last thing and I have done. A very strange thing is happening in Punjab—the Gurdwaras, the so-called sacred places, have been turned into fortresses for hiding the law-breakers. Everybody knows it that all the law-breakers take refuge in the Gurdwaras; they find a safe sanctuary there. I would say this, Sir, that this has never happened in any country.

DR A. SUBBA RAO (Kerala):
What happened in Kerala?

SHRI J. N. KAUSHAL: Now my submission to the House is that they are using the religious places for carrying on their political activities and for the purpose of protecting the criminals, and the Government on the other hand is showing marvellous restraint in not arresting the offenders who are lodged there. One submission more, Sir; if my friends want to know whether in other countries such a law exists, I would quote the U.S.A. Let my friends know that in the U.S.A such a law, on the lines of the Preventive Detention Act that we have here, exists. Therefore my submission to the House is that the security of the country and the national interests demand that such a law should continue so long as the opposition parties do not create that atmosphere which is the foundation of democracy.

Sir, I have done

SHRI BHUPESH GUPTA I was only trying to make a submission earlier and I am making the submission now. It is an accepted principle or rule of parliamentary practice—and we go by this thing—that when a Member of the House is quoted—whether it is his speech outside or inside the House—if the Member concerned feels that he has been misquoted or his speech distorted, well, he is immediately given the chance to draw the attention of the Chair to this matter, and it is for the Chairman or for the Speaker to satisfy himself as to whether the quotation given is correct or not. Here, the hon. Member who just spoke was quoting my speech delivered yesterday which is before you in the proceedings. Certainly I felt that I was being misquoted. You could have easily verified it and if you thought that I was under a wrong impression, you could have corrected me, and if he had made the mistake, he should have been told to correct himself. That is all that I wanted to submit.

MR DEPUTY CHAIRMAN: Not unless he yields.

SHRI BHUPESH GUPTA: Then another point, and that is the time that you should allow when we raise a point of order. I have noticed that in the other House it is done. Never it is said that it is no point of order. At least half a minute or one minute is given to state the point of order. Then the Chairman or the Speaker is pleased to say that there is a point of order or no point of order. In fact that is done in the other House; plenty of time is given to explain the point of order. At least this thing should be there. Otherwise how do we protect our interests? We may be wrong but then it should not be ruled out before hearing us. Unless you hear us, how can you say whether there is a point of order or not. I am sorry such things happen.

SHRI P. RAMAMURTI (Madras): Mr Deputy Chairman, Sir, both the previous speaker—Mr. Kaushal, I think—and the Home Minister while introducing this Bill talked to us very much about the principles of the Constitution. I do not think that the Members of this House are not aware of the basic principles of the Constitution. Mr. Kaushal, for example, was waxing eloquent over the fact that article 22 which deals with Fundamental Rights also means that the Fundamental Rights are not there for those people who do not accept the laws or some such thing. Now the question before the House is simply this, Sir. Who is to decide whether somebody is an anti-national or national? Who is to decide whether somebody is acting in a manner prejudicial to the country's interests, or prejudicial to the interests of the community?

(Interruptions)

I do not want any interruptions; I am not yielding.

Who is to decide? Is it people like Mr. Kaushal? Is it people who have been placed in executive position or is it somebody else? That is the simple question that arises as a result of this Bill. After all there is such a thing

as judicial process I am not bothered by what you say about some other country and all that. We are now dealing with the Constitution which contains certain Fundamental Rights, etc., and which we have accepted. Therefore do not fling at my face . . .

(Interruption)

Mr Deputy Chairman, I do not want this interruption

SHRI BHUPESH GUPTA: You interrupt when I speak

SHRI P. RAMAMURTI: Therefore the question is simply this. The Home Minister also talked to us very much yesterday about the fact that a High Court Judge is presiding over that Advisory Committee and that sort of thing. We certainly know that a High Court Judge is presiding over these things. Nonetheless, after all the High Court Judge's hands are tied. He cannot examine witnesses. Some papers are placed. Papers based upon the reports of police watchers are placed before him, and on that he has to act. The Home Minister cannot deny that I will not get the opportunity to go and disprove the so called facts placed before the Judge. I am only given a charge-sheet. Some charges are levelled against me by the executive and I have got to defend myself. How can I do it except in a court of law? The Judge has no power to call for witnesses. What is this kind of thing? Therefore, the main question ultimately boils down to this. It is the executive who has got to decide whether I am acting in a manner prejudicial to the country's interest or whether I am acting in a manner prejudicial to the interest of the community.

SHRI BABUBHAI CHINAI (Maharashtra): On a point of information, Sir. What is the procedure adopted in Russia?

SHRI P. RAMAMURTI: Abolish everything here and have all the laws that are there in Russia, we will then think about that. When we talk of

Russia, let us talk of Russia as a whole. Then we shall see what can be done. Just now, let us not talk all these things.

Now, Sir, the basic question is why do you want to impose a law, why do you want to continue a law which authorises the executive to act at will? As for the safeguards, after all, these safeguards have got their limitations. Mr Kaushal was waxing eloquent about so many other things. Mr. Kaushal had the boldness—I should certainly admire him—to say that the Communist Party was responsible for the Assam disturbances. I wish that he had the courage, the honesty to raise that question in that Committee, as a member of that Parliamentary Committee, and if the Committee did not agree with that to write a note of dissent and say that the Communist Party was responsible for the riots. Sir, persons of this type who did not have the moral courage—if they felt that the Communist Party was responsible for it—to raise that question before that Committee and to write in their report, are the Ministers. It is, after all, the men of that Party that are Ministers. How can we entrust the fate of the common people to people like that, to people who do not have even this elementary honesty and straightforwardness to raise this question when a Committee goes into that question and yet have the temerity to come before this House and say that the Communist Party was responsible for the riots? I do not want to say anything more on that. But it is such people that are there as Ministers. Therefore, there is all the greater danger that when it comes to the question of proving it, they will not raise it. But when there is no question of a proof, they will just come and say what they like. That is the sort of executive that is there, that is, we say that you are bound to utilise it against your political opponents when it suits your purpose. That is what you have been doing all along.

SHRI H. P. SAKSENA: Mr Kaushal is not in the executive.

SHRI BHUPESH GUPTA: Good fellow. You sit down.

SHRI P. RAMAMURTI: Our Home Minister as well as Mr. Kaushal spoke very much on the rule of law. They told us very much about direct actions, that they could not be sanctioned. Well, people would take them to be sincere—I deliberately use the word “sincere”—in their utterances if they had set an example. When you had an opportunity to do so, when you were in opposition for over a year in only one State, what did your party-men do there? I am not talking of the big struggle that you launched. Others have talked about it. Leave it alone. But in day-to-day affairs, what was the record of your party?

SHRI H. P. SAKSENA: A glorious record.

SHRI P. RAMAMURTI: What was the record? Take the Kattampalli satyagraha. Here is a Government which came of its own accord and stated that the Government wasteland round about the jail would be made available to landless peasants and the distribution would be entrusted to a committee composed of the representatives of all parties. Against their decision there could be an appeal to the District Collector, and over the District Collector's decision there could be an appeal to the Revenue Board.

SHRI JOSEPH MATHEN (Kerala): The agitation was for the distribution of land to the Harijans.

SHRI P. RAMAMURTI: The Government had made that position absolutely clear. Then, because some land was not distributed to some particular Harijan, your party-men organised direct action. This is the rule of law that your people were practising there.

Take another example, the Seetaram Mills satyagraha. The question was simply this. There was an accumula-

tion of rolled bobbins. Therefore, the work of the mill could not be carried on. The management proposed to clear the bobbin stock in order that the work of the mill could be carried on properly. They transferred some people but no one was dismissed. They transferred some people from the Spinning Department to the Reeling Department, with no reduction of wages, with no reduction of emoluments, for a temporary period . . .

SHRI JOSEPH MATHEN: The agitation was for reinstatement of the skilled labourers in their position against their transfer for unskilled work.

SHRI P. RAMAMURTI: I do not want any interruption. You can explain it when you have your chance.

Here was a leader of the Congress Party, Mr. Panampalli Govinda Menon, who was leading the satyagraha, a direct action composed of people from all over the State, not the workers of the mill, but composed of people from every district against this simple transfer of some workers. Even when the Government offered to refer the matter to adjudication, he said: “No, the liberation of Kerala has now begun”. That was the record of your Party.

