

Sarwate, Shri V. S.  
 Savitry Devi Nigam, Shrimati.  
 Seeta Parmanand, Dr. Shrimati.  
 Sekhar, Shri N. C.  
 Shah, Shri M. C.  
 Shah, Shri Manharlal Mansukhlal.  
 Shakoor, Shri N. Abdul.  
 Sharda Bhargava, Shrimati.  
 Sharma, Shri B. B.  
 Sharma, Shri Purna Chandra.  
 Shetty, Shri Basappa.  
 Shrimali, Dr. K. L.  
 Singh, Dr. Anup.  
 Singh, Capt. Awadhesh Pratap.  
 Singh, Thakur Bhanu Pratap.  
 Singh, Sardar Budh.  
 Singh, Babu Gopinath.  
 Singh, Shri Jaswant.  
 Singh, Shri Ram Kripal.  
 Singh, Sardar Swaran.  
 Singh, Sardar Zail.  
 Singh, Shri Vijay.  
 Sinha, Shri B. K. P.  
 Sinha, Shri R. B.  
 Sinha, Shri Rajendra Pratap.  
 Subbarayan, Dr. P.  
 Sumat Prasad, Shri.  
 Sur, Shri M. M.  
 Surendra Ram, Shri V. M.  
 Suryanarayana, Shri K.  
 Tamta, Shri R. P.  
 Tankha, Pandit S. S. N.  
 Tayyebulla, Maulana M.  
 Thanhlira, Shri R.  
 Tumpalliwar, Shri M. D.  
 Valiulla, Shri M.  
 Vallabharao, Shri J. V. K.  
 Variava, Dr. D. H.  
 Varma, Shri C. L.  
 Venkata Narayana, Shri Pydah.  
 Venkataraman, Shri S.  
 Venkataramana, Shri V.  
 Vijaivargiya, Shri Gopikrishna.  
 Violet Alva, Shrimati.  
 Wadia, Prof. A. R.  
 Warerkar, Shri B. V. (Mama)

Wilson, Shri T. J. M.

Yashoda Reddy, Shrimati.

NOES—Nil.

MR. DEPUTY CHAIRMAN: The motion is adopted by a majority of the total membership of the House and by a majority of not less than two-thirds of the Members present and voting.

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

MR. DEPUTY CHAIRMAN: We now take up the further consideration of the motion on the working of the Preventive Detention Act. Mr. Akhtar Husain may resume his speech.

SHRI AKHTAR HUSAIN (Uttar Pradesh): Mr. Deputy Chairman, yesterday, when the House rose for the day, I was trying to explain the difficulty of proceeding against people who indulge in subversive activities in such a manner as to make it impossible for any evidence to be available against them and the only way in which they could be deterred from pursuing their criminal acts was to have some sort of an enactment which would enable the long arm of the law to reach them.

SHRI H. P. SAKSENA (Uttar Pradesh): It is not an enactment, Sir.

SHRI AKHTAR HUSAIN: I do not know why my hon. and esteemed and very learned and senior and elderly friend should have tried to correct me in a matter like this. We are discussing the Preventive Detention Act and my learned friend should not have interrupted me like this.

However, Sir, the submission that I was trying to make was that unless we have some provision which would enable the authorities to keep in control people who pull the wires from outside, it would not be possible for

[Shri Akhtar Husain.]  
 efficiency in administration to be maintained at the high standard and the high level at which it should be maintained in order to enable our nascent democracy.....

SHRI BHUPESH GUPTA (West Bengal): I do not see any hon. Minister of the Home Ministry.

MR. DEPUTY CHAIRMAN: Government is represented.

SHRI BHUPESH GUPTA: I know the Government is represented by a very well known person and I can quite see. But I think that, when we are discussing the operation of a particular Act, an Act like the Preventive Detention Act, which deals with very great details in some respects.....

MR. DEPUTY CHAIRMAN: He is walking in.

SHRI BHUPESH GUPTA: I see he is walking in. If he wants that his motion should be passed, he should be present in the House.

