

at any time, and they considered it advisable and safer to resort to firing. This is a matter, I am told, in which an enquiry has already been started, and the Punjab Government is looking into the whole matter.

MR. DEPUTY CHAIRMAN: No further questions.

MOTION RE WORKING OF THE
PREVENTIVE DETENTION ACT,
1950—continued.

SHRI B. N. DATAR: Mr. Deputy Chairman, I was pointing out to this House that it need have no misgivings about any excessive use of the provisions of the Preventive Detention Act during the 18 months that remain before the Act ceases to have effect. I may also in this connection, invite the attention of the hon. House to another circumstance. If the two statistical statements are very carefully looked into, it will be found that there are a number of States—a very large number of States, almost more than half the number of States—in which there have been no resort to the provisions of the Preventive Detention Act at all. It is only in the case of a few States where they had to take advantage of the provisions of the Preventive Detention Act for the purpose of preventing certain mischief that has been referred to in Section 3 of the Preventive Detention Act.

Then often-times, an objection is raised that the provisions of the Act are being used against certain political parties or politicians. I would point out again here that the provisions of Section 3 do not make it possible for the Government at all to use it against politicians or any political parties. In this connection, I would invite attention of the hon. House to the statistical information for the year 1954-55 and in particular, to the annexure to Statement 11 on page 15. There, the figures of detention under various clauses of Section 3 of the Preventive Detention Act have been ana-

lysed. You will find that out of 307 persons who have been detained for activities, 106 had been detained for violent activities, including indulging in such activities or preaching violence. Let me kindly be understood. 41 were detained for goondaism. There are certain parts even now where decoits still carrying on their nefarious work and there are others also where similar nefarious acts are being perpetrated and 41 are the cases of goondaism. 111 were in respect of communal activities. Now, wherever there are communal activities and they come within the mischief of Section 3, then naturally, resort has to be taken to the provisions. Then, there were 5 cases of espionage, 8 were ordinary criminal activities which are criminal under the penal law of the land and 36 cases were of harbouring of dacoits. Thus, you would find that so far as actual figures are concerned, if the figures are properly analysed, there can be no ground for supposition or criticism or misrepresentation that the provisions are used against one party or against other parties.

In this connection, I would also invite the attention of the House to a fact which is also very important that during 1950, as also upto May 1956, there were in all nine cases, in respect of which applications for writs or *habeas corpus* had been filed in the high courts or in the Supreme Court. I have got here figures to show that there were in all nine cases in the Supreme Court and all the high courts together. So far as the two cases in the Supreme Court were concerned, the applications were dismissed. So far as the cases in the high courts were concerned, there were in all 7 cases in all the high courts taken together. Out of these 7 cases, 4 applications for writs have been dismissed and only three have been allowed. Three out of nine. That is, you would find that even so far as judicial aspect of the matter is concerned, namely, the taking away of the liberty of certain persons, nine cases were presented before the courts of law, the highest courts of judiciary,

[Shri B. N. Datar.]

and in respect of them, only in three cases were the applications allowed. Under these circumstances, you will find that the provisions have not been abused, that even so far as the judicial appreciation of the actions of the Government were concerned, the occasions were not many. The occasions were only nine and, only in three cases, have the high courts allowed the applications. Therefore, my submission to this hon. House is that the State Governments have been using the powers in a very proper, legitimate and sparing manner.

Then, I would point out that still there are circumstances, there are anti-social parties who are carrying on subversive activities. They have not ceased at all. Then, there are often parties who foment disturbances and labour unrest. We have got the tragic experience of this unrest, as I pointed out in two or three cases, and those three cases are portents of the way in which the wind has been blowing. Unless Government are alert, it is likely that the situation might deteriorate. That is the reason why we are anxious to have this Act on the Statute Book and to use it where necessary. Where it is necessary and unavoidable, it has got to be used, but I would agree that as far as possible, it might not be used where there are circumstances which would show that it should not be used.

