

[Dr. Shrimati Seeta Parmanand.]
from here. There are very many cases where half the money of *mahr* is demanded in cash, which amounts to dowry, and only half is given. The Law Minister knows about these cases. It is a common practice in U.P. The difficulty comes when the dissolution of marriage takes place. The amount demanded is very high and half the money is taken already. The amount of *mahr* taken before the marriage clearly amounts to dowry. So it was not a correct thing to exclude *mahr* from this.

SHRI A. K. SEN: This form of *mahr* is not excluded. Whether a fraction is taken or half is taken, it is hit by the Act.

About the other query, clause 4 has the effect that a mere demand is not an offence.

MR. DEPUTY CHAIRMAN: The question is:

"That the Bill, as amended, be passed."

The motion was adopted.

MOTION RE THE WORKING OF THE PREVENTIVE DETENTION ACT, 1950

SHRI BHUPESH GUPTA (West Bengal): Mr. Deputy Chairman, I move:

"That the statistical information on the working of the Preventive Detention Act, 1950, during the period 30th September, 1957 to 31st December, 1958, laid on the Table of the Rajya Sabha on the 20th April, 1959, be taken into consideration."

At the very outset I would like to make some preliminary observations in connection with this motion. You know, Sir, that when we amended, some years back, when Dr. Katju was the Minister in charge of Home Affairs, the Preventive Detention Act, we had rather long debates in both Houses of Parliament and Dr. Katju

described it as a great debate and in the course of the debate many things were said and the Government gave us an assurance, if I remember aright, that every year a report on the working of the Preventive Detention Act would be placed before both Houses of Parliament which would afford an opportunity to hon. Members to discuss the matter. I think that assurance was kept for two years or so. Every year we got a report and we discussed it. Normally the motion came in the name of the Government so that hon. Members would have a better opportunity of discussing it. In this connection I must mention that we last discussed in this House a similar motion coming from the Government on the 31st May, 1956. Then we discussed the report covering the period 30th September, 1954 to 31st December, 1955 and then 31st December 1955 to 31st March, 1956. In other words, since March, 31, 1956, we have not had an opportunity of discussing these things and our last discussion related to the period ending 31st March, 1956. That is to say, we have not discussed any report on the operation of this Act for about a year and a half and for two and a half years we have not been given an opportunity of discussing any report whatsoever.

Sir, these observations I make because we feel that we have been aggrieved in this matter—I am not speaking for myself—because, here was an assurance which should have been carried out. For the last three or four sessions, I have been bringing in a motion every session but it was not found possible to accept it. But then it was the duty of the Government itself to see that such discussions took place, in the light of the assurance given and on the basis of what they said earlier. I do not see why the Government had been fighting shy of this discussion and even in the matter of publication of the report, there now seems to be a delay. Does it mean that we are no longer interested in how this Act is being operated and does it mean that the assurance

given has lapsed and there is no need for the Government to take any initiative? I think it does not.

Then, Sir, there have been some defaults for which the Government itself is first and foremost answerable. You will see if you go through the proceedings of the old days that these arrangements were made, of annual discussions, in order to enable hon. Members to keep an eye on the operation of the Act and for three other main reasons. Firstly, it would have given us an opportunity of reviewing the operation of the Act; secondly, it would have enabled us to give advice and suggestions to the Government; and thirdly, such discussions naturally acted as a kind of check on those who wanted to abuse this authority because they knew that every year they would be accountable to the House. When such discussions do not take place, those who are bent upon abusing these powers understand that they have nothing to fear and Parliament would not be seized of the matter and they could get on as they liked. Therefore, Sir, it acts to the detriment of the citizens and it acts to the advantage of those people who believe in the abuse of authority and powers under the Preventive Detention Act and I think it puts Parliament into some disrepute because here was an assurance given to the Members of Parliament—they were told in the form of an assurance from the Government and in fact they discussed such reports earlier and now they do not get the opportunity to discuss these reports and when the Government do not keep its assurance, we, naturally, get upset about it. For that the Members of Parliament are not to blame, the blame must be entirely shared, exclusively, by the Government and it must be laid at the door of the Home Ministry.

Now we have got a report. It is an old report, that is to say, it covers the period up to 31st December, 1958—and we are ending the year 1959, we are now at the end of the year. One year is blank and we do not

know exactly what happened, we do not find a report for that year although we know that many arrests have taken place under the Preventive Detention Act. For example, in Bengal 20 MLAs and MLCs were arrested the other day when the food movement was on under the Preventive Detention Act. We know all these things but we do not have any report on such happenings.

Sir, let me analyse this report that we have got before us. I would not tire the House with bulky material that I am in possession of. I would only, by way of illustration, refer to certain charge-sheets that were issued during this particular period. If you see the report you will find that in the list the number of arrests are not many but there are certain instances where arrests took place on political grounds in that period. For instance, in West Bengal you will find certain arrests took place—from the report you would not find the nature of the charges against the people. No doubt on page 8 certain reasons were given. There the report says that so many arrests were made: 19 C.P.I., 20 P.S.P., 2 B.P.I. (probably Bolshevik Party of India), 1 R.C.P.I., 3 R.S.P., 1 R.S.S., and 1 Jan Sangh—these are given party-wise. Then there are others also mentioned, goondas and so on. We are not put in that category so far; it is a relief to us. But I say members belonging to political parties had been arrested; only we do not get any information. I do not know why these 19 members of the C.P.I., 20 members of the P.S.P. and so on were put under detention under the Preventive Detention Act. I find a very esteemed friend of ours, Diwan Chaman Lall, is looking through his papers and we will no doubt hear him. I am referring to page 8. You will see that we do not get any information. I think a little more information is called for. Hon. Members may have many doubts as to why these arrests took place because nothing is given there. For that I do not blame hon. Members, because

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they were not given the required information. I think, Sir, more facts should be given, especially when members of political parties are arrested. That is not done now. I have a complaint on that score against the Government and I think in future more care should be taken.

Now I would tell you what happened in that period. Need I tell you that in the 1957-58 period, the period under review, there was a food movement in West Bengal? Every year we have it, a kind of food movement but we have a very peaceful movement—I do not say that in a peaceful movement no non-peaceful act takes place but that is done by outsiders. These movements are conducted peacefully in the form of *satyagraha* or hunger march and so on. One movement like this took place during that period. Certainly such movements do not threaten a breakdown of law and order and public security. That is to say, they do not really come within the mischief of the Preventive Detention Act in so far as they do not endanger public security at all. There is the ordinary law under which these movements can be dealt with. Sir, in connection with this movement in West Bengal, the Preventive Detention Act was used. I made some personal enquiries as to whether the Act was used properly. I went to Maldah, where also this Act was used against some people, members belonging to our party and, I think, others also. Sir, I managed to get hold of a charge-sheet and there you will find what charge is there. It is against one Sukhendu Roy Chowdhury. In the charge-sheet itself it is said that this was something connected with the food movement and many other things are said, and then it is said that he attended a secret meeting of the Communist Party and so on. I do not say that such things are not said. Then there is another case, namely, that of Sri Sachika Prosad Roy. It was the same case in Malda connected with this

food movement. The charge-sheet was dated 11-4-1958. It said:

"Sri Sachika Prosad Roy.

You, along with others went to Bulbulchandi, Malda Gajol and Bamungola Police Station areas, District Malda to organise the refugees and the peasants and bring them to Englishbazar town on 28-4-56."

It is a bazaar which is called by that name.

"... during the visit of Sm. Renuka Ray ..."

She is now in the other House.

"... the then Minister, Government of West Bengal, for participation in a black flag demonstration and for representing their various grievances before the Minister."

This is the matter of the charge.

DIWAN CHAMAN LALL (Punjab): What happened to them afterwards? What happened to this particular individual? Was he released?

SHRI BHUPESH GUPTA: He was detained and later on he was released. Very interesting things happen in our State. We are a very interesting State that way. Punjab also is getting a little interesting these days. Anyway, that is the position. In all fairness, I would not hide from the hon. Member. It says:

"On 23-8-1957 you held a secret meeting at Char Lakshmipur, P/S Malda, urging the local workers to organise public meeting at Gandhinagar hat and Bulbulchandi hat, P. S. Habibpur on 30-8-57 and 4-9-57 respectively to discuss the food situation and organized a hunger-marchers' rally at Englishbazar town, Malda, on 6-9-57 from the rural areas of 'Habibpur.... You also took part in the hunger-marchers' rally on 6-9-57. Your object in doing this, was to organise the rural population for mass action with a view, ultimately, to violate the law."

This was the charge made.