THE MINISTER IN THE MINISTRY OF HOME AFFAIRS (SHRI B. N. DATAR): The doors were closed when I was coming.

SHRI BHUPESH GUPTA: We are feeling your absence.

SHRI AKBAR ALI KHAN (Hyderabad): But the Government was represented.

DR. R. P. DUBE (Madhya Pradesh): The doors were closed; what could he do?

SHRI BHUPESH GUPTA: You have thrown the doors wide open for such laws.

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

SHRI AKHTAR HUSAIN: I was trying to plead with my esteemed colleagues on the side opposite, the

importance of maintaining peace and order and of enabling our nascent democracy, which is only about nine years old, to progress and to proceed in an orderly fashion so that we may be able to make up for the lost time in gaining economic independence, in enabling the common man to shake off his poverty and in enabling us, both sides, Communists, Congress, everybody, to combine and wage the war against poverty and raise the standard of living of our people.

These are difficult days and we thought that the best way of carrying on this war against poverty was to have peaceful conditions. Now, in order to secure that peaceful conditions shall prevail it is absolutely essential that subversive activities should not be allowed to be indulged in, and the only way in which we can put a stop to these subversive activities is to deter people, prevent them, keep them under control and make it impossible for them to carry on their illegal and unlawful activities. It is for this reason that an enactment of this kind is essential, and having said yesterday that the Act had not been proved to have been actually misused there is no harm in allowing it to run its course. If conditions improve in the meantime, then surely the Government would take appropriate steps to see that people are not proceeded against under this enactment because it will not be necessary and when it is not necessary we would not, only for purposes of causing harassment, proceed against anybody under this particular enactment.

Now, Sir you will be pleased to find from the Statement circulated to us by the Government relating to the period between the 30th September 1955 and 31st December 1955 that only ten persons were kept in detention with a view to preventing persons from acting in any manner prejudicial to the defence of India, the relations of India with foreign powers, or the security of India. Now, Sir, is it the contention of my friends on the side opposite—I wish to understand very

clearly—that we should repeal this Act, do away with it so that these people may not be proceeded against? Surely my friends cannot have any grievance against this particular enactment to the extent to which it enables the Government of the day to proceed against these ten persons who were kept in detention at the time.

Then, there is this Statement III also at page 3. There the number of people is very small; it is a very small number. Now the total number is 177, but they were people who were detained “with a view to preventing persons from acting in any manner prejudicial to the security of the State or the maintenance of public order.” Now, Sir, if public order has to be maintained, surely it is the common effort of both this side and of my esteemed colleagues on the other side that public order should be maintained in a proper fashion, then acts prejudicial to the security of the State must be prevented and the people who are detained, unless it is shown that the proceedings against them were manifestly wrong, must have been deemed to have been detained on adequate grounds to prevent acts prejudicial to the security of the State.

Now, we find at page 4 that four persons were detained in my State of Uttar Pradesh. Now the population there is 66 millions, six crores and sixty lakhs. Out of those only four persons were detained, and my learned friends will say that this Act is being misused. I do not think that will be a justifiable conclusion, but the fact is that out of these four, one was a real criminal and the other three were students of young age and immature understanding, who seem to have been misled by some kind of propaganda carried on to mislead them, to deflect them from their studies and to divert their attention to subversive activities, which was not at all right because, if students of immature minds and immature understanding are drawn towards such activities, then those people will not only act in a manner which would show their immaturity of

mind and immaturity of understanding but also cause loss to themselves and bring the political parities to which they belong into disrepute.

Now, Sir, I won't mention any other State, but in Statement IV which purports to give a list of those persons who were detained “with a view to preventing persons from acting in any manner prejudicial to the maintenance of supplies and services essential to the community” we find that not a single person is shown to have been detained. No occasion had arisen and therefore this measure had not been employed at all. That mere fact that this Act continues to remain on the Statute Book does not show that its provisions are being utilised for the purpose of detaining innocent persons. That should be no ground for repealing it.