Then, there are criminals and goondas who are carrying on their activities and therefore, it is necessary, under the circumstances, to have recourse to the provisions of this Act for the purpose of preventing or at least checking goondaism. Then there are cases of espionage or spies and in any case, we have here persons or associations or parties that are anxious to exploit discontent and to create troubles or foment troubles. If these are the circumstances, and as I have stated, these circumstances are still there, if they are there, then naturally, what all we desire is that

it should remain on the Statute Book and should be used only in the way in which it has been used in the past. Therefore, with these words, I submit that the action that has been taken is proper and there is no reason to fear that any excessive use of the provisions of the Act would be made during the 18 months remaining life of the Preventive Detention Act.

Lastly, before I finish, I shall make a reference to Mr. Gupta's demand that all the notices, or as he said, the charge-sheets, all of them should be produced.....

(Interruption.)

It is entirely wrong on his part to have suggested.....

SHRI BHUPESH GUPTA: Did the Central Ministers review any case? Personally, I placed a number of cases before the Government of India. I would like to know, since you are discussing this matter, whether these cases were reviewed personally by the hon. Minister or the Minister of State. This is an important question. I hope an answer would be given.

SHRI B. N. DATAR: The answer is provided for in the Act itself. There are a number of provisions made in the Act according to which the matter has to be looked into by the highest levels in the States. Within 12 days, if the order is not accepted, then naturally, the order lapses. Within five days, a notice has to be given to the party. Then ultimately, I would also point out that so far as the Advisory Body is concerned, within one month, it has to be placed before it and the advice of the advisory bodies has to be peremptorily accepted. These are the liberal provisions that have been introduced in the amended Act and therefore, there is no reason to suppose that we should have all these applications of charge sheets, as I call. It is impossible.....

SHRI BHUPESH GUPTA: I did not ask that question at all. I know the

provisions in the Bill. Certain processes will have to take place. I only wanted to know from the hon. Minister whether, in view of the fact that certain cases have been brought to their notice, the hon. Minister or the Home Minister himself looked into them, shall we say, by way of sample survey, one or two cases of detenus, what you call political detenus, and if so, what are their views in the matter. This is all that I ask.

MR. DEPUTY CHAIRMAN: Have the Government reviewed any cases, or has the Home Minister?

SHRI B. N. DATAR: For this, the Government of India had no occasion to review in such cases. How can we review the action of the State Governments? The hon. Member will kindly understand that there is no provision for this law according to which it would be open to the Central Government to go into the whole affair.....

SHRI BHUPESH GUPTA: It is not at all.

MR. DEPUTY CHAIRMAN: You will have your say. Don't jump up.

(Interruptions by Shri Bhupesh Gupta)

Order, order. I want you to resume your seat, Mr. Gupta.

SHRI BHUPESH GUPTA: You don't allow us even to ask questions. When others ask questions, you allow. Whenever we get up and ask, you say, 'Sit down'. If you like that the discussion should go on without us, we shall jolly well.....

MR. DEPUTY CHAIRMAN: Order, order.

SHRI BHUPESH GUPTA: We are entitled to seek clarification whether.....

MR. DEPUTY CHAIRMAN: I am putting the Motion to the House.

MR. DEPUTY CHAIRMAN:
Motion moved:

"That the statistical information on the working of the Preventive Detention Act, 1950, during the periods 30th September 1954 to 31st December 1955 and from 31st December 1955 to 31st March 1956, laid on the Table of the Rajya Sabha on the 15th and 26th May, 1956, respectively, be taken into consideration."

There is an amendment standing in the name of Dr. Subbarayan.

DR. P. SUBBARAYAN (Madras):
Sir, I move:

"That at the end of the Motion the following be added, namely:—

'and having considered the same, this House is of opinion that there is ample justification for continuing the Act up to the specified period.'"

I reserve my speech.