Naturally, the District Magistrate had signed it. I wrote to Pantji about it. I drew his attention to it, saying that the District Magistrate, Mr. Chatterji, must have signed on the dotted line because the District Magistrates, whatever we may or may not say about them, are educated people and as such, such fatuous documents he would not sign, unless he was really under some stress of explicable circumstances, on the dotted line but that is a matter between the District Magistrate and the Police Superintendent. Similar are the other charge-sheets on his followers on the same grounds as those of Mr. Roy's charge-sheet. It is in connection with the same movement. I went there and found that Malda was at that time very much in the lime-light. Anyway, if I were an inhabitant of that place, perhaps I would also have come under the mischief of this thing. Anyway this happened. They were arrested and kept in prison. When the Minister had gone, when things had settled down, they were released. I say it because Diwan Chaman Lall was asking: 'Were they detained for a year?'. They were not detained for one year. Meanwhile I came and wrote to the hon. Home Minister and he was good enough to forward this to the Chief Minister of Bengal and replies were obtained. The technique is like this: Arrest them under the Preventive Detention Act for inconvenience and put them in prison for a while and then release them. The Preventive Detention Act was certainly not meant for that. It shows a frivolous attitude towards the liberty of the people. If a crime is committed, or some law is violated, apprehend him, punish him or put him on trial. Just because a Minister is coming and he or she should not be troubled or embarrassed with demonstrations of black flags, you should not do it. After all black flags are neither fire-arms as we see in Punjab nor revolvers as we see in Delhi. Certainly they are not very dangerous weapons. They only wave in the air at best. It gives discomfort to the hon. Ministers but why these

people should be taken prisoners for that? Somebody can bring another procession to fight it. Yes, red flags you fly or if you do not like that colour, you have some other flags. That settles the matter but that is how they do it. In Calcutta also similarly people are arrested. Here in this connection, about the same year, I will give another example. I am giving it because every matter I placed before the hon. Home Minister and I must say that Pantji was very quick to reply. But his reply was not satisfactory not because he was particularly interested in displeasing me. His replies were not satisfactory to me because when he sent the letter to the State Government, they did not give proper briefing to him. Whatever they said—the Home Department of the State—he passed on to me or he paraphrased them and wrote to me. Naturally I do not hold Pantji personally responsible for it at all. In fact I am grateful to him because he quickly replied. I say this because some Ministers do not reply to letters. Therefore small mercies we must acknowledge whenever we speak. What happened in Metiabridge? There very interesting things took place. You see how these powers are abused. There has been a long-standing dispute between the Garden Reach Textile Workers' Union which is under the A.I.T.U.C. and the management. It is in Calcutta, this Metiabridge area. There you have the Keshoram Cotton Mills, Birla Mills, etc. The dispute may be right or wrong, I am not going into it. Now what happened there? In the beginning they tried to break the union by assaults on the union leaders and there in the chawls you will find that there are a few people for them, that is to say, for our friends, the Birlas. They maintain what is called a kind of private army and they go on assaulting workers. Sometimes the workers will also assault and so it is not an one-way traffic. But naturally they have the advantage, being employers' men. Then what happened? During the November-December 1957, more than 1700 workers were sus-

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 pended and more than 4,000 were laid off with a view to crushing the union. All this happened but the company failed to crush the Union. These intimidations did not work. Then they went to the police and said all kinds of things and somehow or other, the police in that area are sympathetic to them. The Birla Brothers always radiate sympathy for certain quarters and naturally the police there was very very sympathetic to the Birlas. I can understand it.

MR. DEPUTY CHAIRMAN: What have the Birlas to do with it? Do not bring in any names.

SHRI BHUPESH GUPTA: I said 'Birla Brothers'. This union I am talking about. I am not calling Birla by name. I say Birla Brothers, Keshoram Cotton Mills, etc. There are a number of companies there. Then what happened? A number of policemen came and helped the company by detaining the leading office-bearers of the Union. In the year 1948, in the course of a month, four trade union leaders were arrested. They were:

1. Bankey Sing—Assistant Secretary of the Union and a General Council Member of the BPTUC.

2. Harihar Panda—Works Committee member of the Kesoram Cotton Mills elected unanimously, member, General Council BPTUC and the Executive Committee member of Garden Reach Textile Workers' Union.

3. Mohatom Singh—Assistant Secretary of the Garden Reach Textile Workers' Union.

4. Nagina Kahur—Member Executive Committee, Garden Reach Textile Workers' Union.

They were arrested because they are the leading men. I have read out these names and their official position in the Union in order to show that they are elected people, that they are representatives of the workers and

leading a big union in the country. They were arrested and detained. Here also I need not go into the charge-sheet. In that all kinds of things are said, that they instigated the people, this and that. Violent charges are also there. Subsequently four top union men were whisked away to prison under the Preventive Detention Act when other efforts to break that particular union and intimidate the workers had failed. I at once wrote to Pantji about it. He made some enquiries and sent a report, more or less what the charge-sheet contained. The West Bengal Government sent him the brief and he wrote to me accordingly. Then I brought the matter to the attention of the West Bengal Chief Minister as I thought I should write to him. The Chief Minister of West Bengal, Dr. Roy, was good enough—he is very prompt in writing and we are known to each other—and he wrote to me a very good letter addressing me as "My dear Bhupesh". In my letter I had pointed out these four particular cases, the cases of these people and also the fact that they had been put into the category of "goondas" although they were well-established trade-union workers, that they were put in Group A in the jail which corresponds to "Division II prisoners." So Dr. Roy wrote to me like this:

"I have looked into the relevant papers. I find that under rule 4 of the West Bengal Preventive Detention Order, the detaining authorities classified them as Group A prisoners (corresponding to Division II under-trial prisoners) on the ground that they are habitual disturbers of the public peace."

Sir, "habitual disturbers of the public peace" we never heard of before and Dr. Roy seems to have coined a new expression. So I wrote to him another letter saying, "Dr. Roy, you seem to be coining a new phrase" and he wrote to me another interesting letter and so it went on. But where is the provision in the Preventive Detention Act to deal with what is termed

"habitual disturbers of the public peace?" If that were to be a category, then many people would come under that category. The public peace may be disturbed by so many things and in so many ways. That sort of thing is not envisaged by the Preventive Detention Act. So when I got Dr. Roy's letter, I at once wrote to Pandit Pant here drawing his attention to it. But he said, "What can I do about it? This is the reply of the West Bengal Government." So this is how things have been going on.

Naturally I mentioned West Bengal because hon. Members are not necessarily unsympathetic to West Bengal. I am sure Diwan Chaman Lall is not unsympathetic to West Bengal, because many of his old colleagues are there. Today it may be that unfortunately Calcutta is more under the influence of a particular party, my party. But that does not mean that everything is lost there for them, for the Congress Party has got its hold there. Everyone feels that this measure is being unnecessarily used in order to tide over a situation, just to tide over a situation. It becomes very easy. The District Magistrate or the Commissioner orders that they should be put in jail and it is done. You see this time Mr. Jyoti Basu, the recognised Leader of the Opposition—who is supposed to get Rs. 1,250 as salary though we do not take any extra salary but are content with what we originally were paid—talked about these things to Dr. Roy and Dr. Roy said, "You see, I must arrest you. I know you will not break the peace and all that sort of thing. But you have to be arrested. I will put you there first". And then after some people have been arrested and when the movement has been stopped, they are all released, and this is done with a view to suppressing the movement. The leaders are taken away, these trade-unionists and others. It works havoc. Peasant workers, MLAs, MLCs and others were all being arrested in tens. Warrants were issued, some 200 or 300 of them.

Although all were not arrested, a large number went to jail. This is the position. And afterwards they were released. Remember, even before the movement was started, there were all the declarations, that the movement would be peaceful and so on. Still this is how it is done year after year. This is going on in West Bengal and I suppose in certain other places also.

At the same time, Sir, you will remember that when hoarding was going on in West Bengal on a large-scale and when there was profiteering going on on a large-scale in food, we pointed out that the Preventive Detention Act could be used because there was provision in it about essential supplies. But nothing was done. When we start a movement, they say that essential supplies are stopped, they are supposed to be held up. But when hoarding goes on all the year round, nothing happens and nobody is arrested. Well, they are great people, good people. Some of them are waiting for titles to be given to them. They are great people. So no one is arrested. This is how it happens. Therefore, what I say is that this measure is used against the Opposition with a view to crushing legitimate political and trade-union activities and movements, most peaceful movements. If it were a case of non-peaceful movements, a case of violent movements, I would not have sought to raise these things here, because I know that the Preventive Detention Act could be used against them as the law stood, whether we liked it or not. But these were peaceful movements, legitimate trade union activities. Still these things happen.

Sometimes, you see, it is not also used. That day on the 14th we had a general strike by the jute workers, the greatest strike in 22 years when hundred per cent. of the workers struck work. There was no use of the Preventive Detention Act and everything was peaceful. In the case of legitimate movements you should not use the Preventive Detention Act.