Sir, one word about this Statement No. V on page 5 which relates to persons who were detained with a view to regulating a foreigner's continued presence in India or with a view to making arrangements for his expulsion from India. And you will be pleased to find, Sir, that there is not a single person detained under this head. But suppose we find that a person from Pakistan, for instance, comes here and he wants to create disturbances in our country, to act as an enemy agent and carry on acts of espionage, why should we not detain him till extradition and proceed against him under the Act? If we repeal this Act, under what other provisions of law can we proceed against him? While my learned friends insist that this enactment should be repealed, they should also suggest some alternatives which could be placed on the Statute Book to replace this enactment so that the persons whom this Act purports to deal with could be dealt with. I hope that I have now said enough to convince the critics of this measure that the continuance of this Act is essential.

There is one more word I have got to say. Sir, we have the support of the people and the country in the con-

[Shri Akhtar Husain.]  
 tinuance of this measure and it is not opposed by the people of our country. The reason why I say so is this. I have had the privilege of addressing you and this House on previous occasions also on this measure and my views are very well known that I support the continuance of this measure. And recently I had the privilege of offering myself for election and I hope my learned friends opposite will believe me that when I offered myself for re-election to this august House, not a single follower of my friend opposite came forward to oppose me and the reason why no follower of my friend opposed me.....

SHRI BHUPESH GUPTA: Which was the constituency?

SHRI AKHTAR HUSAIN: ....was not that they wanted to fight another day or they thought that discretion was better part of valour, but because they thought that my support of this measure was in the best interests of the country and that was why I was allowed to come back unopposed and claim here and make political capital out of this fact. Here, before you, Sir, is a person who has been pressing for the continuance of this Act and yet when he offered himself for re-election he was not opposed by anyone. And that shows that the views I have been putting forward have been generally accepted by the people. Now, I am prepared to yield to him, Sir.

THE VICE-CHAIRMAN (SHRI P. S. RAJAGOPAL NAIDU): Have you finished?

SHRI AKHTAR HUSAIN: I thought the Leader of the Opposition wanted to say something.

THE VICE-CHAIRMAN (SHRI P. S. RAJAGOPAL NAIDU): That was an unnecessary interruption.

SHRI AKHTAR HUSAIN: Therefore I submit that when I claim that this is a measure which should be

continued my claim is based on the authority of the people who have sent me here to this House unopposed and that is in the name of six crores of people.

SHRI ABHIMANYU RATH (Orissa): Mr. Vice-Chairman, it is a matter of deep regret to me that my first speech in this House should have been on this highly controversial matter.

THE VICE-CHAIRMAN (SHRI P. S. RAJAGOPAL NAIDU): You had yourself chosen to speak on this motion.

SHRI ABHIMANYU RATH: Sir, yesterday the hon. Minister while moving the motion stated that the late Sardar Patel of revered memory had passed three sleepless nights before putting this measure on the Statute Book. But you know, Sir, that sleeplessness causes distorted thinking and perhaps if he had had good sleep this measure would never have been enacted. Sir, it is said that power is like opium. In the beginning people take opium for temporary relief in their old age and infirm conditions but later on it forms itself into a drug habit. So, whatever might have been the conditions that justified the passing of this measure in 1950, today in 1956 those conditions do not exist but still this measure continues to remain on the Statute Book.

Yesterday, the hon. Minister congratulated himself on the fact that the number of persons detained under the Preventive Detention Act was on the decrease. From 10,062 in 1950 it had come down to 325 in 1955. This only shows that this measure is considered to be of less use to control the situation. For instance, in Orissa this measure is not in force. In the Orissa Assembly we opposed this measure so vehemently that the Orissa Government did not enact a measure like this. But the present Government in Orissa is taking recourse to section 107 I.P.C. and other provisions without serving "show cause" notice under section 112. Its effect is by and large that of the Pre-

ventive Detention Act. I therefore do not consider it necessary to continue this blessed measure any longer. It is highly deplorable that this Preventive Detention Act should be used to conceal the Government's inefficiency and for prosecuting persons without definite charges.