MR. DEPUTY CHAIRMAN: The motion and the amendment are before the House. Before we take them up, I have to inform hon. Members that the House will meet tomorrow at ten o'clock and immediately after the question hour, the Constitution (Sixth Amendment) Bill will be taken up and we have to finish all the business tomorrow by six.

SHRI BHUPESH GUPTA: When do we take this up?

MR. DEPUTY CHAIRMAN:
Tomorrow.

SHRI BHUPESH GUPTA: Do we stick to the schedule of time?

MR. DEPUTY CHAIRMAN: Yes.

SHRI SATYAPRIYA BANERJEE (West Bengal): Mr. Deputy Chairman, the subject matter that has been brought before this House by the hon. Home Minister Shri Datar, is not new. Very disagreeably to this House,

[Shri Satyapriya Banerjee.]
 very unfortunately to the nation and very discreditably to the Government of India, we have been lashed round and round this miserable circle of periodical arguments for the last four years. We have looked at it from every point of view. We have considered this question in all its bearings and aspects, and from every angle of vision. But I am constrained to say that we have not yet been able to conquer the obstinacy of the Government. We object to this piece of legislation on grounds of principle, as also of practice. It is wholly wrong in principle, unsound in its conception and too sweeping and too terrible and too dangerous and too comprehensive in its operation. It is mainly directed against the opposition parties, to crush them.

Look at the figures that we have been supplied with. You will come to the very simple conclusion that what I have just now said is true. It is a great menace to public liberty and a serious encroachment on the democratic rights of the people and a standing reproach to the permanent Statute Book. It is a negation of law. I have, to my regret, to lay before a distinguished professor of law, who is now occupying the seat of the Minister for Home Affairs, I mean Shri Datar, a simple definition of law as a common man understands it. What is law? Law is the security of the people. It is the security of the person who governs and the security of the persons governed. It is a guard which protects the governor from becoming a tyrant and the governed from becoming rebels. But this piece of legislation is one that is designed to do just the contrary. It is designed to make the Government a tyrant and the people rebels.

When I recall to my mind the past history of the Congress, of the Congress from its session in 1897, on the issue of the Natu brothers of Bombay who were deported without trial, when this question first came before it, from that very session till the transfer

of power, the Congress, with all the emphasis and sincerity which it commanded in those days, denounced this law as a lawless law and the denunciation was in even stronger terms than what I am doing today. Not only that. Our Prime Minister, Pandit Jawaharlal Nehru, as President of the Indian National Congress at Lucknow, said:

“A Government which ruled with the help of laws like the Bengal Criminal Law (Amendment) Act had no right to exist.”

Sir, if I apply this dictum of the then President of the Congress, to the present Prime Minister of India, I have most unwillingly, but most emphatically and very truly to say that the present Government of India has no right to exist.

Sir, we have been supplied with statistics. I do not know how to describe these statistics. But statistics is a thing which can be used to prove anything in this world, and perhaps for that reason, statistics has been called a third kind of lie, white lies, black lies, and statistical lies. And on that statistics, we are called upon to rely. But even those figures, what do they prove? They give the number of detenus released by the advisory boards. I would ask you to ponder upon these figures very carefully. The number of detenus released by the advisory boards is 137, from 1st October 1954 to 30th September 1955. 8 were released from 1st October 1955 to 30th December 1955 and 32 from the 1st January 1956 to the 31st March 1956. That is to say, 137, plus 8 plus 32 have been released by the advisory boards. What does it prove? It proves that it is due to the over-zealous police officials' vindictiveness against these people that they have been arrested and detained without trial. Otherwise, how could such a large number of people, who had been detained in such a barbarous manner, have been released by the advisory boards? One single instance of the misapplication—and there have

been many—of this legislation is enough to condemn it before the civilised humanity of India.

[THE VICE-CHAIRMAN (SHRI P. S. RAJAGOPAL NAIDU) in the Chair.]