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In this connection let me mention what we did in Kerala? In the year 1957-58, there was not one case under this Act there. We did not arrest anyone under the Preventive Detention Act. Neither in the year 1958. We discussed the matter. The subject-matter came up because people were talking about it and the Government there decided and we the Central leaders of the Party and those of the local Party all decided not to use it. Let the MSP be killed in the streets. The ordinary law will take care of it. Sir, friends advised us, "Why not use the Preventive Detention Act?" Some of those people, not Communists, but their advisers, legal advisers, said so. I may tell you, the Chief Minister of Bengal said to Mr. Jyoti Basu that he was not going to be like Mr. E. M. S. Namboodiripad and not arrest him under the Preventive Detention Act. This action of the Kerala Chief Minister became something laughable to the West Bengal Chief Minister. This is how things appear. But we have not used it and you will agree, whatever you may say against us, that if ever there was a justification for invoking the provisions of the Preventive Detention Act, Kerala offered that justification. There was this justification in that period that is under review. Everything was said and done, threat, violence and so on. Still not one arrest was made. Therefore, we have displayed to the world that sometimes a government can stand up to its professions. We in Kerala carried out what the Government had preached, what the leaders of the Congress had preached in the old days, including Diwan Chaman Lall and others who had failed. In this connection, Sir, I would like to refer to what Mr. P. R. Das, an eminent jurist of not only Calcutta, but of India said. And Diwan Chaman Lall knows him very well because, though from Bengal, he was practising in Patna. He says this:

"I have always held and still hold that preventive detention is repugnant to the elementary conception of democracy. It is remarkable that preventive detention has been provided by our Constitution in the same chapter which deals with the Fundamental Rights. The British invented preventive detention for consolidation of their empire and the Congress Government is following in the footsteps of the British."

And then he refers to a passage between Herbert Morrison and Churchill and so on and points out how people had been detained and then released according to the orders of the British statesmen, after the war. So this is the view that he takes in this matter. He has made this statement and he makes statements because he thinks it is not necessary and this Act should not be used and the ordinary law would be enough to deal with such things. Therefore, almost all the eminent lawyers have expressed themselves against this measure. Public opinion is also against it. It is also clear from the list in this Report itself that not very many instances are there. Therefore, the situation in India is such that even without the Preventive Detention Act you could manage. Still this is kept alive on the Statute Book and it is being used against certain movements and in certain places to deal with Opposition movements, peaceful movements and mass actions of peasants, workers peaceful mass action, in order to even prevent these legitimate movements from coming into operation. That is the position today, and we in West 3 P.M. Bengal have been the greatest victims of it, 'we' means not only the Communist Party but all the other parties have also had their share. In one case the I.N.T.U.C. people were also arrested and, therefore, it is not just a question of party. Naturally we come under fire in Calcutta more than the other parties but it does not mean that the other parties escape; the Congress Party, of course, does es-

cape but one or two of the I.N.T.U.C people came in. I find that the Home Ministry is not represented here. Oh, I find our Lady friend is here but she holds the welfare portfolio, not Preventive Detention, as far as I can understand. Anyway, we placed these things before the hon. Minister but he is helpless. He cannot do anything. We have placed very many facts before him, cases not involving violence, and recently I placed before the hon. Minister the case of Mr. Gopal Acharya. He has been a political worker from the year 1924 or 1925. He was seized in the streets of Calcutta by some plain-clothes men who pounced upon him and took him away in a taxi to the *thana*. When he was shouting, the plain-clothes men said that he was a goonda. He is a very respectable person, a big trade union leader, and this is what happened in his case. This matter was brought to his notice and an explanation was given to me and the hon. Minister was good enough to send a copy of the explanation given by the West Bengal Government. Therefore, Sir, I want the Home Ministry to go into some cases at least, cases involving political workers. The Ministry should look into these charges. They should not leave it to me to forward copies of charge-sheets. They can ask the State Governments to send the charge-sheets and they can themselves look into this matter as well to see what happens. If something happens to members of our Party, we can tell them, but nothing of this kind is done. The State Governments have got an absolutely free run in this matter whereas the Central Government is responsible for answering in the course of a discussion like this. Government have not taken any initiative at all and the Home Ministry, at least that particular section of the Home Ministry which deals with this aspect has failed and failed miserably. It has failed in not initiating discussions, in not producing reports and in leaving everything in the hands of the State Governments. It

only gets reports from the State and the result is that people are suffering. Liberty has been jeopardised and we have been subjected to attacks in very many places and this Act still operates as something very debunked against the interests of the citizens and in suppression of the legitimate rights and grievances. It has become a weapon for some over-zealous police Ministers in the States who want to put people in jail whenever they get an opportunity. I thought that they would learn from the Kerala example but Dr. Roy, the Chief Minister of West Bengal, drew exactly the opposite lesson. He thinks that Mr. Namboodiripad by not using the Preventive Detention Act had proved that it should be used by him against Mr. Jyoti Basu and others. Well, it may be his logic but Parliament should take care and should display more vigilance and consideration in regard to this matter.

The question was proposed.

SHRI J. N. KAUSHAL (Punjab): Mr. Deputy Chairman, Mr. Bhupesh Gupta has made a grievance, to start with, that the Report which has been placed on the Table of the House, and regarding which he has tabled this motion, has not been initiated into a debate by the Government. He further says that the Government has thereby broken a promise given when the life of the Preventive Detention Act was extended last. Well, if I remember rightly, the assurance which the Government gave was this that it would try to place before Parliament an annual report on the working of the Act, and I do feel that the Government has stood by that assurance. Government has been trying to place the annual reports on the Table of the House. Now, this Report is also more or less an annual report although the actual period covered is about fifteen months. My submission is that the information which Government has to collect is mainly from the various States and, as the report itself shows, most cases

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of detention have arisen in the various States of the Union. Therefore, collecting that information and then trying to classify that information and putting it in a tabular form takes some time. I do not, therefore, think that any legitimate grievance can be made of it.

The other point which my hon. friend has tried to make is this: He has argued that by reading the report an impression is gained that the Preventive Detention Act is being worked against the Opposition Parties and in order to crush legitimate movements. My submission to the House is that we are discussing a report based on statistics. My hon. friend himself has admitted that the statistics show that not very many arrests had been made. For the period under discussion, running over fifteen months, in all two hundred men were detained all over the country, and my hon. friend himself admits that the number is not very large, looking to the period and looking to the size of the country.

SHRI BHUPESH GUPTA: Compared to the old days.

SHRI J. N. KAUSHAL: Therefore, this argument that this Act is being resorted to for purposes of crushing some legitimate movements and for the purpose of putting behind bars people in large numbers has no basis. This is just a slogan which is always raised whenever the Preventive Detention Act is discussed in this House. It is also well-known that whenever the Preventive Detention Act is discussed, this sort of allegation is made always and my submission to the House is that facts do not justify this allegation. On the other hand, the sparing use to which this Act is put by the various States of the Union shows that no indiscriminate use is made. In fact, the very small number of detentions which take place goes to prove indubitably that resort is had to this measure only in exceptional cases, and this Act is on the Statute Book only for that purpose. The various

sections of this Act, if you would kindly examine them, would show that this Act is only to be resorted to—and in fact is resorted to—for the purpose of safeguarding the security of India or for the maintenance of public order. Now, my hon. friend says that large numbers of arrests are made under the garb of public order being in jeopardy. Well, Sir, all of us know that if movements are violent, then the mischief that flows from those violent movements is much more than the mischief which flows from detaining those few persons who preach violence. Now, my friend has tried to place before the House—if I have been able to understand him correctly—two cases where he has tried to show that the charges which were given there were frivolous or, according to him, they were only meant for the purpose of crushing a particular movement. My submission to the House is that it is not fair on our part to take out one item of a charge-sheet and then try to convince the House that this particular item was the sole criterion or the sole basis for detaining that particular person. My friend was good enough to say that all sorts of other things were also contained in the charge-sheet but he took one particular head of a charge out of its context and then he tried to show that it was for that purpose that this Act was resorted to. I would say that this is not a proper way of trying to condemn the detaining authority, unless we know what the entire charge-sheet was and whether in that charge-sheet the allegation of threat to public peace or the allegation of violent activity involving threat or danger to the State formed part of the charges. My friend also stated that as soon as a particular case was brought to the notice of the Minister, the Minister at once rectified the mistake. And my friend tried to evolve a principle. He said that it generally happened that people were first put behind the bars and then they were released. My submission again to the House is that this principle also does not stand the test

of scrutiny. If that were so, then we should expect a large number of arrests. Now, the Table gives us all the arrests that were made and also tells us when those people were released. Therefore to try to show that people were arrested and then later on let out and by that argument to suggest that this Act is resorted to in a large number of cases is not the correct way of looking at it.

Then my friend knows that there are advisory boards; then there are High Courts and the Supreme Court. As soon as any person is detained, people can go to the advisory boards or to the High Courts through a writ of *Habeas Corpus*. The Supreme Court can also be moved direct without even going to the High Court. And as we all know, the courts are very zealous and they never permit any abuse of this particular type of legislation. Our friends must have known by now that these advisory boards give relief whenever they feel that the particular object of the Act is not being accomplished because those advisory boards are being presided over either by judges of the High Court or by retired judges of the High Court. Therefore the allegation of my friend that this Act is being abused is, with all respect to him, without any basis.