In Lok Sabha yesterday the hon. Minister claimed that there was no single instance where this measure had been misused. I can give an instance. An Adivasi named Biramaji of Bastar Jagdalpur was charged under section 506 but the police could not prove the charges against him. He was granted bail but soon after bail was granted to him, he was put behind the bars under the Preventive Detention Act. This is one instance. Then I was myself a victim of it. In 1951 just a few months before the elections I had a scuffle with the Congress Party on the open road and the police took me under Preventive Detention and I was produced before the Orissa Tribunal where His Lordship Justice Mitra was in the Chair. His Lordship put a question to me: "Well, Rath, do you know the grounds of your arrest?" I was startled and I said that the Gandhi-capped, Khadi-clad blackmarketing patriotism was the reason. He laughed and released me. No sooner had I come out from the jail gates than I was again arrested under sections 147, 148 and 149. So when there are definite provisions to arrest a person, why should this Preventive Detention Act continue to exist in our country? This measure is not only reprehensible but is repugnant to the very sense of justice and in no other democratic country is there such a measure.

In the other House the hon. Minister quoted some instances in America and other places but in those countries you find people who break the peace and tranquillity of the country but here the majority of the people of our country are illiterate and they never take the law in their own hands. Of course, without knowing what they are doing, they sometimes

get into situations and start disturbance and create disorder in their locality but for such cases if the police put them behind the bars under the Preventive Detention Act, then it shows that our police has given overwhelming power in their hands. In our free country our police themselves by habit are criminals and if they are reinforced with such wide powers, a lot of disturbance will be created by the police themselves. Besides, the hon. Minister, Mr. Datar, just 2 P.M. quoted that the Congress Government is only nine years old, but still there are Chanakya Sastras. There is a saying:

“लालयेत् पंचवर्षाणि दशवर्षाणि ताडयेत् ।  
प्राप्ते तु षोडशे वर्षे पुत्रं मित्रवदाचरेत् ॥”

“लालयेत् पंचवर्षाणि” पांच साल तक चुपचाप रहना पड़ेगा । पांच साल के बाद कांग्रेस अनुभव में छोटी नहीं है । कांग्रेस में जो आदमी है, जो मिनिस्टर हैं, वे छोटे नहीं हैं । वे कुछ दिमाग लेकर बैठे हैं । वे नौ साल के छोकरे नहीं कहे जायेंगे । उन लोगों को ताड़ना चाहिये ।

By 'ताड़ना' I do not mean lathi and bamboo should be used. But the Congress Government is not going to tolerate the opposition and it does not like that the opposition should come into existence. This was what they wanted. The safety of the Congress Party should not be equated with the safety of the country. I, therefore, submit that this measure should be withdrawn forthwith.

SHRI JASPAT ROY KAPOOR (Uttar Pradesh): Mr. Vice-Chairman, I support the motion which is before the House for consideration, more particularly the amendment which has been moved by Dr. Subbarayan. This measure comes before us for our consideration periodically every year unlike any other measure and we have, therefore, the fullest opportunity to see how this measure is being

[Shri Jaspat Roy Kapoor.] implemented by the Government. We are provided with definite statistics on the subject to show as to how this measure is being worked. And the figures that have been given to us go to prove that this measure has been resorted to by the Government very sparingly and only in very few cases. My grievance rather is that this measure has not been utilised by the Government to the extent to which it should have been utilised. I do not propose to quote the figures which have been given in the various Statements supplied to us and which have been referred to by the previous speakers, particularly by Mr. Akhtar Husain. They are there before us to convince anybody who is open to conviction that in this large country with so many cases of violence appearing from day to day—with violence almost around us more particularly in the recent past—if under these circumstances the number of detained persons is so very small, it goes to the credit of the Government. But according to my point of view it goes to a little discredit of the Government that they should not have taken stern measures to curb this violent tendency that is going on in this country. Whether we turn our eyes to Bombay, to Kharagpur or to Puri from where comes my hon. friend, Mr. Rath, who made his maiden speech, I had thought that a maiden speech should be a little soft; but he has made his maiden speech rather in a violent manner, whether we go to Puri or whether we go now to Kalka or to Bombay or to Calcutta, wherever we cast our eyes, we see violence growing and who are the people responsible for this state of affairs?