I charge the Government of India with breaking the laws of humanity when they have the temerity, I would say, to enact this piece of legislation and to let the police officers who were responsible for the flagrant abuse of this law without punishment. Have they forgotten the past? I ask them to look back and I do so, because I want them to also look beyond.

Now, Sir, the administration of this law is also very oppressive, very arbitrary. Look at the charge-sheets. I have not with me enough of them. I have only three or four. I won't read everything out of them but I will only read this: "Grounds for detention under sub-section (2) of section 3 of the Preventive Detention Act, 1950 (Act IV of 1950). To Shri Sitam Singh". He is a discharged worker "You are being detained in pursuance of a detention order made under" so and so. What are his charges? "That you instigated militant volunteers of your union, including Rambali Jaswara and Siram Jaswara, to terrorise about 175 porters of the coal berths belonging to the rival unions who did not agree to carry out the go-slow movement in the coal berths according to your directions."

This is all one-sided. It will be said that you have an advisory board. The Advisory Board does justice sometimes, as I have said just now. There is an advisory board. We can appear before it and put the case before the Advisory Board. It is true, but then, these ordinary people, if they desire to have a legal adviser, they are not allowed to do it. If they want to cross-examine the persons on whose evidence they are being charged, they are not allowed to do it. An allegation must be tested by the touchstone of cross-examination before it can be called a fact and acted upon. There,

they deny the right of cross-examination; they deny the right of having a legal adviser to put their case before the Advisory Board—in other words, they are denied justice.

These are the fundamental defects in the matter of administration of this piece of legislation. Sir, one of the greatest figures of the trade union movement of today—I see another great figure of the trade union movement before me, Mr. John of the I.N.T.U.C.—is under detention. He just landed at the airport of Santa Cruz some time back and he was arrested and detained without trial. He is the general secretary of the All-India Trade Union Congress and is even now under detention, but he was released on parole for a few days. This is one instance. He is S.A. Dange and I mention his name because his is a name to conjure with in the trade union world and will be understood by everybody present here. He is a well known figure in the history of the labour movement in the country. I name another ordinary worker of Calcutta Docks, Moinuddin Ahmed. He was arrested and detained without trial. His family of four children was not given sufficient allowance to make their both ends meet, to keep their body and soul together. He resorted to hunger strike. The leaders of Calcutta issued a statement asking the government to concede his reasonable demands, but to no effect. If you have arrested him, detained him without trial, it is your bounden duty to see that his family subsists, that his family does not starve, but this is the way of the present Government of India, which claims to be popular, which claims to be national and which claims to usher in a socialist pattern of society. Is this a foretaste of the socialist pattern of society which is their objective today? I leave Mr. Datar to answer that.

He said Shri Vallabhbhai Patel passed three sleepless nights, when enacting this law. Perhaps he did it for his successors, enacted this piece

[Shri Satyapriya Banerjee.]
of legislation so that his successors may have very sound sleep, and I think, Mr. Datar and also for the matter of that, the Home Minister, Pandit Govind Ballabh Pant, are having very sound sleep these days. Today, it is a curious irony, or a coincidence of fact, that precisely today, when this Preventive Detention Act is being discussed here, Lal Bahadurji, the Railway Minister, came with a statement on Kalka firing. Is it to reinforce the stand taken by Mr. Datar? I pause for a reply.

You have the Preventive Detention Act. Could you prevent all these occurrences? The occurrences lie in the very nature of the society of today. Change that society, and everything will be okay. Don't say that you want to usher in socialist pattern of society and do everything that goes to prove that you want to perpetuate the *status quo*.

One thing Mr. Datar has forgotten. He referred to the fact that, after the Constitution came into force, the Act came into being, but I may tell the House—perhaps the House might have forgotten—that on one single day, everything of the Act, from the first stage to the last stage, including the assent of the President was taken. Was India at that time in such a miserable state? Should that Act have been enacted at all in such an indecent haste? If, Sir, I were the Government, I would certainly have obliterated this statute from the Statute Book of the country. You, who denounced it and condemned it in the past, are now extolling it, exalting it, not for the safety of the people but for the safety of the oppressors of the people, viz., the Government of India.