Similarly, over that students' boat-fare issue, what was the attitude of your Party? What happened? I wish our Home Minister had raised his voice of protest against all these actions of his party-men in Kerala when all these things happened, when the direct action to upset the Government was launched. It was your Parliamentary Board that sanctioned direct action. What happened to your rule of law there? What happened to all the homilies that you are preaching to us about direct action and all that? That is why I say that when people hear here these homilies from your lips, they do not take them as sincere, however great you might be or your past record might have been. Today in

the face of that record of your party-men in Kerala and other places, people do not believe in your sincerity. When you were out to oust the Government there, you could do anything, direct action and any action. That could be sanctioned. We have never launched direct action to oust your Government. Certainly it is resorted to when it becomes absolutely essential, when it is the only way left for redress of injustice. I will just give you one or two instances.

Sir, hundreds of peasants were evicted from their lands day after day in the Tanjore district in Madras in 1951-52. This thing continued. Peasants in thousands were being evicted. But the law, of course, did not help the peasant. The peasants resisted. What else can they do in such circumstances? It is only after the peasants resisted that the then Chief Minister brought forward a Bill prohibiting the eviction of peasants in that district. When in the Assembly I asked him, "Why don't you make the law applicable to the entire State?" he said, "There is trouble in Tanjore. Therefore, I am making this Bill applicable to that district only. Fortunately, there is no trouble in other places, therefore, I am not going to make it applicable to all the districts." They required trouble to apply it to other districts too. Then the trouble came in Chidambaram, in Madurai, in every district for the law to be made applicable. This is what happened. Every day this thing goes on happening.

Similarly, just recently, two years ago, even after the anti-eviction Bill was passed by the Madras Assembly, in Tiruchi district thousands of Kayaru and Materu tenants were being evicted. Government kept quiet. Nobody bothered about this. It was only after a big *satyagraha* that the Government ultimately said: "Yes. We recognise the justice". And then they brought forward the amending Bill. This is what happens. What are these people to do? To lose their jobs, to lose their

livelihood and, then starve? If you want that direct actions should stop, the easiest thing for the Government to do is to foresee things and prevent these people from being evicted.

On the other hand I want to point out what are your professions and practices. What is the purpose for which this Act has been utilised all along? They talk of maintenance of supplies essential to the community. I would just ask one question. Only last year, the textile mill-owners of this country put up the prices of cloth by over 40 per cent. Even the Minister of Commerce and Industry admitted that there was no justification whatsoever for an increase of 40 per cent. In spite of the increase that took place in the price of cotton, only 18 per cent increase, according to him, was necessary. Even if we allowed 25 per cent. for cotton price increase, they still made 15 per cent. abnormal profits. How much does it amount to? The value of the annual production of textile mills in this country is about Rs. 500 crores. Fifteen per cent. would amount to Rs. 75 crores. That was looted by these textile mill-owners. Is it not a question of maintaining the supplies essential to the community at a reasonable level? Did you act against a single one of these people when Rs. 75 crores of the common people were being looted by them? No, against them you never acted. It is their right to loot the common people. If the common people protested against it, if they organised demonstrations and demanded that this thing should be stopped, then comes the trouble. Then it is disrupting the community. The other day Shri Himatsingka said that 50,000 bales of jute were being smuggled out of West Bengal to East Bengal or Pakistan. How many of these people were proceeded against? Is that jute essential to the community or not? Is it not necessary for the entire economy? Jute mill-owners are talking of sealing off the looms. Why did you not act against a single smuggler? Against them it cannot be done. Only

[Shri P. Ramamurti.]
against the Communists or against the Members of the Opposition you act. When they start demonstrations against the rising food prices, when they organise them, then the community is disrupted, the essential services are disrupted and everything is disrupted. This is the position.

Take the food movement of Bengal in which 82 people have been detained. What was the position? It is an admitted fact, on the floor of the Assembly and in the Parliament it was admitted that despite all the laws that you make—you talk of State trading in foodgrains and nobody knows where that is now—despite all the procurement laws that were made, the landlords evaded them, the rice millers evaded them and you were not able to procure. In my State, Mr. Baktavatsalam, the Food Minister, openly admitted that in spite of the laws, the landlords evaded the law. They could not procure rice. Therefore the prices of food increased, everywhere. Against that, when the Communist Party and the other parties mobilised the common people and asked you to take effective action against these hoarders, against these anti-social elements, down came the Preventive Detention Act against the Communists. We are the anti-social elements and those hoarders are the good, social elements. Have you taken action against a single person from them? This is the difference between your profession and your practice. Despite all your profession that you want to maintain, that you are very much for the rule of law, that you do not want direct action and all that, when it comes to the question of the interests of your party then you are not bothered about it. You were not bothered about it in Kerala and you sanctioned it. Similarly, when it comes to the question of restriction on those people or detaining those who are really disturbing the community life, because they are rich people, because they are wealthy people and are those who may possibly have very much to do with your party,

you will not take action against them. Let me see one such person who has been detained. So I say that arming the executive with this absolute power to detain people without judicial process, without giving them the right to prove the charge that has been made, is not proper. I myself have been a victim of that. I have not got the time to go through my charge-sheets. So giving this power to the people of the type of Mr. Kaushal, who happen to be in the Ministries, is very dangerous. As for the eternal charge that there are parties in the country—and I know that he referred to the Communist Party—that are anti-national and all that, I do not think that I need make any reply whatsoever. Our patriotism will be judged by the common people. They will do it. We have not come here with your support. People will judge us. All the world over, not only in this country, this has been the charge against the Communists. Despite that, Communism grows stronger day by day and today it envelops one-third of the world despite the propaganda of men of your ilk in every country. You go on repeating it, I am not bothered about it. In your own interest, I say: "Why do you want a Bill of this type? Does not the ordinary law give you sufficient power to act against people if there is anything wrong? Why do you want this special law?" I know that despite my saying that, you will pass it but in your own interest it is better if you do not have such powers. On the other hand you will not be able to utilise it. The Home Minister was saying that only 101 have been detained . . .

MR. DEPUTY CHAIRMAN: That will do, Mr. Ramamurti.

SHRI P. RAMAMURTI: I say that public opinion will force you not to utilise it.

श्री पी० ना० राजभोज (महाराष्ट्र) :
उपसभापति, महोदय, यह बिल जो हमारे
सामने है इसका उद्देश्य प्रिवेंटिव डिटेन्शन के

१९५० के कानून को तीन बरस यानी १९६३ तक बढ़ाने का है और मैं इसके समर्थन के लिये खड़ा हूँ। हमारे कम्युनिस्ट लोग यहाँ इतनी गुण्डागर्दी की और जोर की भाषा बोलते हैं और बाहर इसमें भी ज्यादा जोर की भाषा बोलते हैं। यह बिल हमारे होम मिनिस्टर साहब बहुत अच्छे ढंग से लाये हैं और मैं उनको मपोर्ट करने के लिये खड़ा हूँ। हम शांति चाहते हैं और शांति से कार्य करना चाहते हैं। मैं भी पहले ऐसी ही बात करता था। मैं भी पहले कुछ देशद्रोहियों के साथ था। अब ये विरोधी लोग देश के लिये खतरा चाहते हैं और देश की भलाई नहीं चाहते हैं। वह काटमपल्ली में जो मत्याग्रह हुआ था उसके पीछे भी कम्युनिस्ट लोग थे और सब जगह ऐसे कामों के पीछे वे रहते हैं। खाने के दात अलग होते हैं और दिखाने के दात अलग होते हैं। इसीलिये मैं इस बिल के बारे में होम मिनिस्टर साहब को धन्यवाद देता हूँ।

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

देश की आज की परिस्थिति और कुछ लोगों की कार्यवाही देखने हुए मालूम पड़ता है कि इस कानून की अभी भी आवश्यकता है। मूल कानून कौनसी परिस्थिति में बनाया गया और उसका उद्देश्य क्या था, ऐसी ऐतिहासिक बातों से आप सब परिचित ही हैं।

हमारे पास जो स्टैटिस्टिकल जानकारी दी गई है उसमें इस साल में यानी सितम्बर तक इस कानून को किस प्रकार में और समय में इस्तेमाल किया गया है वह बताया गया है। इसके स्टेटमेंट नम्बर ३ में बताया गया है कि १-१-६० से ३०-६-६० तक इसका काम के लिये तथा उसको प्रोत्साहन देने के लिए, अमानुषिक काम के लिये तथा जातीयवाद फैलाने के लिये सिर्फ ११६ आदमियों को इस कानून के मुताबिक गिरफ्तार किया गया था। बहुत कम गिरफ्तार किये गये। हमारे होम मिनिस्टर साहब को और ज्यादा गिरफ्तारियाँ करनी चाहिये थी, लेकिन वे क्या