The other point that was raised by my friend was that we should not have this Act at all on the Statute Book of the country and he tried to invoke to his aid the view of Mr. P. R. Das. My submission is that this point is a little beside the discussion which is for the moment before the House. The life of the Act was extended by Parliament in its wisdom two years back and at that time all these matters were taken into consideration. Now, theoretically everybody would agree that it is the normal law of the country which should be resorted to for dealing with normal situations but whenever this question of the retention of the Preventive Detention Act has come before the House, the House has always

taken into consideration whether there is any need in the country for retaining this particular legislation and the Parliament in its wisdom always has felt the need that this law should exist although Parliament has always expressed a desire that this should be used sparingly and only when the ordinary remedy under the law cannot prevent the mischief which is sought to be prevented by resort to this Act. It will be remembered that last time when the life of this Act was extended, all the States were of this view that there was need for retaining this Act except one State, probably the State of Kerala. As my friend himself said that all the States had unanimously given the view that there was need for retaining this Act and my submission is that if we scan the figures which have been given in the Report which has been supplied to us, it is very obvious that although use has been made of this particular legislation, the use has been very sparing.

Another argument employed by my friend was that if we arrested only a few people under this Act, then why not abolish it? Sir, it is a strange type of argument. At one place he says that the Act is being abused and at another place he says that since the Act is used only sparingly, we should not have it on the Statute Book. There seems to be absolute lack of logic in the two arguments. The fundamental fact is that things in our country have not come to that normal situation where we can always prevent the mischief by having resort to the ordinary criminal law of the land. Statements have been made time and again that there are particular types of situations which cannot be met by the ordinary law of the land and I think every Member can feel in the light of his own experience that there are situations which arise when we feel that Act should be resorted to, otherwise the mischief would be much larger and the law courts will come in at a very late stage when the mischief would have been done, when the life and property of peaceful citizens

[Shri J. N. Kaushal.]

would actually have been put in jeopardy. The only consideration to be taken into account is whether the liberty of the individual is more sacred than the liberty of a number of persons, than a threat to the security of the State and my submission to the House is that nobody can quarrel with the proposition that individual liberty, of course, has to give way in the face of liberty of a large number of people. My friend suggests that peaceful movements are the right of a democratic opposition; nobody can quarrel with that proposition. But the point is, if this Act had been used to curb peaceful opposition, we should have had thousands and thousands of arrests under this Act. There could not have been only 200 arrests in a period of 15 months all over the country. Sir, we all know that whenever there are violent movements, usually those movements result in much damage to public property and danger to the innocent people, to the peaceful citizens of the country. Therefore whenever the State Governments are satisfied that a particular movement is one which has the potentiality of becoming a violent movement, that people preach violence, then only the State Governments step in and my submission is that it is a very legitimate occasion when the Preventive Detention Act should be employed, because if you do not resort to that Act, probably the danger and the mischief would be greater.

Now, my friend was trying to quote the example of Kerala and he was also giving the opinion of the Chief Minister of West Bengal. Again I do not know how that argument benefits him. He said that whatever happened, the Communist Government in Kerala decided that they would not make use of this Act although this weapon was open to the State in order to see that mischief-mongers and miscreants were not allowed to break the law. If any State fails to maintain law and order, well, I do not know how that State can claim any credit for that. Sir, my submission is that if any Government knows that it can curb the mischief by

making use of this Preventive Detention Act but still does not make use of it, then that State has not behaved in a very meritorious manner; on the other hand they have failed to discharge the duty which society has charged them with, because the one fundamental duty of every State is to maintain law and order. If any State fails to maintain law and order, that State cannot claim that they have behaved very well or they have tried to serve the citizens of the particular State for whose welfare they were made the custodians.

Now, there are situations, as I said, when everybody feels that efforts should be made to take advantage of this Act. I want to bring to the notice of the House that in PEPSU at one stage law and order had completely broken down. The dacoits were there. As we all know, when the terror of the dacoits is such that it becomes the order of the day, no person comes forward to give evidence against them in a court of law. Can anybody suggest that if evidence is not available, the dacoits should not be brought to book, or if peaceful citizens are so fearful of coming to the witness box, the State should sit with folded hands and allow these dacoits to continue? I should say that very good use was made of this Act in our part of the country. People who supplied ration, who supplied ammunition, who gave protection to the dacoits, and those persons against whom it was established to the satisfaction of the State that those persons preached violence, that they committed robberies, they committed dacoities, if they were detained, can anybody come forward and say that it is not a proper use of the Act? On the other hand, my submission is that there are instances where the ordinary law of the land is helpless to give that redress which a peaceful citizen expects from law. The only legitimate grievance which anybody can make is whether this Act is being put to proper use or not. The only charge which my hon. friend tried to bring to the House was that this Act was being used to crush political opposition. But that I would say

is only a slogan and it has not been substantiated by the facts and figures which have been supplied to us. Now, one figure I gave to the House, that it was only 200 people who were detained. And then at the end of the year 1958, the Report states, only 72 persons were in actual detention. Now, the House will agree that it is a very, very small figure as compared to the various types of evil-minded persons who go about and whose object is to profess violence, to preach violence, and who do not make any secret of it that they will not hesitate to use all methods, including violence, to achieve their objects.

Therefore, I submit to the House that this Act has not at all been misused and the States and the detaining authorities cannot be blamed for making sparing use of this Act. On the other hand, we feel that Parliament was justified when they extended the life of this Act and the States have also given ample justification that they have not misused the trust which Parliament reposed in them. Thank you.

SHRI P. T. LEUVA (Bombay): Mr. Deputy Chairman, the very fact that Members of the Opposition do not seem to be interested in the debate today amply proves that this measure has not been utilised for the purpose of crushing opposition and today the tenor and tone of the speech of my hon. friend, Mr. Bhupesh Gupta, has, really speaking, given me hope that with the existence of this measure for some time more to come, more sobriety will come to him.

SHRI BHUPESH GUPTA: Shall I change the tone next time?

SHRI P. T. LEUVA: He has failed to bring out any instance before the House whereby it can be stated that the provisions of this Act have been misused against any person.

Mr. Bhupesh Gupta claimed credit for Kerala. He stated that the Government of Kerala did not utilise the provisions of this Act when the conditions in the State demanded the use

of it. Well, Sir, his own assertion, his own admission, shows that there can be conditions in the country where the provisions of a law of this nature require to be utilised. But he took credit for Kerala that the Kerala Government did not utilise it and the Chief Minister of West Bengal utilised it. We must remember one thing. The Preventive Detention Act has to be utilised according to the procedure laid down under the Act. If you want to follow the law, then only you can utilise the stringent provisions, the restraining provisions of the present Act. That is for those persons who believe in the rule of law. The history of the Communist regime in Kerala is too fresh in the minds of hon. Members, is too fresh in the minds of the people. I need not remind them of what happened in Kerala. Do they believe in detaining people and that too according to law? When they have got other measures, other methods to crush opposition, why should they utilise a weaker instrument for the purpose of crushing opposition? They do not believe in detention. They believe in liquidation. And that is the phraseology with which they are familiar. Had preventive detention been utilised in Kerala, the law courts would have come in, the Advisory Board would have come in, and all the odium that might attach to the passing of an order, which might be due to an error of judgement on the part of any single individual, would have to be faced by the Government in power. If there are acts done by isolated individuals in a concerted manner in order to crush down the party in power, the Government in power, it does not get the odium and it does not get discredited. If you utilise the provisions of the Preventive Detention Act, you let yourself exposed to various risks, various types of allegations against you that the Preventive Detention Act is being utilised for the purpose of crushing opposition. If the statistics is carefully studied, you will find that members of political parties only in one State were arrested and detained under the provisions of this Act. I

[Shri P. T. Leuva.] believe that the activities of the Communist Party are not only confined to the State of West Bengal. I hope and believe that they have units in every part of the country. How is it that, if this Government wanted to crush opposition, wanted to crush the Communist Party of India, the members of the Communist Party in other parts of the country were not arrested under the Preventive Detention Act?

Then, the question arises: Why were they arrested in West Bengal? Again, my hon. friend has provided the answer that every year there is a food agitation. Why? Not because there is scarcity of food scarcity of distribution, or there is hoarding, but it is because the Communist Party wants to have an annual function, wants to have annually a week for the purpose of strengthening its own power and popularity in the State that they start this food agitation.

SHRI P. D. HIMATSINGKA (West Bengal): Not annually, every month.

SHRI P. T. LEUVA: He said last year. I will accept the correction which has been suggested by my hon. friend, Mr. Himatsingka, naturally because he is a citizen of Calcutta. He knows it much better. Now, Sir, after the food agitation every year, if the people are arrested, are we to assume that the persons were arrested for the purpose of crushing opposition? He says that the agitation and movement were peaceful, that legitimate trade union activities were being crushed. I do not know what he means by peaceful agitation? According to him, they are agitations and movements in which the Communist Party participates. We know what type of peacefulness is observed in those movements and agitations. If burning of trams and buses and if setting fire to public property, are to be classified as peaceful activities, certainly we will have to differ from my hon. friend, Mr. Bhupesh Gupta. He has given only one instance regarding trade union activities, and that too

only from Bengal. Is not the Communist Party carrying on trade union activities in other parts of the country? How is it that there is only one State in this country where the Communist Party is being crushed? In spite of the fact that very few instances have been quoted by him where the Act had been utilised, he comes to this solemn conclusion that the Preventive Detention Act has been utilised, has been enacted for the purpose of crushing opposition. Sir, I wish he makes a deeper study of the actions of the Government, and let him try in a dispassionate and in a disinterested manner to fathom the intentions of the Government.