Sir, I would not take up the time of the House by reading out the charge-sheets. I would only say: Please do not, please for the sake of the people of India, for the sake of peace and good Government of the country, do not proceed with the Act. The Act is fraught with mischief,

fraught with danger to the people. It has violated the principles of democracy and civilisation. There are abuses in the administration of it, which we all condemn, and the situation in the country at the present day does not warrant it.

You, Sir, have given figures. Today it is 160, I mean on the 31st of March 1956—160 men detained out of a population of 360 millions.

It is ridiculous, scandalous, preposterous to have on the Statute Book a legislation which is, as I have already said, a standing reproach to the Statute Book of the country. I would appeal to you not to proceed with it; I would appeal to you to repeal this Act at the first possible opportunity. If you could do that, you would have earned the blessings of Indian humanity; you would have earned the gratitude of posterity; you would have earned the gratitude of your children and children's children. Thank you, Sir. I have done.

THE VICE-CHAIRMAN (SHRI P. S. RAJAGOPAL NAIDU): I am sure, Members are aware that the House will sit till 7 P.M. today.

SHRI GOPIKRISHNA VIJAIVARGIYA (Madhya Bharat): We have other engagements.

SHRI BHUPESH GUPTA: Why should we sit till 7 P.M. today? Tomorrow, we can work till 6 o'clock from 10 A.M. That will give us eight hours, if we forego the lunch hour.

THE VICE-CHAIRMAN (SHRI P. S. RAJAGOPAL NAIDU): Then, shall we sit till 6.30 today?

HON. MEMBERS: No, no.

THE VICE-CHAIRMAN (SHRI P. S. RAJAGOPAL NAIDU): Is it the intention of the House to sit only till 6 P.M. today?

HON. MEMBERS: Yes.

THE VICE-CHAIRMAN (SHRI P. S. RAJAGOPAL NAIDU): We have two hours for the completion of all stages of the Constitution (Amendment) Bill. That means, we will have only five hours left tomorrow for this.

SHRI P. N. SAPRU (Uttar Pradesh): We can start tomorrow even at 9.30.

THE VICE-CHAIRMAN (SHRI P. S. RAJAGOPAL NAIDU): Anyway, the intention of the House seems to be to rise at 6 P.M. today. Mr. Akhtar Husain.

SHRI AKHTAR HUSAIN (Uttar Pradesh): Mr. Vice-Chairman, I have heard with rapt attention the speech delivered by my esteemed colleague, Mr. Banerjee, from the Opposition, and I was all the time wondering why he was using his eloquence for the purpose of advocating the cause of the subversive elements of the country. The speech of my hon. friend created that impression in my mind. I wanted to resist that impression being created in my mind, but the arguments that he put forward led irresistibly to the conclusion that the only people who were likely to benefit by the abrogation, repeal and cancellation of this Act were the subversive elements, because who else is there to apprehend that this Act will be misused.....

SHRI SATYAPRIYA BANERJEE: It has been misused.

SHRI AKHTAR HUSAIN:..... against persons who are not likely to indulge in acts of subversion? Take, the number of persons who were under detention as on 31st December 1955. What percentage does it work out to? It works out to 0.00034. That is what it comes to. My friends will correct me if I am wrong. Having regard to the 36 crores of people in the country, if a mere handful of 123 persons were put under detention during the period 1st October 1955 to.....

SHRI BHUPESH GUPTA: Suppose out of 36 crores of people in India, just now you were to murder me? (Interruptions.)

SHRI AKHTAR HUSAIN: God forbid that this should ever happen

SHRI AKBAR ALI KHAN (Hyderabad): He means intellectual murder; not physical.