SHRI GOVINDAN NAIR (Travancore-Cochin): What happened in Kalka?

SHRI BHUPESH GUPTA: In Kalka, there he does not seem to know the geography of India.

SHRI JASPAT ROY KAPOOR: Some persons who have the mentality

of my hon. friends, who have been misguided by colleagues of my hon. friends, by the atmosphere that they have created in the country, developed a violent mentality. And at Kalka they resorted to methods which no sensible citizen, no peace-loving citizen should resort to. What happened in Kalka? People stood against engines. They won't allow the engine to move. They would ask their ladies, they would be so unchivalrous as to ask their women folk to come out of their purdah, out of their houses and resort to 'siapa'. I do not know whether my hon. friends here coming from Bengal and other parts of the country know what 'siapa' is. Ladies stand up, beat their breasts and abuse anybody whom they can cast their eyes on at the moment. Now, my hon. friend puts the question what happened at Kalka? (*Interruption.*) This is what happened at Kalka and this is the sort of thing which they seem to be happy over. Now, Sir, under these circumstances, under these conditions if preventive detention is resorted to, what is wrong about it?

I would divide this question into two parts. Firstly, must we have a Detention Act at all or not? Is there anything wrong in principle about having the Detention Act at all? Secondly, if we have this Act, has it been properly used or has there been gross abuse of it? Thirdly, is there any necessity for the continuance of this measure hereafter? So far as the first point is concerned, my hon. friend, Mr. Satyapriya Banerjee, yesterday said that it is a lawless law. I do not know what he meant thereby. He said that if he were the Government, he would remove it from the Statute Book. I entirely agree with him. If he were the Government, he will remove not only this law from the Statute Book, but all the laws because he would rule without any laws on the Statute Book. His word would then be law. But then so far as his contention that it is a lawless law is concerned, I would put to him a simple question—where is the lawlessness about it? We have provided

in the Constitution that we can have a law like this. The Constitution provides it. The Constitution was adopted by the Union as a whole, absolutely unanimously. Therefore, there cannot be any element of lawlessness about it. When this measure came up before Parliament, they adopted it and enacted it. Therefore, it is an enactment provided for by the Constitution and adopted by Parliament—elected representatives of the people.

The second question is: Has there been any abuse of it? We have not been furnished with any cogent and convincing argument to show that there has been any abuse of it. On the contrary, the figures that we have been provided with show how sparingly it has been used. Even all the States have not used it. And I am happy to point out that, so far as the State of Uttar Pradesh from which I have the honour to come is concerned, it has used the power very very sparingly—only about seven persons were detained during all this long period of so many years. And even there, as many as three or four were released by the State Government. Though they were detained by the district authorities, the action of the district authorities was not approved by the State Government and within a few days of their detention they were released. Many other States also did not resort to it at all. It must be obvious to any person who looks at this with an open mind that some of the States were compelled to resort to it to maintain law and order in their States.

There is one thing which I have to observe for the special consideration of Members of this House coming from all parties, irrespective of their political affiliations and it is this. Do they not think that the communal situation in the country has been taking a turn for the worse for some time past? So far as the political ideologies are concerned, we might differ; so far as the economic ideolo-

gies are concerned, we might differ. But, then, I will make a special appeal to my friends of the Communist Party and to friends of the Praja-Socialist Party and the Socialist Party to consider seriously this question as to what should be done to curb this monster of communalism that is raising its ugly head. Must we not do something in this direction? Would you not let the Government use this measure to root out communalism from the country? I have a right to expect the members of the Communist Party, the Praja-Socialist Party and the Socialists to urge on the Government to use this measure to the fullest extent possible, of course, if it remains in the Statute Book at all. I mean, if your position is that it should not be on the Statute Book at all, that is a different matter. You are perfectly justified from your point of view to demand that it should be removed. You have your own ideology. You would like to create disorder in the country to achieve your own political ends. Well, we differ from you in that. But, then, keeping in view your method or ideology, you may like that it should not be in the Statute Book at all. But once your attempts have failed to remove it from the Statute Book, would you not like that this measure, being there on the Statute Book, should be fully utilised to root out communalism from this country? I have a right to expect that much at least from you.