When the Government brought this measure before the House, it was with the sole intention, with the sole motive that the security of this country must be maintained at all costs and that, if we want to have progress, there must be peace. Now, Sir, with this intention, with this motive, this Act is being implemented. After all this Act is shortly coming to an end. The life of the Act is only up to December 1960. The past does not show that we have in any manner misused the provisions of the Act. It may be that in isolated cases there have been cases of injustice. But it happens always in every human institution that errors of judgment are bound to create cases of injustice. But it does not prove that, because through an error of judgment some abuse has crept in, the utility of the present Act is no longer there. This Act is meant to be applied against those who are trying to disturb public peace and order.

My hon. friend was amused when Dr. B. C. Roy coined the phrase "disturber of public peace". Sir, public peace is a well-known term, and Mr. Bhupesh Gupta must know best who a disturber of public peace is. If a person is habitually disturbing peace and if he is not to be arrested and detained under the provisions of this Act, who else should be arrested and detained? I hope, Sir, that with this measure and the manner in which it

is being implemented, peace and tranquillity will reign in this country, and that we will be in a position to achieve greater progress.

DIWAN CHAMAN LALL: Sir, I have not the slightest doubt in my mind that hon. Members who oppose the continuance of a measure of this nature have every right to raise their voice. It horrifies me that we should be under the compulsion today to use this extraordinary legislation, and I have not the slightest doubt in my mind, led as we are by the Prime Minister of India, Mr. Nehru, that the time will come very soon when such an extraordinary legislation limiting the liberties of our people will no longer be on the Statute Book. I have no doubt that there are methods by means of which gradually we can replace the severity of this measure of even the leniency of this measure by the institution of proper trials. The difference between action under this particular measure, which is an exceptional thing as far as our fundamental rights are concerned and the ordinary procedure is this. It is the executive that judges in the case of this particular measure, whereas under ordinary legislation it is the executive's action that is judged. That is the difference, and therefore it is necessary that we should gradually approximate the situation created in this extraordinary manner in this country to the situation which prevails under the ordinary rule of law. I do not think that there is any one in this House who would in the slightest manner hesitate to agree with this general proposition.

No doubt, at the present moment, there is a certain amount of fear amidst us that there are certain activities by certain groups and certain individuals of this country which can only be countered, in order to preserve law and order, by the use of this extraordinary measure. That, I take it, is the sole reason for the existence of this measure on the Statute Book. That is the sole reason for the exercise of the authority that my learned friend sitting over there

exercises under the provisions of this law against certain people who are otherwise guaranteed their fundamental rights under the Constitution. What should we do? Let us have a look at this particular document to which my friend, Mr. Bhupesh Gupta, referred. What do we find? My friend, Mr. Leuva, said and somebody said here on the floor of the House just now that there are about 200 people in all who have been dealt with under this measure. Considering the population of our country, that does not seem to be a very large number, nor does it bear out the charge that vindictiveness has been exercised by the Government against any political party. I find, Sir, in this document, if you will turn to page 8, that there are 65 persons who were detained for goondaism in West Bengal, out of whom I am very happy to find that only 14 persons belong to my hon. friend's party. There are 3 R.S.P. people. And 59 persons were detained for violent activities out of whom I do not find one single member of my hon. friend's party. I can understand the representatives of other parties like the P.S.P., who have 20 people detained because of their violent activities, objecting to it, but surely not one single member do I find belonging to my hon. friend's party, which shows that the situation has undoubtedly improved.

What then is the position today. Now, if you will examine the Annexure to Statement XI on page 8, you will find that 64 people were arrested and detained for indulging in violent activities and/or preaching violence, 80 for goondaism, 12 for communal activities, 5 for espionage, and 21 for harbouring of dacoits; total 182. Now, my learned friend, Mr. Bhupesh Gupta, will agree that it is absolutely necessary and essential to condemn the activities of those people who have been detained under these various categories. I grant it that one has to prove and establish the fact that they were really guilty of these things and not guilty of

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something else. If it is true, as my learned friend said just now, that there are cases known in which the activity of a labour leader is being interfered with under this law, then I have not the slightest doubt that my learned friend, the Minister, and the Deputy Minister sitting behind him will see to it that there is no cause given to the labour movement in this country which is a very important movement, which has to grow into a very strong movement, that such action is being contemplated merely on the ground that they happen to be members of a trade union organisation. I do not think that this can be the only reason, although my learned friend, from what he read out, seems to bear out the fact that, because they were indulging or going to indulge in an agitation either against a Minister visiting a particular area or for some other reason, this Act was made use of against those persons. Well, these are cases to be examined. After all under the law, as it stands, these cases go to an Advisory Board and I notice that in many cases, it is the State itself which is acting. Let me take the case of West Bengal. Fifty-three of the detenus were released by this Government *suo motu*, of their own accord. Thirteen were released because of the recommendations of the Advisory Boards and only two were released as a result of appeals to the High Court and to the Supreme Court, which shows that both the administration and the Advisory Board are fully cognisant of the necessity of seeing that justice is done. Wherever the Government or the Advisory Board is informed of the inadequacy of the grounds under which these people have been detained, action is taken both by the Government and the Advisory Board. That is something to congratulate the Government on. It is not something to condemn the Government with. At the same time, as I started by saying, we must gradually evolve a procedure under which action can be taken under the ordinary law and this particular exceptional

measure is then put away as something of historic importance and no longer to be utilised in the civilised days in which we live. For instance, take the question of espionage. Why should not the Government contemplate the bringing, on the floor of this House, of a Bill which will make it easier from the point of view both of evidence and of the forum under which a suspected case of espionage is to be tried, bring in a measure which will make it easy for them to take action under the law as such and prevent them from taking action under this measure. It is easy enough to do so if only my hon. friend would take the necessary trouble to find out ways and means of tackling this particular situation under the law. Take again the case of goondaism. My learned friends have defined what a dowry is. Should it be very difficult for them to define what a goonda is? After all, when all is said and done, in Bombay we have had a Goonda Act. Why not take from the purview of this extraordinary legislation whatever you can take out of it as early as possible and bring it within the purview of the ordinary law of the land? Therefore, my suggestion to my hon. friend is not to rest on his oars. He has tried to humanise action under this exceptional legislation. Let him go a step forward and make such action regular under the law so that the taint that attaches to this extraordinary legislation, which limits and abridges the fundamental liberties of our people granted to them under the Constitution, is avoided and action henceforth taken under the ordinary law. If there are any cases about which my learned friend, Mr. Bhupesh Gupta, the Leader of the Opposition—I am sorry to say that he is the unpaid Leader of the Opposition unlike his colleague in West Bengal—complains, I have not the slightest doubt that my learned friend sitting on my left will pay immediate attention to those cases. It is his duty to pay immediate attention to them, because nothing, Sir, is more sacred to us under this Constitution than the liberty of the individual; nothing is more sacred than the rule of law and any violation—very

flagrant it might be or a light one it might be—of these two principles is something to be regretted, something to be sorry about. Therefore, I do suggest that my learned friend may gradually bring the various activities which are taken notice of under this particular measure within the purview of the ordinary law.

Take again the question of harbouring dacoits. It is only, I believe, a question of evidence. You find that you have not got sufficient evidence under the procedures known to us under the law and therefore you resort to this particular measure. Well, make the procedure easier for yourself. Nobody would object to giving you more powers in order to capture those who harbour dacoits when you think that you have not got sufficient evidence as contemplated under the Indian Evidence Act. Therefore, bring in a summary procedure and make it easier for you to function, so that you can do exactly the same thing under the ordinary law rather than resort to this exceptional legislation.

Then again, Sir, take the question of violent activities or indulging in violence. Surely, it should be the easiest thing in the world for my hon. friend to take action against those individuals or groups or organisations which indulge in violent activities or which direct their attention to acts of violence. Therefore, in all such matters from espionage down to goondaism, from goondaism down to violent activity or harbouring of dacoits, it is necessary for us . . .

SHRI BHUPESH GUPTA: May I draw the hon. Member's attention to the fact that in Madhya Pradesh there have been very few arrests—five or six—it seems? I believe that is a habitat of quite a large number of dacoits. They are harboured there.

DIWAN CHAMAN LALL: Well, on the other hand, there is not one single arrest in West Bengal. There are eight arrests for harbouring dacoits in Madhya Pradesh, but not one in West Bengal. My hon. friend ought to

congratulate himself. He is now not extending his activities in that particular quarter, nor his party or any other party is extending its activities in that particular quarter.