SHRI AKHTAR HUSAIN: I would beg of my hon. friends on the other side to kindly consider this matter in a dispassionate manner. If it had been used against a political party or anything of that kind had been done, and if they had given figures, or cited instances, and convinced this House that the provisions of this Act had been misused for the purpose of suppressing the Communist Party, then we would have considered their grievance on the merits. We would have said, "No, this was not the intention when it was passed into law." We would have pleaded with our Home Minister, ourselves and remonstrated with him requesting him to kindly issue directions to the Government of West Bengal not to misuse the provisions of this Bill for the purpose of suppressing legitimate political activities." We would have been with our friends on the other side but they have.....

SHRI BHUPESH GUPTA: Dr. B. C. Roy will die of nervousness if you issue such orders.

SHRI AKHTAR HUSAIN: There is no question of criticising any Government of any State. The passing of this Act was the responsibility of the Union Parliament, but the enforcement is in the hands of the State Governments. If the State Governments, being in charge of law and order, find that certain persons must be proceeded against, then we cannot tell them, we cannot tell the Home Minister to tell the Government of any particular State not to use the provisions of this Act, when they find that the subversive elements cannot otherwise be controlled.

[Shri Akhlar Husain.]

Now, Sir, politics apart, I would beg of my hon. friends on the other side to take into consideration very seriously some typical cases. When real culprits keep out and do not allow themselves to come within the clutches of the law, what is the position? When they are prosecuted for any of the substantive offences they are likely to commit, or which they have committed, they get off on some technical grounds that the evidence is insufficient, or that the evidence is inadmissible, and so on.

SHRI S. MAHANTY (Orissa): And advocates help them.

SHRI AKHTAR HUSAIN: Apart from the advocacy, on merits, experienced judges find it difficult to convict culprits without legal proof, or uphold detention orders passed on insufficient grounds, or based on evidence inadequate to justify an order of detention. Thus, the real subversive elements keep out and do not expose themselves to be caught, or do not allow evidence to be made available against them. There are various such instances where the persons keep outside. They have their agents; they just instigate people. And the real people who instigate others, who advance money to do the instigation, or who incite people to commit acts of subversion—and those who commit these acts are poor people, often pawns in the hands of designing and scheming politicians, or other real enemies of the country—manage to keep out safely. Now, if there is no evidence against such persons and they cannot be proceeded against, but if one of them, who is found to be actually committing or inciting acts of subversion, is put under detention, the people would know that Government would not allow the Constitution to be subverted and the whole situation improves. If the provisions of this Act are utilised against such persons, surely my esteemed friends on the other side would not plead their cause. If there are any case of misuse against their

genuine partymen, there is of course the high court and the Supreme Court to look after them, and protect their interests. But so far as the cases of such persons are concerned who actually commit crimes intended to be prevented by this Act, I hope that the moral sympathy of my friends on the Opposition would be with the Government, if they are prevented from committing dangerous crimes. If they are prosecuted, they would certainly succeed in getting away on technical grounds. What is one to do with such people? What other law is there by which the subversive activities of these people could be stopped?

My learned friends will take another example. When examinations are held at some places, in order to tell the examinees the answers to the questions, people use loudspeakers to tell the examinees the answers to the questions. That is subversion against the education department. There is no provision in the law under which we can proceed against such people.

THE VICE-CHAIRMAN (SHRI P. S. RAJAGOPAL NAIDU): Will you take more time?

SHRI AKHTAR HUSAIN: Yes, Sir.

THE VICE-CHAIRMAN (SHRI P. S. RAJAGOPAL NAIDU): You can continue tomorrow.

There are two messages.

MESSAGES FROM THE LOK SABHA

I. THE REPRESENTATION OF THE PEOPLE (SECOND AMENDMENT) BILL, 1956

II. THE MANIPUR STATE HILL PEOPLES (ADMINISTRATION) REGULATION (AMENDMENT) BILL, 1954.

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