करें, वे बड़े दयालु अन्तःकरण के हैं, इसलिये बहुत कम लोगों को सरकार ने गिरफ्तार किया। और जिन लोगों की पार्टियाँ मालूम हो सकती हैं वह भी कालम नम्बर ७ में दिया गया है। उसमें एक अकाली हैं, २ समाजवादी—लोहिया—ग्रुप हैं, १ जनमध और १ कम्युनिस्ट है। कम्युनिस्ट और ज्यादा गिरफ्तार होने चाहियें थे क्योंकि वे ज्यादा विघातक कृत्य करते हैं। स्टेटमेंट नम्बर ७ में दिया गया है कि बिहार के २ एम० एल० एज० स्ट्राइक मिच्युणेशन के लिये गिरफ्तार किये गये और कानून तोड़ने को प्रोत्साहन देने के लिये २ पार्लियामेंट सदस्य गिरफ्तार किये गये थे। स्ट्राइक के लिये जो गिरफ्तार किये गये उनकी मुदत सिर्फ ५ दिन की थी और कानून को तोड़ने को प्रोत्साहन देने के लिये जो दो एम० पीज गिरफ्तार किये गये थे उनकी मुदत ४ से ५ महीनों तक थी। तो आपको इस स्टैटिस्टिकल इन्फार्मेशन में मालूम पड़ सकता है कि यह कानून बहुत ही समय से इस्तेमाल हो रहा है। और वह भी गुंडागिरी, जातीयवाद आदि सफटों के खिलाफ। तो मैं यह बताना चाहता था कि इस बिल की आवश्यकता है। आज देश आर्थिक और औद्योगिक समस्याओं के बीच में है। इन प्रश्नों को हल करने का प्रयत्न हो रहा है, किन्तु समाज में ऐसे एलिमेंट हैं जो ला एण्ड आर्डर के खिलाफ चलते हैं। आप स्ट्राइक मिच्युणेशन देखिये। सरकार के आश्वासन देने पर भी मजदूरों के नेताओं ने माना नहीं और जीवनावश्यक सर्विसेज में हड़ताल करने की घोषणा की। अब यदि सरकार इस कानून का फायदा नहीं उठाती तो हम लोग ही सरकार को दोष देने।

आज दूसरी एक समस्या है और वह बांडर डिस्प्यूट की है। चाइना में हमारा झगडा है। और सिवाय कम्युनिस्टों के भारत की सारी जनता हमारी सरकार के पीछे है। किन्तु, कम्युनिस्ट लोग बांडर एरियाज में जाते हैं और वहाँ हिंसा और अत्याचार को प्रोत्साहन देने वाले भाषण करते हैं। मुझे

[श्री पा० ना० राजभोज]

मालूम हुआ है कि हमारे होम मिनिस्टर इस बारे में जल्दी ही एक बिल लाने वाले हैं और वह बिल ऐसा है कि जो देशद्रोही है, जो देश के खिलाफ भाषण देते हैं, जो पंच-वार्षिक योजना के खिलाफ काम करने वाले हैं, उन लोगों के लिये कुछ न कुछ जरूर करना चाहिये। आप सिक्किम बार्डर पर जाइये, नेपाल के बार्डर पर जाइये, नेफा में जाइये, यहाँ सब जगह कम्युनिस्ट लोगों का नगा नाच हो रहा है। माननीय होम मिनिस्टर पन्त जी से मेरी यह प्रार्थना है कि जो भी ऐसे देशद्रोही हैं उनके लिये यह कानून लाना जरूरी है। हमारे श्री राममूर्ति जी कंसी कंसी बातें करते हैं, हंस्टे है और बड़े भीड़े आदमी मालूम होते हैं, बड़े महापुरुष हैं लेकिन ये सब यहाँ भाषण देते हैं वे बाहर आग लगाने वाले, अत्याचार करने वाले कम्युनिस्ट हैं। बंगल में छुरी और मुंह में राम, ऐसे ये हमारे कम्युनिस्ट हैं।

तो, उपसभाध्यक्ष महोदय, मेरी आपसे प्रार्थना है कि हम लोग सरकार के, आपके साथ हैं। ये जो देश की सुरक्षा को खतरे में डालने वाले एण्टी इण्डियन एलिमेंट्स पैदा कर रहे हैं इनसे देश की रक्षा के लिये आप जरूर कुछ न कुछ रास्ता निकालेंगे ऐसा हमें विश्वास है। प्रिवेटिव डिटेंशन कानून के अलावा एक दूसरे कानून की आवश्यकता मालूम होती है।

(Time bell rings.)

SHRI BHUPESH GUPTA: Sir, I would request that he may be given a little more time. This is very good entertainment and before we go, we must have it.

श्री पा० ना० राजभोज : Thank you.

बहुत अच्छा। आप ऐसे काम्प्लीमेंट्स देने जाइये, गड़बड़ न कीजिये, शांति से सुनिये।

(Time bell rings.)

SHRI BHUPESH GUPTA: Another five minutes more.

SHRI P. N. RAJABHOJ: Thank you.

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA): Your time is up, Mr. Rajabhoj.

श्री पा० ना० राजभोज : इसीलिये सरकार एण्टी इण्डियन प्रचार और लिटरचर बांटने वालों के खिलाफ तथा देश के बाईसों को चैलेंज करके भारत की सार्वभौमिकता को चैलेंज करने वालों के लिये एक कानून लाने की बात मोच रही है।

जब कम्युनिस्टों का सवाल आया है तब आपको मैं एक बात बताना चाहता हूँ और वह यह कि यह कानून कम्युनिस्टों के तेलंगाना में जो अत्याचार हुए, उनको रोकने के लिये शुरू हुआ और यह खत्म तभी होगा जबकि कम्युनिस्ट अपनी अमृतमर शीमिम पर एक-निष्ठ रह कर अपनी अत्याचारी और देश-द्रोही प्रवृत्तियों को खत्म करेंगे।

आखिर में मैं यह कहना चाहता हूँ कि श्री भूपेश गुप्त भी इस कानून को चाहते हैं। वह इसमें एक अमेडमेंट लाये हैं। उनके जो दिल में है वह इसमें मालूम होता है। अगर वह कानून को नहीं चाहते तो उनको यह अमेडमेंट लाने की क्या जरूरत थी। उनका अमेडमेंट कहता है कि यह कानून एक वर्ष ही बढ़े और सरकार कहती है कि इसकी मुद्दत तीन वर्ष और बढ़े। तो यह मेंटर आफ जजमेंट है।

SHRI BHUPESH GUPTA: Why is the hon. Member making faces to me? He can speak; but what have I done?

श्री पा० ना० राजभोज : आप लोगों की प्रवृत्तियों पर बोल रहा हूँ। उनका अमेडमेंट सिर्फ एक वर्ष की मुद्दत रखने के लिये है। इसका मतलब यह है कि फंडामेंटल बात पर वह एग्री कर रहे हैं। तो होम मिनिस्टर साहब का जो बिल है उसको मैं सपोर्ट करता हूँ और उनसे प्रार्थना करता हूँ कि मैंने जो बातें कही हैं उनके लिये उन्हें जरूर एक्शन लेना चाहिये।

SHRI BHUPESH GUPTA: You speak so fine, Mr. Rajabhoj; such a fine amusement to us.

THE VICE-CHAIRMAN (SHRI M P BHARGAVA) Mr Kureel Take ten minutes please

SHRI P L KUREEL URF TALIB (Uttar Pradesh) I thank you, Sir, for giving me this opportunity of making a few observations on the Preventive Detention Act which is sought to be extended for another three years. But before I say anything on this piece of legislation, I have to make one humble submission to the Members of the ruling party and that is that they must realise the importance of the Opposition in a democratic set-up. The stronger the Opposition, the better for the country. They will lose their own importance if they do not attach any importance to the Opposition. They should give up this wishful thinking, that they alone are the well-wishers of the country. They should give up this wishful thinking that they only are the nationalists in this country and all the others are anti-nationalists. They should give up this wishful thinking that they alone are the patriotic persons in the country and all the others are unpatriotic. They should give up this wishful thinking that they alone have the right to speak for the people and no others. We in the Opposition have been elected by an electorate and we are responsible to the electorate we represent and so long as we are here in the Opposition, you have got to listen to our views. You have got to show respect to the Opposition which it deserves, otherwise democracy in India would be doomed and if democracy in India is doomed, then democracy in every neighbouring country is doomed. Let not the people think that we are not fit for democracy.

Sir, with these words, I would like to submit that our Constitution has guaranteed certain Fundamental Rights. These Fundamental Rights are very important rights, very precious rights and this Preventive Detention Act, I think, is a contradiction of the very provisions in the Constitution which guarantees Fundamental

Rights to the people. It is repugnant to the very ideas of democracy and of individual liberty. And so any invasion of these Fundamental Rights must be resisted.