The question is not that. The question to which my learned friend wishes to draw my attention is this, that Madhya Pradesh is the home of dacoits and why have there not been more arrests? Now, surely, that goes against his own argument. He does not want to use this measure at all. I do not know if he wants to use this measure there as such. But he cannot blow hot and cold and on the one side suggest that there have not been enough arrests in Madhya Pradesh . . .

SHRI BHUPESH GUPTA: I understand you are a very intelligent person. All that I say is only this that the Government is not interested in using it against others; they are interested in using it against the trade-unionists. Well, you draw your own conclusions.

DIWAN CHAMAN LALL: I follow what my hon. friend means. What he is trying to prove is that the Government is not using this particular measure for the legitimate purposes for which it should be used, but it is using it against the trade-union leaders. Well, surely, his answer to that is this, that if you go through the entire list here, you will find espionage there, you will find goondaism there, you will find violent activity there, you will find communal agitation there, but you will not find a single case of the type that my learned friend has referred to. He did cite two examples, and I have suggested that my learned friend may examine those two cases. And I am very glad to say that in all these cases the people were released. But if there is any misuse of this measure against the trade-union movement, I, standing here, Sir, make a strong protest, as the Leader of the Opposition does, against the use of such a measure against the trade-union movement. That is not the objective; it is not the objective of this measure to kill,

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 destory, maim or hinder the growth of trade-unionism in this country. That is not the objective. The objective must have been something else, namely, prevention of the utilisation by certain leaders of this movement by their activities for the purpose of fomenting violence or for violent activity. That may be so. I do not know the details of these cases, but I am quite sure that, by and large, it is not for this particular purpose that this measure has been utilised, and I do hope that my learned friend will agree with me that the time has come when we should seriously think of bringing within the purview of the Indian Penal Code and the criminal law of this land, all these various items for which people have been arrested and against whom action has been taken under the Preventive Detention Act. And I do hope that my learned friend here will agree with me that nothing is really as distasteful as the utilisation of these extraordinary powers against the people of our country. No matter whether it is only a single case, the matter of principle remains that we should not utilise this extraordinary measure in order to infringe the liberty of our people.

THE DEPUTY MINISTER OF HOME AFFAIRS (SHRIMATI VIOLET ALVA): Mr. Deputy Chairman, the very fact that Mr. Bhupesh Gupta had no support this afternoon shows that he could not lend substance to his arguments.

SHRI BHUPESH GUPTA: I saw a supporter.

SHRIMATI VIOLET ALVA: Sir, this afternoon he began by saying that the reports had not come in time. I think the reports have been regularly placed before the House; it may be not on the date as he would like it. But then it is a fact that when we are collecting data from the different States, it sometimes takes time and we are often late by a few months. Nevertheless we are discussing today the Report of 1957-58, and for the Report of this year

the date would be 31st of December, 1959. Mr. Bhupesh Gupta showed anxiety that the Report of this year also should have been placed before him, but it would be advisable for Mr. Bhupesh Gupta to wait till the Report comes.

As Diwan Chaman Lall has said, this is a distasteful measure; I mean all feel that preventive detention should not be there, and this Bill has got one more year of life. But, if the security of the country is the paramount concern of us all, then certainly we still need the Preventive Detention Act, we are not over-using it, nor are the different States over-using this Act. It is very obvious, but Mr. Bhupesh Gupta has of course, here and there, pulled out a charge-sheet out of its context. As has been already seen, he is in possession of the charge-sheets; I have not got them. At the same time he said that every time he referred to the Home Minister, the Home Minister took prompt action, called for information or asked the States to look into the cases. There is no element of vindictiveness when this Act is operated, and that is true from the last Report, as has been already cited by one or two speakers. There had been only 200 cases, only 200 persons had been detained during the months beginning from the 1st October, 1957, to the end of December, 1958. Only 56 were such as were known to have owed allegiance to one or the other political parties. I think this should convince Mr. Bhupesh Gupta that there is no element of vindictiveness. Sir, 144 persons did not belong to any political party. Mr. Bhupesh Gupta will find by a simple process of arithmetic, by a simple addition and subtraction, that the Communist Party is not at all concerned in that figure, nor does the State want to do it. If trade unionism is made a cover by Mr. Bhupesh Gupta and his party in that city of processions, then certainly the State must intervene, and if trade unionism is made a cover for endangering anyone or endangering

the security of a place for the time being, then certainly those concerned can be taken in under the Preventive Detention Act. Again, as already stated by the various speakers who sit here, all cases of persons under this Act go to the Advisory Board and then, without any element of vindictiveness, so many persons are again released; it is not that they are kept there all the time. It is the fundamental duty of the State, Sir, that against those who do acts which are prejudicial to peace and law and order action should be taken, and when this Bill was debated in the other House and this House, and when it was sent round to the States, the reasons were made very plain, that the Act would be useful in dealing with subversive elements, espionage activities, outbursts of violence, on account of many reasons, maybe out of linguistic or religious or other conflicts, or if there are goonda elements indulging in violence. Diwan Chaman Lall rightly said that, if one could lay down a specific definition of "dowry", it should be easy to define goondaism, if there were goonda elements. Then the Act would be useful in checking smuggling of foodgrains, and Mr. Bhupesh Gupta said that food agitation manifested itself in Calcutta city or in West Bengal quite often. He has admitted that. But to what purpose? Is it always food at the back of his mind, or is it something else? Then the Act would be useful to tackle political, communal and labour troubles, and infiltration of undesirables in any State, whether it be from one part of India to another, or from another country into India. For all these things I think preventive detention is still necessary as a useful measure. It has not been over-used in any sense of the term, and figures convince us that there is every hope and confidence that the States are reasonable, that the Government of India is reasonable and that this measure shall never be over-used or used unnecessarily or used merely for vindictive purposes.

Sir, Mr. Bhupesh Gupta mostly cited the cases of West Bengal, he

quoted the textile workers union and then a business firm. I do not think it was right on his part to have gone into these individual cases, because individual cases have been examined, and those who had been wrongfully arrested, Sir, have been released later on. They have not been kept in preventive detention.

Sir, the main object of this Bill, as Mr. Jagannath Kaushal has suggested, is to see that no activity prejudicial to the State goes on in any corner of the country. And we are out to build something out of this country, namely a welfare State. There are individuals or groups or parties, but the complexion of a political party is not taken into account where preventive detention plays its part. Sir, we have to take into consideration that sometimes a restriction has to be placed, and as has been guaranteed in the Constitution even the freedom of an individual has to be restricted for the greater security of the State. Then, Sir, the subject of Preventive Detention may come up again before the two Houses of Parliament before it expires next year. It is only a year more and it will expire in December, 1960. Both the Houses of Parliament, I am sure, will have the opportunity to discuss how far this Act has helped the State and how far it would be necessary, whether any such Bill has to be brought in again to extend its life or it should expire.

I do welcome the suggestion of Diwan Chaman Lall who said that we should so amend our laws that most of these offences—obviously they are offences before they are looked into—fall within the Indian Penal Code itself. Gradually, Sir, it should go under the common law, but I think we still need the special measure. It is true that after an arrest is made, you find there is an error, but if there is the conviction, if there is the fair-play and if there is the willingness on our part to see that the error must be righted immediately—and it has been

[Shrimati Violet Alva]

righted in many cases; they have been released—then I do not see why we should have this lingering fear in our hearts of this measure to make us suggest that immediately the common law should be amended and this should go. I personally feel that there are more evils than the number that are under preventive detention would indicate. We have kept it to the minimum. Each State has kept the number of detenus under the Preventive Detention Act to the minimum, and I do not see that we should run away with any kind of unnecessary fright or fear that it may be over-used or that people may be penalised for nothing or detained without a rightful cause.

The sections of the enactment are very clear. Each section lays down very clearly how a detenu is to be handled and how the Advisory Board has to go into each case. Besides, there are the courts of law, and I do not see why Mr. Bhupesh Gupta, who fights so many causes, could not fight his cause this afternoon. And he had no cause. So he, on the one hand, complimented the Home Minister by saying that he promptly looks into cases; he also said that the Chief Minister of . . .

SHRI BHUPESH GUPTA: He promptly replies to my letters, I said.

SHRIMATI VIOLET ALVA: All right, he promptly replies. But the Home Minister does not end with the replies. I may assure him that whatever comes to the Home Minister, he not only promptly replies but looks into the case to the very end and perhaps satisfies himself as to what the State is doing, whether the action taken is right or wrong.

4 P.M.

Sir, there is nothing more to add except that the mover of the motion, who initiated this debate, has tried

to put the blame on the Government for this measure. This measure is there because it was mooted in Parliament. It has been given a life. Only one more year is left. The reports are coming fairly regularly and a few months more should not worry Mr. Bhupesh Gupta.

Besides, as he himself says, he writes to the Home Minister so often. If there is any case in which he is interested, he writes, he gets his redress or gets a reply. He also gets redress which he is not prepared to admit this afternoon. But the Party to which Mr. Bhupesh Gupta belongs, or the members of that Party, have not been the victims of this unfortunate measure. That he admits. But should he or the members of his Party do anything prejudicial to the State, especially when we are going through this period of transition, and through this period of trial, certainly the Preventive Detention measure shall have to be enforced and it shall have to be enforced in a manner which will bring us results.