May I refer in this connection to the conference of Jamaat leaders of India held only a couple of days ago at Farrukhabad, a report of which, we all know, appeared in papers yesterday and today? These reports are very very disquieting, I submit. Only in the recent past, we had the occasion and misfortune to see communal activities of a very dangerous character in Punjab and also communal activities of a very disturbing nature in Maharashtra and Bombay. But, to crown them all, we have now before us the report of this all-India Jamaat leaders' conference held at Farrukhabad. With your permission, Sir, I

[Shri Jaspal Roy Kapoor.]  
I will read out this report, because it will help us to understand what the true communal situation in the country is and where it is leading us to. This communalism in the country led us to partition. It led to serious riots in 1947. And it even led to the murder of the greatest man of our country—if I may say so, the greatest man of the world—Mahatma Gandhi. Shall we not now take courage in both hands and see to it that the monster of communalism does not get up again in our country?

Sir, this is what has appeared in the papers.

SHRIMATI SAVITRY DEVI NIGAM (Uttar Pradesh): Sir, it should not be read here; it is not necessary.

SHRI JASPAT ROY KAPOOR: Sir the hon. lady Member says that it is not necessary. I know my business best. I am sure, Sir, that you will be pleased to give the lady Member a chance to have her turn. That fact that I will read it here will not stand in the way of her getting a turn:

"Syed Badr-ud-Duja, President of the All-India Muslim Jamaat, addressing the second annual session at Farrukhabad on Saturday said the secularism of the Government of India was a mere sham. He questioned the Nehru Government's policy to celebrate Buddha Jayanti while ignoring to commemorate the birthday of the founders of other religions practised in India."

Here, Syed Badr-ud-Duja conveniently forgets that only recently, the Government of India spent over a lakh and a quarter on the repairs of the Jama Masjid.

Then, he goes on to say:

"He said the position of a Muslim in India was that of an underdog."

That is how he wants to incite communal feelings. The position of a Muslim is that of an underdog. I

would certainly like to appeal to my Muslim friends of this House to say if this is how they feel. Then he said:

"It was now his duty to unite the Muslims under the banner of the Muslim Jamaat for the recognition of their fundamental rights which were being ignored. He said the Government of India were not a people's government....."

Well, that, of course, he might say, and he goes on:

".....as made out. The Government was run by a small section....." and so on.

Then, I pass on to the other relevant portion:

"He bitterly criticized the conversion of Usmania University into a Hindi University. He said since Usmania University was the custodian of Muslim culture, the Government had chosen to destroy its unique character by converting it into a Hindi University."

Again inciting communal hatred.

Sir, then the concluding portion is the most important part of his speech:

"Concluding, he exhorted the Muslims not to feel diffident in spite of their being in the minority as a time may come when they may be the rulers of India like those small groups of communists who took over the Governments in Russia, China and Poland."

Sir, I want the Government to take serious note of this portion of his speech. What does it amount to? Syed Badr-ud-Duja says that, just as in Russia and in China, the small minorities resorted to violence in revolution and captured power from the Government there, similarly, he exhorts the Muslim minorities in this country reminding them that they are being treated as underdogs, that they have no fundamental rights, that they



are being treated and persecuted in this manner and that they should rise and resort to violence as the small minorities did in China and Russia. This is the sort of thing that is going on in the country, and the Government seems to be sleeping over it. Sir, I expect the Government of Uttar Pradesh and the Central Government to see that people who go about inciting communal feelings in such a manner are properly dealt with under this Preventive Detention Act. Otherwise, it is no use having it on the Statute Book, if you have not the courage, the wisdom and the foresight to use it against people like Badr-ud-Duja and others who talk like this from place to place.