Sir, my Party has enormously suffered under this Act. I represent the Socialist Party in this House. I am the solitary representative of the Socialist Party in this House and one of our comrades who is a Member of the Lok Sabha is still under detention under this Act. Another Member was recently released by the High Court, namely, Shri Prabhu Narain Singh. My respected colleague, Prof Mukat Bhan Lal, has already expressed certain views on his detention. Very eloquently he has said that his detention was illegal and I need not repeat all those arguments. So I need not say anything about Shri Prabhu Narain Singh. But I must say something about another member of our Party in UP who was detained in connection with the students movement. He is Shri V C Misra. Shri V C Misra was detained under the Preventive Detention Act in connection with the agitation, the July-August agitation, which was launched by the students of the Lucknow University. He is a member of the Socialist Party. He was the President of the Lucknow University Union in the year 1957-58. When this agitation was launched, this agitation of 1960, he was not a student there. He was just a practising lawyer, but because the demands of the students were initiated in the year 1957, Shri V C Misra who had gone to Lucknow on his professional work, was arrested under the Preventive Detention Act. Sir, students by nature are very submissive, considerate and obedient to their teachers. There must be some very strong reasons if students resort to violent activities. Even if they are rebellious, we must show a certain amount of forbearance and latitude towards them. We must tolerate their activities to a certain extent. Let us find out what their demands were. Let us know their demands and find

[Shri P. L. Kureel urf Talib.]
 out the reasons why they should have started this agitation or these activities. There were certain demands of the students. Some of these demands I would like to put before the House. They had been crying and complaining about the mal-administration in the University. They had been complaining about corruption, favouritism and nepotism and moral turpitude that existed in the University. They had been complaining about irregularities in the appointment of certain professors, lecturers and readers in the University, that they were appointed because of other considerations and not on merit. They had been complaining of these allegations and agitating that a high power committee should be appointed with a judge of the High Court as chairman to investigate into all these allegations. For a very long time they have been complaining like that. The immediate cause of the agitation was that the P.A.C. was posted in the Lucknow University Campus. Besides this, a girl student had been raped by a senior member of the teaching staff of the University. They wanted this matter to be investigated. They repeatedly sent representations to the Chief Minister, to the Chancellor and to the Vice-Chancellor but their request was not acceded to. Deaf ears were turned towards them and they became helpless and resorted to this kind of activity. I would like the Government to find out the reasons behind all this agitation. There is unrest throughout the country so far as the students are concerned. You should try to find out the reason why the students are resorting to such activities instead of putting them behind bars under the Preventive Detention Act. This is not proper and the students would nurse a deep resentment against the Government and the people of the country if their reasonable demands are not acceded to. Shri V. C. Misra was the President of the Lucknow University Union in the year 1957 and because he initiated the demands when he was the President

of the Union and because the hon. Home Minister has a personal grudge against this boy, he was put behind the bars under the Preventive Detention Act. He has been released recently under the orders of the State Government. If this matter had come up before the High Court, there would have been strictures passed against the Government. His detention was absolutely illegal and there was no ground at all for detaining him. I would not say anything about Mr. Prabhu Narain Singh but I would only mention that he was going to take part in the satyagraha launched by the Socialist Party in May. We are all non-violent people and we believe in this policy of the Mahatma. A few years before we were in that party and we took part in satyagraha as Congressmen. We then knew the meaning of satyagraha and all of a sudden when we have joined the opposition, we have forgotten the meaning of Satyagraha. This is what they say. It is preposterous. It is the right of the people to agitate against unjust laws. It is the inherent right of the citizens to launch an agitation so long as it is not violent. We believe in non-violence, and just because an agitation is launched the leaders of that agitation should not be put behind the prison bars.

SHRI SHEEL BHADRA YAJEE:
 Under which section of the Fundamental Rights?

SHRI P. L. KUREEL URF TALIB: I am a practising lawyer. Don't say like that, my friend. I know it. It is most unfortunate that we have given a constitutional status to the Preventive Detention Act and are keeping it as a peace-time measure, a measure which was intended to be used in emergencies. I know it. We must realise what we have done. We have invaded the fundamental rights of the people. It is not a small matter; it is a very serious matter and as Members of the Ruling Party, I would request you to realise what you are doing in the country, how you have been

fooling the people, how you have been fooling the Constitution, how you have been amending the Constitution several times to serve your own ends and how you have been invading the Fundamental rights of the people? You must realise that. I would request the Members of the ruling party not to sit here like clay models. They are the representatives of the people. They have been elected by an electorate and after a year they will have to go to the same electorate.

(Interruption.)

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA): Order, order.

SHRI P. L. KUREEL URF TALIB: I would ask them to exercise their inherent right. Sovereignty does not lie in any individual or in the Home Minister or in the Prime Minister. Sovereignty lies in the Members of the Parliament, in this Parliament. They should exercise their inherent right and reject this measure outright.

(Interruption.)

There is no use crying here. They should not shout and abuse like perverted women. They should realise that we are in this august House and we should all serve the country.

(Interruption.)

SHRI M. GOVINDA REDDY (MYSORE): Sir, these words must be expunged from the record.

THE VICE-CHAIRMAN (SHRI M.P. BHARGAVA): Mr. Kureel, your time is up.

SHRI P. L. KUREEL URF TALIB: I will finish in a minu'e, Sir.

I would request the Opposition Members to unite in opposition to this measure. I would also request the Members of the ruling party to help us and to tell the Home Minister and the Prime Minister that we are the repre-

sentatives of the pople and that we are not going to submit to such a measure. We are not going to be led by the Prime Minister or the Home Minister. We are the real makers of the destiny of the people of the country. They should realise that we lead the Prime Minister and the Home Minister and not that the Prime Minister and the Home Minister lead the Members. With these words I strongly oppose the Bill.

THE DEPUTY MINISTER OF EXTERNAL AFFAIRS (SHRIMATI LAKSHMI MENON): Sir, all those objectionable words must be expunged from the record.

SHRI DAHYABHAI V. PATEL: He has not used any unparliamentary word. "Clay model" is not unparliamentary.

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA): We shall see to that. We shall find out from the record and see if there is anything.

SHRI J. S. BISHT: I am grateful to you, Sir, for having given me an opportunity to take part in the debate at the tail end or rather the final end. I find that too much of heat has been generated in this House in debating a measure which is a very simple measure where the only point to be discussed is whether we are entitled, in the circumstances of the day, to extend the life of the Preventive Detention Act for another three years, but listening to the arguments, I am reminded of the speeches of 1952, 1954 and 1957. Nothing new has come out of the arguments. No single instance has been quoted on the floor of this House about the abuse of the law or the power vested under the Preventive Detention Act in the hands of the Government.

SHRI JASWANT SINGH: I gave two instances of judgments delivered by the Rajasthan High Court and the Mysore High Court.

SHRI J. S. BISHT: There is not a single detenu in Rajasthan.

SHRI JASWANT SINGH: Not now, but there were hundreds.

SHRI J. S. BISHT: In regard to the various constitutional points that have been raised again and again on the floor of the House, I will quote the authority of the highest legal luminary in the country, namely, the Attorney General. This is what Mr. Setalvad said in a speech that he delivered in the Constituent Assembly acting as the Provisional Parliament in 1950.

SHRI BHUPESH GUPTA: But your legal luminary did not radiate much light over Berubari.

SHRI J. S. BISHT: I never interrupted the hon. Member and he should have the courtesy to listen to me and not interrupt me.

This is what he said:

"The Constitution guarantees the freedom of the person of the individual, but, it inevitably recognises that in certain circumstances that freedom may have to be curtailed and it provides the limits within which that freedom may be curtailed. No further than those limits can any law for preventive detention enacted either by a State Legislature or by Parliament go. It is from that point of view that I wish the hon. Members to approach the legislation which has been placed before the House for consideration."

Further on he said:

"The measure divides detention, as you must have noticed, into two parts. Detention in certain classes of cases has to be examined by an Advisory Board. That Advisory Board is constituted in accordance with the provisions of the Constitution and the report of the Advisory Board is made obligatory upon the detaining authority. It is only if the Advisory Board reports that there is sufficient cause for deten-

tion, can the detaining authority continue the detention or confirm the order of detention. But, if the Advisory Board reports that there is no sufficient cause, then, the detention would, under the present measure, fall to the ground."