With these words, I think I have convinced the mover of the motion that he need not have any fears, and when he is getting his answers promptly and regularly from the Home Minister.

SHRI BHUPESH GUPTA: Mr. Deputy Chairman, I must express my gratitude to our esteemed friend, Diwan Chaman Lallji, because he at least dealt with the question of principle. I never expected that sitting in these Benches he would be supporting it. That was expecting too much even from a good friend for a good cause. But then that is the only difference that remains between him and me. He would like this measure to go and this is a good sentiment which I have to acknowledge, especially when it comes from people who have been fighting against such lawless laws for many many years. I hope that during his tenure in this

House—and I hope that he will continue to be in this House—he would see the annulment of this particular measure.

I was a little distressed to hear my friend, Mr. Kaushal. He talked more like a Police Prosecutor rather than as a politician. He thought that he had to say something in support of the Government and forgot all questions of principles, jurisprudence and various other things, and came out with his own thesis to which we have been just treated.

Mr. Deputy Chairman, I hope I would not be mis-construed. It is not my contention that the Act is being misused as it used to be five or ten years ago, when ten thousand or eight thousand people used to be arrested. That way there has been undoubtedly a progress, and whoever deserves the credit for it must have it; I do not deny it. But then what our friend, Diwan Chaman Lallji has said, is also to be borne in mind. It is a bad law, an extraordinary measure which, even if it is used against one person, is something which should not be passed over in indifference or silence.

I would not have quoted it, but that is exactly what Mr. P. R. Dass also said in this connection. He said:

“Sir Winston said in his celebrated letter that personal liberty was the test of civilisation. If you apply that test to India, our Government is not a civilised Government at all.”

Shri Dass said this after alluding to Churchill-Morrison action to release all detenus. This is how judicial minds view this matter. Therefore, I think that it is impossible.

Now, Sir, it is said that the complaint has been that it is used to crush the Communist Party. I never said that. I said you are using it to

crush a particular legitimate movement. Here Diwan Chaman Lallji particularly mentioned about the General Secretary of the B.P.T.U.C. and one of the Secretaries of the All-India Trade Union Congress. The gentleman was arrested under the Preventive Detention Act. He is a friend of ours. He was in Cambridge, a very decent man. He was arrested under the Preventive Detention Act, put in jail for some time and then released. Such things are being done. I am not quoting many examples. There is no point in giving some charge-sheet. I read out something. That should not be done. Various other gentlemen, like Dr. Ramen Sen, a stalwart in this trade union movement, had been arrested under this Act. Mr. Jyoti Basu is always under the fear. Whenever there is any movement, we always advise him to go underground because he will be invariably picked up.

SHRI AMOLAKH CHAND (Uttar Pradesh): Why do you people suspect that he will be arrested?

SHRI BHUPESH GUPTA: He is told, “I will arrest you first.” Dr. B. C. Roy is very frank. I must say. This time he escaped. He went underground. He came out only after the movement. No doubt a warrant was issued against him. So, that is not liked. In a Parliamentary institution, a Leader of the Opposition functions. Here is a recognised Leader of the Opposition for whom a Bill had to be passed. They passed it. Dr. Roy passed it. But whenever he gets a chance he picks him up. He will say: “I will keep you there for some time and then let you off.”

MR. DEPUTY CHAIRMAN: That is mutual understanding.

SHRI BHUPESH GUPTA: I do not know that it is mutual; otherwise he would not have gone underground. I hope it is not a mutual understanding. I will tell Mr. Jyoti Basu that you enquired about the mutual understanding.

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Mr. J. N. Kaushal accused us of not using the Preventive Detention Act against the Kerala Pradesh Congress leaders and others. Well, Sir, this is our lot. When we do a thing, we are accused that we did a thing. When we do not do a thing, we are accused that we are not doing it. It is a very interesting experience. I will tell Mr. M. S. Namboodiripad when I meet him shortly that he was being accused of not using the Preventive Detention Act against the Congress leaders of Kerala, Mr. Shankar and others. I do not think that he is going to take his advice even in future if he becomes the Chief Minister. But I will convey it.

Then, Sir, if it is said that the measure is not used, it shows that the justification for retaining it does not exist. Then why disgrace the Statute Book with a measure of this kind? Matters should be handled in the ordinary way, under the ordinary law. Even overzealous Police Ministers in the States do not find it necessary to use it in some cases. Therefore, why keep it? From the point of view of principle this is a matter for the Home Ministry to consider, and in that context, naturally Diwan Chaman Lall's advice would be taken note of. I am not blowing hot and cold. Only I am showing the position, because an assurance was given that if the conditions became such that it was not necessary, they would withdraw it. Well, the conditions have come to such a point, even according to your own showing, that it should be withdrawn.

Then the plea of using it against goondas, Trade Union people are treated as goondas. They are not goondas. I know all of them. They are good Trade Union workers except that some of them are born in working classes. They are as respectable as anybody else. The working class is respectable to us and respectable to anybody. They should not be called goondas. But then they did not put any goondas inside the jails lest things should be found out. Many of them

are members of the Communist Party. They are well-known trade union leaders. Therefore, I mentioned this thing. If you just feel he is a goonda, put him in that category. Then Mr. Jyoti Basu will perhaps one day be put in that category, goonda. You need the Preventive Detention Act for some thing else, for dacoits, for smugglers. In Punjab—everybody knows—how many smugglers, by the way, have been arrested, I would like to know. There are many people, big people, in smuggling trade, not arrested, I do not see why, and for that hon. Members should make enquiries from the proper quarters as to why they are not using this Act there. As for myself, I do not want to use it against smugglers. Smuggling can be tackled under the ordinary law. But since you are interested in keeping it alive, you can as well make enquiries as to why they are not using it there.

Now, Sir, about vindictiveness. I am not accusing the Central Government of vindictiveness. I made that very clear and please do not try to confuse it. Whenever I give credit, do not try to overstress it. I said that Pantji very promptly replied to my letter—I did not say he took prompt action, looked into it. Well, she says that she knows about it. Well, it is a matter between her and the Home Minister and, so to say, it is an internal affair of the Home Ministry. Therefore, I leave it at that. As far as I am concerned, I have got the reply but it has given me no remedy or relief.

Sir, Diwan Chaman Lall made another point. You see so many people had been released or were let out *suo motu*. But, Sir, this is an automatic process: Arrests are made, for seven weeks you keep them and then release them *suo motu*. He is an intelligent person but he wants to make a point in favour of the State Government. But it is not like that. The arrests are made with a view to preventing a particular legitimate peaceful movement and for seven weeks they can keep them without going before the

Advisory Board and just before the time for going to the Advisory Board, they release them, and then arrest some other people. Like that it goes on. Well, Sir, as far as our State is concerned, it is going on in a bad way, rather in a big way. That is what I would like to point out.

Then our friend referred to the food agitation in Calcutta and described Calcutta as the city of processions. Well, she like literature. Panditji also likes literature and when the Prime Minister described Calcutta as the city of processions, how can she do without describing it as the city of processions? But then she seemed to know only of the visible outward legitimate processions of the people but she did not seem to know of the processions that took place in the Civil Supplies Department—there it was the procession of hoarders and profiteers, who wanted to run away with our money, with our things. Arrest them if you like, if you are so minded. Sir, I would invite her to come to Calcutta and if she likes, I would take her to the Free School Street, to the compound of the Civil Supplies Department and the Food Department and she will see rather long processions of pot-bellied people, rich people. She might perhaps like those processions.

Food agitation, yes. We have food agitation every year, because food scarcity is there. It was said there was no scarcity and the price was normal. But how? Even Dr. B. C. Roy says our shortage was about 8 to 9 lakh tons a year and the price rose to Rs. 40. Therefore, we do not see how the price was normal and there was no scarcity and if such a situation continues, there will be agitation. Then, Sir, we know that in the Betterment Levy agitation the State Government used the Preventive Detention Act and indiscriminate arrests were made and even a warrant was issued against the Communist Party Secretary, Comrade Surjeet, but he just evaded arrest for a while. There-

fore, do not say that agitation should not take place and our friend was right when he said that legitimate trade union movement should not be interfered with. Now that is being done in some cases. We have got trade union movements everywhere. Somebody said why not bring examples from elsewhere? Well, Sir, I am not expected to go about the places to find out this information and I do not want to force examples. But why should it take place even in one place or against one single trade union? That is the question that the Minister must answer but no answer is given. Mr. Datar is soft to me today and I do not know, why. He has taken kindly to me and, therefore, he has not delivered a speech today. Otherwise, he would have given a formidable answer perhaps! But note, Sir, they are not acting in the same way. I say in Calcutta, an important trade union centre, this is being done against the food movement, this is being done against the teachers' movement, this is being done against the students' movement, this is being done against the refugee movement, and this is being done whenever the Minister—the Police Minister—feels that he should tackle the situation in this manner. Sir, this is our objection. I hope hon. Members would consider the position that I have explained. I have given the position as far as I could from my own experience.