Sir, this has appeared in the papers. But then there are many a people like Badr-ud-Duja but belonging to Jan Sangh who go about in the States, in the villages and in the towns, creating feelings of communal animosity. They are not confined to the Muslim community alone. They belong to the Hindu community, to the Sikh community. And there are many people in the Akali fold, in the Jan Sangh fold, and in the fold of the Muslim Jamaat, who are talking in this anti-national manner. I submit, Sir, that it is time that the Government should take note of this ugly situation in the country before it is too late. I hope and trust that this submission of mine will not fall on deaf ears. This morning also we found certain resolutions passed by the Muslim Jamaat. Those resolutions are in keeping with the presidential address of Badr-ud-Duja. I would not like to read all those resolutions, lest Mrs. Savitry Nigam might be annoyed, because she did not like to hear what I had to say on the subject, and I do not want to annoy her any further. I therefore would not like to read out these resolutions. But I am sure that hon. Mr. Datar, and the hon. Pandit Pant, would look into these resolutions, as also the speech of Badr-ud-Duja, and would take suitable action in this respect.

Sir, I have hardly anything more to add. But I would only say that so far as this enactment is concerned, the situation in the country and the needs of the country demand its implementation, until the law and order situation in the country comes to absolute normality.

Only one thing, Sir, I would like to say about the argument used by Mr. Satyapriya Banerjee. He said, by implication, that since many persons have not been detained, there is no use for this enactment. I cannot understand the logic of this argument, Sir. If a large number of persons are detained, the charge against the Government is that this measure is being abused and too freely used. And if a handful of persons are detained, then the question put to the Government is: When you do not need it for detaining more than a handful of persons, why have it at all on the Statute Book? They want to have it both ways. That appears to me to be an absurd argument. The fact that many have not been detained, shows that it has not been abused. And the fact that it was necessary to use it only against a few persons shows that its retention on the Statute Book has had the necessary deterrent effect. But I would again submit, Sir, that we should use it a little more frequently, so far as the communal disruptors are concerned. And if you do not do that, then sooner rather than later, you will have to regret for this forced liberality and for this forced generosity, and for extending the licence to mischievous speeches being delivered and to mischievous acts being resorted to.

SHRI RAJENDRA PRATAP SINHA (Bihar): Mr. Vice-Chairman, the hon. Minister, while introducing this motion, stated that this Act is being used with utmost care and propriety, and that it has never been misused.

Sir, from an appraisal of the Statement that has been circulated to us, you can very easily find that this Bill is on the contrary being very badly

[Shri Rajendra Pratap Sinha.]  
 misused. I have got here the figures taken from that Statement about the number of detenus released by the Advisory Boards and the number of detenus released by the High Courts. Now, you will find, Sir, that during the period from 1st October 1954 to 30th September 1955 137 detenus were released by the Advisory Board and 7 detenus were released by the High Court. During the period from 1st October 1955 to 31st December 1955, 8 were released by the Advisory Board, and 1 by the High Court. And during the period from 1st January 1956 to 31st March 1956, 32 were released by the Advisory Board and 7 by the High Court. Thus, you will find that the executive authorities are using this weapon in order to put under arrest and detention people who are not regarded as worthy of being detained under this Act by the Advisory Boards and the High Courts. The fact that so many people have been released by the Advisory Boards and the High Courts is enough proof to show that this Act is being very badly used.

Sir, from my personal experience and from my talks with several members of the Advisory Board, I find that this weapon has become a very easy tool for the authorities, especially the subordinate authorities in the State Governments, to detain people, at the slightest provocation, under the Preventive Detention Act. Sir, whenever they find it inconvenient to trap a person under the different provisions of the law, they resort to applying this black law. And that is why you find that when the matter is referred to the Advisory Board or to the High Court, such persons are released. Sir, there is a proverb that power corrupts persons, and absolute power corrupts them absolutely. Now this Act seems to have corrupted the executive authorities absolutely, and the sooner this is removed from the Statute Book, the better it would be.