Now, Sir, that position is very clear. We are here concerned, as we were concerned before, with regard to the enactment by this Parliament of this particular law. As you will see from entry 3 of List III—Concurrent List—the States themselves have got the right to enact a law for preventive detention for reasons connected with the security of the State, the maintenance of public order, or the maintenance of supplies and services essential to the community. Now, I would ask my hon. friends to consider this. If Parliament were not to extend the life of this legislation, would it debar the States from enacting a similar legislation? It would not debar them from enacting a similar legislation. And we have in all 15 States and we do not know what sort of legislation they may pass. In certain States, as for instance, West Bengal, the law may be more stringent and more stiff. In many other places also it may be so. Sir, I will give you the figures. During all these three years that this law has been in force 569 persons have been detained and 500 out of the 569 were detained for activities prejudicial to the security of the State or to the maintenance of public order. This is the ground on which the States have detained these people. Of these 500 people you will be surprised to note that no less than 343 were people who were detained by the Government of West Bengal for goondaism and violent activities and 114 by the Governments of Maharashtra and Gujarat. Out of these 114, 100 were detained for goondaism and violent activities. That is to say, out of 569 no less than 457 were from West Bengal and the old bilingual Bombay State. Therefore you will be pleased to note that even if Parliament were not to extend the life of this particular piece of

legislation, it is quite certain that the Governments of West Bengal and the Governments of Maharashtra and Gujarat will enact some such legislation which may be much more stiff than this one.

SHRI BHUPESH GUPTA: Leave it to them.

SHRI J. S. BISHT: Why should we leave it to them then it is in the Concurrent List, when Parliament itself has got the right to pass such a legislation? If you see entry 9 in List I, it will show that we can make laws for preventive detention for reasons connected with Defence, Foreign Affairs, or the security of India. Therefore it is our duty to see that a uniform law is passed for the whole of India giving all the necessary safeguards that are reasonably to be expected when a legislation of this type is passed. I am quite conscious of the fact, Sir, that in modern civilised jurisprudence nobody wants to bring in any law which is not in conformity with the normal practice. The names of certain countries have been mentioned by Pandit Kunzru and others. They have said that we have borrowed many things from the British Constitution and therefore we must follow the British in all these things. I think he was not quite just and fair to the British people. I think they are the one people who do not adopt any doctrinaire attitude in life. They are the one people who do only what is immediately practicable. You will remember, Sir, that when there was a general strike, the Government of Lloyd George immediately passed a law banning general strikes in England. I have no doubt that if a similar situation arose in England tomorrow, if circumstances as they obtain here in this country were to obtain in England tomorrow, they would not hesitate to pass such a legislation within half a day; not even one day, because I remember that during the second world war when it was necessary, the Government of Sir Winston Churchill itself came forward

and placed all the private property of every Englishman at the disposal of the State without compensation for the period of the war.

SHRI BHUPESH GUPTA: When?

SHRI J. S. BISHT: It was during the period of the war.

SHRI BHUPESH GUPTA: Which war?

SHRI J. S. BISHT: This Second World War.

SHRI BHUPESH GUPTA: I was there; there was no such thing.

SHRI J. S. BISHT: You may have been there but you have got the records. Such a law was passed and you can see the records of that time. But there the Communist Party has not been able to make any headway. I am told that there are hardly 30,000 people in all in England who belong to the Communist Party and they are not able to put even one of their members in the British Parliament. Therefore they are entitled to ignore this as of no consequence at all. Sir, I would say that we are prepared . . .

SHRI BHUPESH GUPTA: In France we are half a million; in Italy we are two millions but there are no preventive detention laws there.

SHRI J. S. BISHT: Sir, India is not a small country like England or France. India is a continent like Europe. If you deduct Russia out of Europe, you will find the whole of Europe in India. There are so many people and there are all sorts of conditions obtaining here. (Interruptions) If my hon. friends, instead of interrupting me, were to instruct their own parties to behave properly, there would be no need for such a legislation at all. I would ask my friend, the leader of the Communist Party here, point blank: Has this party taken up the line honestly that they will eschew violence in every form in future? Do

[Shri J S Bisht]
they accept the democratic form of life? Do they accept the free parliamentary system?

SHRI BHUPESH GUPTA: I am extremely sorry, Sir. The hon Member spends too much time in reading law books but does not read political literature I will supply him some

SHRI J S BISHT: Sir, I can say that they have never eschewed violence In fact they have from time to time indulged in violent activities We know what happened after what they call the adventurism of Mr. Ranadive, when trains were being blown up and sabotage was being committed. We know what they were doing in Telangana. Sir, it was said that the Government's writ ran there in the daytime and in the night the Communists' writ ran. I remember exactly when the then Home Minister here offered to make this law much more polite, much softer, he asked Mr Sundarayya, the then leader of the Communist Party whether they would surrender all their arms but he would not give the word that he would surrender all the illegal arms that were in their possession He did not undertake to eschew violence at that time

SHRI BHUPESH GUPTA: Sir, I can say . . .

SHRI J S BISHT. You were not the leader at that time Mr. Sundarayya was the leader and that is what happened So I say the necessity for this law arises because there are parties here who have the habit of having double talk Their leaders here talk very mildly in the language of liberal democracy about freedom of the people, freedom of association, freedom of speech and so on and so forth but their henchmen in the countryside incite the people to commit all sorts of acts of sabotage and violence That is what is happening everyday That is what is happening even today on our northern borders.

SHRI BHUPESH GUPTA: Sir, he has committed too many sins by saying these things.

SHRI J. S BISHT. Why is my friend getting so much excited? If these people were to eschew violence and adopt the policy, as has been done by the other parties, of accepting, whether in the Government or outside, the rule of the majority, of accepting the rule of the law, then there would be no need for this legislation and I can say that we would be the first to go to the Government and ask that this law be repealed But that is not the position at all The necessity for this law arises because there are parties in this country who are the sworn enemies of democracy and if tomorrow by some hook or crook my friend's party comes into power, you know what will be the fate reserved for us, not this mild detention but it will be complete liquidation.

SHRI BHUPESH GUPTA We shall send you to the law school again to study law.

SHRI J. S BISHT. You ask Mr. Panikkar He was our Ambassador in China when the revolution took place. In his book 'Two Chinas' he has himself written that within the first year of their coming into power 1½ million people were slaughtered That was the way their Government behaved Well, these are the people who wax eloquent about these things in this Parliament

Now, Sir, it has been repeatedly said that there is no such law in any other country I may say that in 1935 in Eire a law was passed for preventive detention when there was neither war nor any internal political revolution. But there were civil riots and disorders on such a scale that their Parliament passed a measure which was similar to the one which we have on our Statute Book and as my friend, Mr Kaushal, has pointed out, already there is a law in the United States similar to this

SHRI BHUPESH GUPTA No

SHRI J S BISHT Only they do not call it like this The law there is named law against un-American activities We could also have had a better name and called it law against un-Indian activities so that these people could be brought to book

Now, my friend, Mr Jaswant Singh, said that on page 9 of this Report covering the period 31st December 1958 to 31st December 1959 it has been said that as many as 87 people from the Communist Party had been detained I may tell him that they were not detained because they were members of the Communist Party

2 P.M

SHRI JASWANT SINGH What is this column?

SHRI J S BISHT Nor were these people detained because they were members of the Forward Bloc They were detained for reasons which are given here Five hundred and two were detained for goondalism and 108 for violent activities The other day Dr Kunzru asked What is goondalism, where is the definition? I will give it here The United Provinces Goondas Act, 1932 is there The word 'goonda' is defined as follows —

"goonda includes a hooligan, bully, rogue or *badmash*,"

Now, Sir, in the Province from which my friend comes, West Bengal, the Goondas Act of West Bengal

SHRI BHUPESH GUPTA He is saying that West Bengal is a goonda province

THE VICE-CHAIRMAN (SHRI M P BHARGAVA) He has not said that

SHRI BHUPESH GUPTA What did he say?

THE VICE-CHAIRMAN (SHRI M P BHARGAVA) He has not said anything like that

SHRI J S BISHT I will read it out.

SHRI BHUPESH GUPTA They have got so many goondas and I think they know it

THE VICE-CHAIRMAN (SHRI M P BHARGAVA) He read out from the UP Act and now he is reading from the West Bengal Act

(Interruptions)

SHRI BHUPESH GUPTA * * *

(Interruptions)

THE VICE-CHAIRMAN (SHRI M P BHARGAVA) These remarks will be expunged

SHRI BHUPESH GUPTA Communists are being called goondas.

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

SHRI BHUPESH GUPTA In the same coin I shall pay It cannot be a one-way traffic

THE VICE-CHAIRMAN (SHRI M P BHARGAVA) Please wind up your speech

SHRI J S BISHT What does the West Bengal Goondas Act of 1923 say? It says that —

"'goonda' includes a hooligan or other rough,"

SHRI BHUPESH GUPTA May I know the UP definition?

THE VICE-CHAIRMAN (SHRI M P BHARGAVA) He has given you that already

SHRI BHUPESH GUPTA And has he talked to Mr C B Gupta?