Shri Leuva said that I had made a mild speech today, perhaps, because of the existence of the Preventive Detention Act. Well, Sir, do I understand that the Preventive Detention Act, is there even to intimidate me in the matter of making speeches here? Otherwise, why did he say this? I can tell him that Preventive Detention Act or no Preventive Detention Act, I shall continue to give my views and make my speeches as I like. I have been through the Preventive Detention Act under the British regime, I have been through the Preventive Detention Act under the

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present regime and I am ready for the game again, if you so desire.

Sir, I have given the position about the operation of this Act in some of the States and I think I have made a concrete proposal to the hon. Home Minister and the Home Ministry that they should look into each and every individual case, go into it, go into the charge-sheets and other relevant materials, secret police reports and other things—we do not have these materials and we can only have a copy of the charge-sheet at the most, but they can have the relevant materials—and if they have any reason to believe that something might have gone wrong somewhere, they should look into it. If there is anything concerning my party, they can consult me and if there is anything wrong, I can point it out. At the moment they are not doing anything to find out whether a charge is right or wrong. I think some such thing should be done. Now, when I say that I would bring these things to the notice of the Home Minister, people say: "What is the use of writing to him? Two of our members, leading Members of Parliament, cannot do anything." When they write to the Minister, all that they get from the Minister is a summary of the notes that the Ministry had got the charge-sheets. That is their complaint. Therefore, Sir, I think that the Home Ministry should give directions from time to time and now that these cases had been brought to their notice, they might be utilised.

As for the Goonda Act, Diwan Chaman Lall mentioned about it. In Calcutta we have got a Goonda Act. In Calcutta we had a great goonda called Meena Peshwari but for him the Preventive Detention Act was not necessary. It became necessary when the terrorist movement was started. Meena Peshwari had not been dealt with under the Preventive Detention Act at all, but in

Calcutta they have got such an Act on the Statute Book but they do not use it; they use the Preventive Detention Act but against whom? Mostly against political workers and trade union workers and so on. In Orissa also the Act was used but always to reduce the number of the Opposition—they put some people in jail so that the number is reduced. Sir, it is not a very proper way of functioning parliamentary institutions because by this way you develop a side-line of this kind of preventive detention organisation and so on. Six or seven MLAs belonging to the PSP and others were detained under this Act when the Ministry there was facing a no-confidence motion. The Ministry in the State did it when it faced a no-confidence motion—they did it because they could keep people under detention for six to seven weeks without going to the Advisory Board and that too when Assembly was in session. The members were released later on. Sir, this is horse trading in politics. I think this kind of thing should not be done.

Sir, lastly, the Kerala affair. We have not used it. I am not justifying the Act but I said that if ever there was an occasion for invoking this measure, as it stands today, Kerala offered such an occasion. But we never used it because we listened to what people like Diwan Chaman Lall and others said for twenty-five years. We had undergone coercion and functioned under severe conditions and circumstances. I remember Shri Motilal Nehru and many other people. They had suffered, we had suffered, but this Act was not there. Sir, I say that one should think ten times before taking recourse to such a lawless legislation, black measure, as the Preventive Detention Act is. That is what we did. I do not know whether we did the right thing or the wrong thing. We think that we did the right thing by not taking recourse to it. If Mr. Kaushal is sorry for it, I am sorry for him; that is the position. In regard to the Kerala example,

I will tell you. Every time I was asked here when Mr. Katju was speaking from that side: 'Would you have done it?' We said: 'We shall not use it'. By chance we got an opportunity for 28 months in a particular State in India. Some of our people were in the Ministry, our colleagues were there and they never used it. Therefore we proved by example what we had preached on the floor of the House even when we were attacked from all sides. The Government was attacked and all kinds of things were indulged in. He said that we believed in liquidation. I can tell you that you have liquidated the Kerala Ministry which was constitutionally elected. We have liquidated none. Therefore do not bring in the accusation of liquidation against us when you liquidated the Constitution. You liquidated on a mass scale, you are a big liquidator that way.

He has gone away—Mr. Leuva has fled after making his speech. That is not the right argument.

I hope this House will discuss it. We would like to hear such speeches. Say whatever you like but discuss it so that at least we get an opportunity of just comparing notes on the subject, giving expression to our views, placing individual cases and other things before each other and also the manner in which it is being used or misused. I submit that at least in some States there is this tendency to abuse the authority in order to conceal some of the misdeeds on the part of the authorities, to suppress the inconvenient movements, which are inconvenient to them. That is how it is being used. There is no other justification whatsoever. Dacoities are going on in Madhya Pradesh. That is why I mentioned it. I have been there. In Madhya Pradesh you say only eight are there under the P.D. Act. If dacoity-harboursing etc., were to be the important considerations for the use of this P.D. Act, at least Mr. Datar should spend three months in

a year in that area with this in his pocket. He does not go to Madhya Pradesh at all. He makes speeches here and then goes round the country. Madhya Pradesh is the place where there is harbouring of dacoits taking place in a large way, with big connections and they are being harboured. Touch some of them, harbour them in your jails and it will be good. You do not do any such thing. Therefore it is only right. Therefore I say that whereas in connection with the food movement . . .

DR. SHRIMATI SEETA PARMANAND (Madhya Pradesh): How do dacoits come under this Act?

SHRI BHUPESH GUPTA: You will find the word 'dacoits' occurring under this Act.

DR. SHRIMATI SEETA PARMANAND: Do these people indulge in dacoities also?

SHRI BHUPESH GUPTA: They are supposed to. You are supporting the Government and still you do not know this? Such a blind supporter of the Government and you do not know the word dacoit occurring here? I am sure that you have not been to Madhya Pradesh recently . . .

DR. SHRIMATI SEETA PARMANAND: I live in Madhya Pradesh.

SHRI BHUPESH GUPTA: But you have found shelter in better places where dacoities are not there. Shrimati Parmanand does not know even that. Therefore I say to the Minister not to keep them ignorant. Through you, Sir, I tell Mr. Datar that he should keep his followers informed of the dacoities and other things. That is the position. It should be done.

You have kept this Act on the Statute Book. It is an insult, a blot on our civilisation, blot on our Constitution, blot on our way of life and it is a constant threat hanging over the heads of all those who believe in peaceful movements of voice.

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ing demands against the Government. Therefore this should be removed. We shall be all looking better without it. We look ugly, at least some of us. More especially in the Treasury Benches, they should feel it. Why should this measure be on the Statute Book? Many lectures we have heard about freedom. Why not revoke this? This is not a sign of freedom at all. I hope the hon. Minister will consider this and every year kindly have a discussion and during next year, in the beginning, I will remind him through a motion of this kind. I will not forget it. But have a discussion and then when it comes to the question of its expiration, do not please come with another Bill for extension of this Act, because I fear that some provocation might be there and you might give that provocation. Let us be out of it, out of this shame altogether and I hope the discussion will have served some purpose at least in this respect. Individual cases I shall pass on to the Ministry for prompt reply, but no action whatsoever!

MESSAGES FROM THE LOK SABHA

I. THE TRIPURA LAND REVENUE AND LAND REFORMS BILL, 1959

II. THE MANIPUR LAND REVENUE AND LAND REFORMS BILL, 1959

SECRETARY: Sir, I have to report to the House the following messages received from the Lok Sabha, signed by the Secretary of the Lok Sabha:—

(I)

"I am directed to inform Rajya Sabha that Lok Sabha, at its sitting held on Tuesday, the 15th December, 1959, adopted the annexed motion in regard to the Tripura Land Revenue and Land Reforms Bill, 1959.

I am to request that the concurrence of Rajya Sabha in the said

motion, and also the names of the members of Rajya Sabha appointed to the Joint Committee, may be communicated to this House.

MOTION

That the Bill to consolidate and amend the law relating to land revenue in the Union territory of Tripura and to provide for the acquisition of estates and for certain other measures of land reform be referred to a Joint Committee of the Houses consisting of 30 members; 20 from this House, namely:—

1. Shri Bangshi Thakur
2. Shri Rungsung Suisa
3. Shri Dharanidhar Basumatari
4. Shri Etikala Madhusudan Rao
5. Shri Ghanshyamlal Oza
6. Shri Bibhuti Mishra
7. Major Raja Bahadur Birendra Bahadur Singh
8. Shri M. Gulam Mohideen
9. Shri Shobha Ram
10. Shri Raja Ram Misra
11. Shri J. B. S. Bist
12. Shri N. B. Maiti
13. Shri H. Siddananjappa
14. Shri Dasaratha Deb
15. Shri Laisram Achaw Singh
16. Shri Pramathanath Banerjee
17. Shri Tridib Kumar Chaudhuri
18. Shri Ram Chandra Majhi
19. Shri Bijaya Chandrasingh Prodhan; and
20. Shri B. N. Datar

and 10 members from Rajya Sabha;

that in order to constitute a sitting of the Joint Committee the quorum shall be one-third of the total number of members of the Joint Committee;

that the Committee shall make a report to this House by the first day of the next session;