THE VICE-CHAIRMAN (SHRI M P BHARGAVA) Please do not bring in any personalities

(Interruptions)

***Expunged as ordered by the Chair.

SHRI J. S. BISHT: I have to give you the definition, because one of the Members was asking what goondaism meant. Now, out of 166 people, 58 were detained for goondaism and 108 for violent activities.

SHRI JASWANT SINGH: You have not replied my question.

SHRI J. S. BISHT: We have the same thing repeated here.

[MR. DEPUTY CHAIRMAN in the Chair]

Here also out of 53 people detained, 48 were detained for goondaism and 5 for violent activities. In fact, you will find that the detenus are from West Bengal, Bombay, Maharashtra and other States. Therefore, you will see the need of it. The argument is made that they want to use these powers against the parties.

SHRI JASWANT SINGH: That is true

SHRI J. S. BISHT: Never has it been used against any party. If it had been used against the parties, then I am sure most of the people who are speaking so violently against the Congress party would have been behind the bars. (*Time bell rings.*) The parties would not be functioning. It is not against parties. It is against individual. In fact, the only law that could be applied against the Parties was the Criminal Law Act of 1908 and that has been declared *ultra vires*. Now, it is no longer a law. It is only under the provisions of that Act that a whole party could be declared illegal and that a party could be detained, so to say. Here it is meant only against individuals. If an individual acts in a manner which is prejudicial, if it is against the defence of India, against the relations of India with foreign powers or the security of India or the security of a state or the maintenance of public order, or the maintenance of essential supplies and services, then it is used. I do not see why you are so soft with regard to these particular individuals. Forget that they are at

any time in any of your parties. We hope that you will be glad that you are rid of them, that the Government has done the task for you that it has removed from your party such undesirable persons. You should be thankful for it, because such people who enter into these parties are not desirable in any political party. The Communist Party does not want it. The Government does not want it. No Government wants that people who are innocent should be in this way hauled up merely for holding political views. There are other ways of doing things. You can do things peacefully. You can express your opinions. You can print your own paper. You can fight the elections. These are the ways. These are the ways in a free democracy. As the hon. Home Minister said, those who indulge in satyagraha, who indulge in direct action betray democracy and dig the grave of democracy. In fact, it is the greatest anti-social act that any party can do.

THE MINISTER OF HOME AFFAIRS (SHRI GOVIND BALLABH PANT): Sir, I have listened to the speeches delivered yesterday and today with rapt attention. I must confess that the spirit, the import and the implications of some of the speeches delivered by the speakers on the other side have convinced me that it would be a great blunder to withdraw this Bill or to make any change in it. I have hardly any doubts about its constitutionality, propriety or expediency. But anyone who had come here with an open mind and had listened to the utterances of responsible Members sitting on the other side would have been driven to the conclusion that those in charge of the administration would fail in their duty if they did not re-enact a measure of this character. Their approach has been almost defiant. I wonder how they mean to function in this country. I do not know if ever they will have an opportunity of looking after the maintenance of peace and tranquillity and other vital matters concerning the welfare of the country.

Perhaps they do not hope to find such an opportunity within a measurable distance of time. But if hon. Members, who have expressed their views here were really to be ever entrusted with such an onerous task, the country would go to pieces and all hope of future progress would be blasted. That is the impression that has been made upon me by the speeches that have been made. No Member of this House can be said to be irresponsible, even if some may be altogether so. So, I take it that these utterances have emanated from Members who still dream of exercising some powers in this land, if not today, in the fourth, fifth or tenth generation. So, I hope their progeny will not be nurtured in the way which they have chosen for themselves and that they will look at things from a correct angle and not always from an acute or obtuse one.

I do not know if Mr. Bhupesh Gupta was serious in all that he said. He is one of the leading Members of this House and we expect some sort of assistance from him in conducting the affairs at least of this House. Frequent interruptions on his part do not befit him, because he occupies a very responsible position in this House. So far as this particular measure is concerned, I feel that he has almost undergone a metamorphosis in the course of the last few days. He is now looking to the United Kingdom and deriving inspiration therefrom. He does not quote anything from Russian laws. He does not care to refer to their Statutes, if they have any—about which I am not certain—or to their practices, but he now tries to find a cosy corner somewhere in the United Kingdom. Well, he is perhaps not aware of the fact that even in the United Kingdom they care more for the security of the State than for anything else, and those who endanger the security of the State or who on very vital occasions, impede the achievement of a free and better status of the country cannot be tolerated by the society there. The whole question of indi-

vidual liberty is one of adjustment of civil liberty with social cohesion. Unless you stand for social cohesion, you cannot appreciate the limitations of individual liberty. The liberty of every person depends on the limitation of the liberty of everyone else. It is not a licence. I am not free to do what I like. I must do what is in my interest, but I have freedom only to the extent to which I do not come in the way of others. Those who come in the way of others have to pay the penalty for their intrusion into fields in which they have no right to intrude. So, when we look at these things, we must understand the very basis of our polity, of our Constitution.

I was really amazed to hear some of the doctrines that were propounded here yesterday by one of the Members of the Praja Socialist Party. He does not seem to understand the importance or the significance of the Constitution. People almost in all countries have testified to the nobility and sublimity of our Constitution. They have gone to the length of saying that perhaps no other country in the world has a Constitution equally well conceived. But here the hon. Member says that the Constitution is not binding on us. Then what right has he to be here, because we take the oath by our Constitution when we enter this House? It is perhaps open to anyone to bring a Bill for an amendment of any provision, but to repudiate the basic fundamentals of the Constitution itself is not consistent and compatible with the privileges that one enjoys as a Member of this House. He then called this Preventive Detention (Continuance) Bill as a lawless law. It is a contradiction in terms. No law can be lawless. Perhaps he is not aware that one of his colleagues, perhaps a senior colleague, Shri Thanu Pillai, who is the Chief Minister of Kerala, has asked the Government to adopt this Bill that I have brought before the House and to extend the period of the expiring Act. So I do not know what he thinks of him, because

[Shri Govind Ballabh Pant]

he is a senior colleague of his. He does not know that no law can be lawless. Those who indulge in lawlessness perhaps think that indulging in lawlessness amounts to obedience to law, because if laws are lawless, then lawlessness becomes a law. That is rather a strange way of looking at any Constitution.

Then he also said that it was open to anyone to organise direct action or, if I understood him aright, even breaches of the laws. I do not say that it is not open to anyone, if he has any conscientious objection, to quietly expose himself to the penalties provided in the law by disobeying the law, but it is certainly not permissible in a civilised society and in a democratic society for anyone to organise civil resistance of a massive character. It is not open to anyone. If people were free to organise defiance of law in an organised manner, then there will be anarchy in the land. What the difference is I do not know. Some try to hair-split things, but these matters which concern the vital interests of the country have to be viewed in a serious manner and not in a light-hearted way.

Sir, Mr Bhupesh Gupta was not satisfied as the number of persons detained on 30th September this year did not exceed 106. Well, perhaps he was thinking of another country where he may be knowing that the number of persons who have been detained for years comes to thousands, and perhaps he had in his mind concentration camps too. Which even after decades continue to exist in certain places. So, I am not surprised that one hundred and six should appear to him as being an insignificant figure.

Sir, Mr Bhupesh Gupta referred to Assam and said that the Assam Government had failed in making use of this Act. Well, that indicates that he recognises that there are occasions when a Government can use this Act with advantage to the State. Well, if that be his view, I am prepared to

tell him that so far as this holocaust in Assam is concerned, it arose out of linguistic controversies, and he knows perhaps that while the Chief Minister of Assam wished to proceed in a very guarded manner, the opposition parties the Communist Party, the Socialist Party and the Praja Socialist Party—roused the people in such a way that he was compelled to take some steps. So, if steps had been taken betimes under this Act and this agitation and the controversy had been stopped and halted at the right time, perhaps they could not have found out who was responsible for it. His statement—I do not know what authority he has for saying so—that the Congress Party is responsible for it is belied by facts and I think he has read the article contributed to his own paper, the mouth-piece of the Communist Party, by Mr Bora, the leader of the Communist Party in Assam, who had contradicted all that Mr Bhupesh Gupta had said in the previous issue. And he, I hope, has understood what Mr Bora has said. And after that even now, to accuse the Congress Party of abstention from having recourse to this measure can hardly be said to be connected with truth. Sir, my own view is that the Assam Government should have applied the Preventive Detention Act—and I said so in the other House too—and perhaps much of the misery, loss and devastation that followed would have been avoided if this Act had been applied in time. I would say the same about Kerala. Mr Bhupesh Gupta and some other friends who have spoken with tremendous vehemence seem to be still smarting under their defeat in Kerala. Well, they have my sympathy too. So far as the affairs of Kerala are concerned what was the tremendous price that they had to pay? I think some few days between June 12 and July 31, the Communist Government of Kerala had to arrest 11½ lakh people, a number not arrested anywhere else. The State police had to resort to firing on six occasions involving the death of 15 persons and injuries to several others.

The police also resorted to 71 lathi charges and more than 100 cane charges. I wish they had followed the less damaging and harsh course and taken action under the Preventive detention Act. That again shows the necessity, the imperative necessity, of having a measure like this on the Statute Book for, wherever we have refrained from using it, there the consequences have been disastrous.

Now in the course of his speech, Mr. Bhupesh Gupta referred to the particulars of other countries and also the spokesman of the Praja Socialist Party did likewise. They said that in England there was no such law. They also referred to France. Do they know what is happening in France today? Has the press any freedom there? Do the people really enjoy any civil liberty there, and are there not too many other countries which have not such measures like our Preventive Detention Act, which are put into operation with utmost care, but where every single individual has lost his civil liberty? Do they want to reduce us to the same position? If they do that, I won't be surprised, for many of them stand for chaos and for nothing else. But we, who are charged with the responsibility of maintaining order and so far as possible, with fostering and promoting an atmosphere in which the welfare of the community may be ensured, have to discharge our duty with a greater sense of responsibility.

Sir, Mr. Bhupesh Gupta also said that 133 or some figure like that had been released by the Advisory Boards and High Courts during the last three years. He did not notice one significant feature of this chart. During the first year of the last three years, from 1st October, 1957 to 30th September, 1958, 109 persons were released by the Advisory Boards and 26 by the High Courts and the Supreme Court. But during the year 1959, only 16 persons were released by the Advisory Boards and 3 by the High Courts and the Supreme Court combined. During the current year,

until September, only 15 persons were released by the Advisory Boards and two by High Courts. Does that not show that the utmost care is being taken by the executive in passing orders under the Preventive Detention Act? He has altogether ignored and overlooked the significant improvement that is shown by these figures in the working of this Act. Sir, so far as the constitutional propriety of the Act is concerned, I wonder if there can be any room for any argument anywhere. Those who stand by the Constitution have to take the Constitution in its entirety. They cannot say that they will enjoy absolute licence and will not take note of the restrictions that the fathers of the Constitution have considered essential for the enjoyment of the rights by the people and also for advancing the progress of the country. In this Constitution article 22(3) and 22(4) refer to preventive detention, and there is also reference to preventive detention in entry 9 of List I and entry 3 of List III. The Constitution is a permanent measure and it is framed by those who had themselves the privilege of enjoying the hospitality of the Government for long periods under the provisions of the Preventive Detention Act, and yet they felt that for the achievement of the objectives which are enshrined in the Preamble of the Constitution and in the Directive Principles it is necessary also to make provision for preventive detention as we have so many disruptive and subversive forces and also so many fissiparous tendencies, and some people are bent upon having recourse to violence.

Mr. Bhupesh Gupta referred to the food agitation in Bengal. He also referred to the price resistance agitation. Does he not remember the agitation connected with a rise in tram-car fares? The tram-car fare was sought to be raised, I think, by three pies or one pie—I do not exactly remember. But the direct action movement was started and as a result a number of tram-cars were, I think altogether smashed to pieces, and for

[Shri Govind Ballabh Pant.]

days together Calcutta was in ferment. Again, when this food movement was started, there was a similar paralysis of social and economic life of that great city, and ultimately large numbers of people were hurt, injured, many lives were lost, and the results were so very serious and grave that the Government had to arrest 103 persons, I think, belonging to the Communist Party, who had fomented all that trouble. Well, he does not seem to be satisfied yet because from his speech it appears that he still has some lingering hope that he will have similar opportunities in future, or he will create them for himself. Well, I do not know if some people are capable of learning at any stage, but I wish he could have learned some lesson from what has happened so far. The other day I was reading something about the hartal that was there in Calcutta—only the day before yesterday—and a meeting that was held thereafter. And there it was said: "We will not be satisfied with all this; we will have to take recourse to direct action." Well, in a society which is civilised or which acts under a Constitution, all laws that are framed under the Constitution, whether one likes it or not, have to be obeyed. I think Dr. Kunzru has never been in favour of direct action. Even in the olden days, when we were having a struggle, his convictions varied from the practice that we followed. So when even in the matter of struggle for freedom against foreign rule direct action is not justified, much less can it be justified when the laws are framed by the representatives of the people themselves in their own Parliament. So this is a dangerous doctrine, and it has to be given up completely.

Sir, some reference was made to Shri Prabhu Narayan Singh; that is the only case which has been mentioned here in the course of the entire debate. And Prabhu Narayan Singh's case went up to the High Court. The High Court released him on the

ground that the State Government had not passed the order for his detention within twelve days and that that period which was prescribed under the Act having expired he was entitled to a discharge. So they passed that order merely on that ground. So far as the reasons are concerned, it was admitted even yesterday by Mr. M. B. Lal that he was organising civil disobedience on behalf of Dr. Lohia's party. I would not say anything about the programme of that party or about its fantastic character. That is not my business. But so far as the activities of Shri Prabhu Narayan Singh are concerned, I will just refer to the statement that I made in Parliament some time ago.

"In furtherance of the organised movement for committing breaches of the law Shri Prabhu Narayan Singh held public and private meetings at various places in which he exhorted and incited people to enlist as volunteers and contribute funds in support of a movement for defiance of the law and disturbance of public order in Varanasi district, and in other ways also. He incited people to cut down trees in the Naugarh and Chakia forests and to occupy land forcibly. He was also exhorting people to picket tehsil and other public offices, and forcibly occupy *parti* land in the Bhoka Dam area, pull alarm chains of trains and also otherwise defy the law."

It is admitted that he was appointed by the Socialist Party to organise a civil disobedience campaign.

Sometimes it is said that organised defiance in a non-violent manner can be carried on with impunity; there should be no check on that. But often it is our experience and everyone must be knowing it that howsoever sincere be your intentions, if you organise the defiance of law on a massive scale, it is bound to lead to violence and it has led and it **does** lead to violence. So, nobody should delude himself by having any such

notion. Of course, we have accepted the creed of non-violence and we stand for it without any reserve under all circumstances.

Something has been said about Kerala. There too we stood for complete observance of the law. The Government did not adopt certain measures; it was open to them not to do so; we could not force their hands. But now they should not feel very much hurt because they are out of office. We were not responsible for that, at least directly.

Sir, Dr. Kunzru said that it was not relevant perhaps to refer to likely developments or to the pointers and symptoms while dealing with this Bill. I do not understand that. We have to take into account what has happened and also what we apprehend is going to happen. So, we should take an integrated view of the matter. Really, you should look at the thing from a wide point of view, taking within our view not only the happenings within our own country but even the trends that are today prominently noticeable in various parts of the world. So, we have to be cautious.

He also asked why *goondas* were treated in that manner. Well, I think the *goondas* get a very generous treatment when they are dealt with under the Preventive Detention Act. He also asked what did a *goonda* mean. The *goonda* has been there in the statistical returns for many years, but nobody ever thought that a *goonda* was a man whom we should protect here. A *goonda* is a person who is ever prepared to fish in troubled waters, who is a bully, who is a blackmailer and 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 but nobody is prepared to give evidence against them; yet everybody wants them to be removed from their own neighbourhood. So, in order to ensure peace and security, it becomes necessary to

deal with these people. And, whenever even non-violent movements are started, they come forward to create trouble, to indulge in loot, arson and in other things also. Therefore, men of that type do not, I think, deserve sympathy from any quarter.

Sir, I have already taken more time than I was expected to take.

SHRI P. L. KUREEL URF TALIB: May I know, Sir, on what grounds Mr. V. C. Mishra, a student leader, was detained under the Preventive Detention Act? He was not a student of the University. He had gone to Lucknow on his professional business.

SHRI GOVIND BALLABH PANT: On the grounds that were considered adequate by the Advisory Board which was presided over by a High Court Judge.

Sir, I do not want to say more, as many of the arguments have already been fully met and, in any case, irrelevant matters do not need any answer from me. That is all that I have to say.

MR. DEPUTY CHAIRMAN: The question is:

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

The motion was adopted.

MR. DEPUTY CHAIRMAN: We shall now take up the clause by clause consideration of the Bill.

Clause 2 was added to the Bill.

Clause 1, the Enacting Formula and the Title were added to the Bill.

SHRI GOVIND BALLABH PANT: Sir, I move:

"That the Bill be passed."

SHRI BHUPESH GUPTA: Sir, . . .

MR. DEPUTY CHAIRMAN: There is no time.

SHRI BHUPESH GUPTA It is not 3 o'clock. Because there was no time I did not move any amendment. I shall co-operate with you in this matter and I shall co-operate with the Home Minister also for a change.

Sir, I did not move the amendment because I thought that you were not short of time and that way I would have a chance to speak. Anyway, we had a debate here in this House on questions of principles on the Preventive Detention Act. The Home Minister sought to meet our points by his innuendos, by his homilies, by his scathing dry statements, by what he considers to be the rule of law and similar other things. In the course of his short speech he enquired of us, "Who are those people who call it a lawless law?" I ask him. Does he not read India's old history of the Congress in order to find out the people who used to call such laws lawless laws? Evidently he has no time. He spends his time in reading police reports. Sometimes even for a change, leisure and culture, does he not read the history of the Congress? It was Pt Motilal Nehru who taught us to speak in these languages and accents about lawless laws, and still we remember with pride and inspiration the valiant attack that he launched against such a lawless law in the Central Assembly, speaking for the soul of the nation. It has fallen to us today to go back to the unforgettable and undimmed expressions and words whereas probably, they, on the other side, continue to forget them. The expression 'Lawless law' and similar other expressions were used by very many prominent leaders of the Congress and I would not be surprised if even in the autobiography of Pandit Jawaharlal Nehru such expressions appear. But then, who cares for that autobiography, for that great book, that generations will read? We were reading it but the Congressmen never read it. I have an autobiography in my shelf even today. You never read it, I know. Therefore do not go into such

arguments. I thought I might help the Home Minister's memory, reminiscence, by telling him where I got these things from. He said that the country would go to pieces if the Opposition came to power as if millennium has come down under the benign Congress regime. This self-glory, it is a bit too early to indulge in this kind of self-extolment and we have been told that wise and old men do not indulge in self-extolment. They inspire the younger generation. He asked me why I referred to the UK. It is for the simple reason that the Prime Minister, the other day, said in the other House that the Constitution was based on some of the principles of the UK laws and other things. That is why I thought of helping the Home Minister by taking him to his home-town the UK, in the matter of Constitution but he does not like it. He wants to go to the Soviet Union. Well, I suppose he would be very welcome there if he went but, then, the UK does not have such things. Then he said "What about France? What is there in France?" I think, the Home Minister, not being a Foreign Minister, does not keep track of developments or what is happening in the wide world.

SHRI SUDHIR GHOSH (West Bengal) Is it not part of the history of Communism that when Communists are in the Opposition, they like democracy but when they come to power, they do not like it at all?

SHRI BHUPESH GUPTA If a Ministry of anti-Communists is made, I have no doubt that you will be made the Parliamentary Secretary.

As far as France is concerned, yes, many things are not there but even under a personal dictator, there is no Preventive Detention Act, we know it. I have been to France and many of our colleagues have been to France and there they maintain their liberty. To-day, in France the Communist Party is the first Party. Because Parliamentary democracy did not suit them, they changed the Constitution.

and through manipulations got certain things done but the Preventive Detention Act is not there. Therefore the Home Minister may kindly ask his Ambassador in France to confirm me or to repudiate me before he makes his next speech.

Then he said that 109 cases were insignificant. I said that in 1952, you used the argument of 10,000 cases to justify, suggesting to the country that a time may come when it will not be necessary to use the Act. When the proportion has come down to 109, with all humility, to the great leader of the Congress Party, I ventured to remind him of what was said five years ago, and asked him as to whether this number would satisfy him to take away the Preventive Detention Act. Now he turns that argument on me. Well, he is a skilled debater but sometimes he gets derailed in the course of his debate. He said so many things about Assam, about the Preventive Detention Act, etc. As far as Assam is concerned, the less said, the better. Why don't you appoint an enquiry, a public enquiry, which you promised? Let us see who did what. All I said was that the Preventive Detention Act was not used because perhaps many Congress leaders, not all, many of them are good, would have been hit by it. Party considerations came in the way. Even so, I would not like the Home Minister to use this Act. I want that this Act should be abolished. I demand it. Despite the fact that I differed from Master Tara Singh, I would like him to be released and the other political detenus also released. The other laws are there. Why then say such things? He almost made out that the Assam riots were the work of the Communists. Why not face the enquiry? Why are you shirking it? Come to the enquiry and we shall see who were in the forefront of the riots and who were not, instead of saying this and taking advantage of the position of authority. He talked about fundamentals of the Constitution. Regarding oath incidentally it should be affirmation of the Constitu-

tion. I do not think the Prime Minister took the oath. Like him, we also make affirmation here. It is a correction. Now you will come today with the ninth amendment to the Constitution. You have made 8 amendments, some good, some bad, others indifferent. The ninth amendment is just waiting. Why say such things? It has to be amended and the Constitution is not sacrosanct in the way that nothing is alterable here and that certain principles all through the ages one should endure. He is a wise man, and I have great respect for his wisdom, only it is misplaced wisdom at times and that is my regret. Then he said that the Communists were haunting them, but you are a very great Party. So many of you are here, so few of us are here. Why is it haunting you all the time? The Lok Sabha you have filled with your men and you can do without the Preventive Detention Act. You have the strength, I know it. You can very well do it. Why this dictatorial method? I say that the Congress leaders do not have the faith in themselves and in their organisation. That is why they think in these terms.

Then he talked about Calcutta, goondaism, etc. I would ask the Home Minister to go and live in Calcutta for a while and I assure him that every week-end I shall call on him and look after him. It is not so bad as he thinks. It is not so disturbed as he thinks. Only the people of Calcutta live up to the traditions of our country and fight for justice and democratic causes, otherwise India would not be what it is today. (Interruptions.) Anyway, you may not like us, you may not like some of the things but we have a democratic right to carry on agitation and to carry on such movements. (Interruptions.) Some of you want to please the Prime Minister by interrupting me. It is not necessary. He is pleased with you.

So do not say such things. Even after the Kerala incidents, I think it was in August 1958 or later, there

[Shri Bhupesh Gupta]

was a Press Conference by the Prime Minister where he developed in his own eloquent way how direct action—because necessary at times—might be taken. That was done. For once, we liked the Prime Minister speaking in terms of direct action. Unfortunately, it was for a wrong cause. I do not go into it. The point is, goondaism could be controlled under the Goonda Act but why do you arrest Mr Jyoti Basu, the Leader of the Opposition, under this Act? Every time any trouble comes, you know it is a fun. Dr B C Roy tells Mr Basu “Jyoti, if there is a little trouble, some movement or demonstration, I shall put you in jail. After that I shall let you out.” What for? What is this? That is how they speak. For even a small procession, they say “We will use this Act.” I say that there is frivolous use of this Act and they are trifling with the liberties of the people and the citizenship of this country in this manner and as you know, peaceful processions went in connection with the food movement. Ten Members of Parliament and 20 MLAs were put in jail. It is said that the procession was not peaceful and that 80 people were killed by the police near the Esplanade. It was a peaceful procession. People were killed. Eighty people were killed. That is how things are done.

As far as supplies and essential goods are concerned, the less said, the better. There is a pipe-line between the Government and the big business and all supplies lead through that. Now there is no Preventive Detention Act to plug it, otherwise, I can tell you, we would have seen in jail along with us some big black-marketeers. We never see that adopted. They are not arrested.

Finally, all I will say is that it is a detestable Act. I do not know and I think I have to read again the autobiography of Panditji in order to find out proper adjectives to describe

this Act but I have not got it here. Therefore, I will not describe it. I will only say 3 P.M. it is a horrible thing and today you are disgracing the Statute Book in this manner by having this Act. Nothing would have been lost if you had revoked it. All the arguments that the hon Minister gave in defence of this Act only show that they want to rule by the Preventive Detention Act, that they want to apply it against the opposition. They want to throttle the processes of democracy so that some day perhaps, you see, reaction can flourish. Today the only people who are taking advantage of this are oppressive officials, reactionary forces in the country and the Government that wants to oppress the people's movements. Sir, this does not speak well of our country, certainly not of those old veteran Congress leaders who at one time fought for the liberation of the country and for the creation of a free India. But today they have become the biggest votaries of this lawless law, I repeat, this lawless law.

MR. DEPUTY CHAIRMAN Any reply?

(There was no reply.)

MR. DEPUTY CHAIRMAN The question is:

“That the Bill be passed.”

The motion was adopted

I THE CONSTITUTION (NINTH AMENDMENT) BILL, 1960

II THE ACQUIRED TERRITORIES (MERGER) BILL, 1960

SHRI BHUPESH GUPTA (West Bengal) Sir, before the Prime Minister starts, may I submit that for the last two days I have been making the