Sir, the Congress Governments in the States and at the Centre claim that they are popular and they have

got the popular support. In view of that claim by the Congress Government, I do not see any reason why such a lawless law should be retained in the Statute Book. If they cannot rule without this Act, it clearly shows that in fact they do not enjoy the popularity which they claim to enjoy. What I feel is that they do not want to tolerate any opposition. They say that the other parties, particularly the Communist Party, do not want to tolerate any kind of opposition, but the fact remains that it is the Congress Party which does not want to tolerate any opposition, and in order to put down the opposition, they have got this weapon in their armoury.

SHRI M. VALIULLA (Mysore):  
 Wrong.

SHRI RAJENDRA PRATAP SINHA:  
 You may say that it is wrong.

SHRI JASPAT ROY KAPOOR: How many of your party have been detained?

SHRI RAJENDRA PRATAP SINHA:  
 If you look at the statistical information, you will find that many of them have been detained. It is our bounden duty to be disloyal to the Government, and to preach disloyalty against the present Government. As an hon. Member said the other day, the State and the Government are being confused. When the security of the State is at stake, you may have this law. But it is our bounden duty to dislodge the Government from its present position and we must be entitled to spread dissatisfaction against them. But they want to use this Act when they find it difficult or inconvenient to suppress any political party in other ways. If you look at this, you will find how many people of the various parties have been detained under this Act. It is highly objectionable in any democratic State that such an Act should be there. When there is a real threat to the security of the State, such an Act can be there, but where is the threat, I would like to know. It is very convenient to say

that such and such people were inciting people to violence, but why can't they be put on trial? We have got enough provisions in the Cr. P. C. to haul them up. But, I cannot find any justification for this, nor am I convinced by the hon. Minister or the Members on the other side that there is justification for the continuance of this measure. If the Government says that these 160 men threaten the security of the State and they cannot be dealt with except under this Act, it is a very strange proposition. It is strange indeed if you say that, in spite of the vast police force and army that you have, you cannot deal with these men under the ordinary law and that you need a special law, a most undemocratic law.

I would very humbly submit that we are celebrating this year as the Buddha Jayanti year, and this is the year of grace of Lord Buddha, and I would appeal to the Home Minister and the Congress Government that in memory of our great past, in memory of Lord Buddha, we should repeal this law this year, and the Congress Government should of its own accord remove this Act from the Statute Book even as a measure of experiment. This Act will expire in 1957.

SHRI JASPAT ROY KAPOOR: In the name of Buddha, allow violence to grow.

SHRI J. V. K. VALLABHARAO: (Andhra): What about Kalka?

SHRI RAJENDRA PRATAP SINHA: What violence is there? We are not prepared to accept what you are saying. (Interruptions.) You are giving the impression to the whole world that we are living in a precarious condition in India, conditions are absolutely abnormal. On the contrary conditions do not justify this law. I cannot believe that, if you remove this Preventive Detention Act from the Statute Book, the whole State will collapse. If it is the intention of the Government to continue

this Act after 1957, it is well and good; they can continue it. But if their intention is that it should not continue after 1957, then they will not have a better opportunity, a better time, to repeal this Act than this Year of Grace of Lord Buddha.

SHRI P. N. SAPRU (Uttar Pradesh): Mr. Vice-Chairman, I feel that this is a matter which is very difficult to speak about for one who holds personal liberty very dear, who believes in the rule of law very earnestly and very sincerely. I have been brought up in a school of jurisprudence which believes that the meanest individual should have a full opportunity to defend himself by the processes known to law. The Constitution certainly permits preventive detention, but I venture to say with some confidence that the spirit of the Constitution is against preventive detention. A Preventive Detention Act can be justified, if at all, as an extreme measure to be used only in situations of grave emergency. There are occasions in the life of a community when it becomes necessary to have preventive detention in the larger interests of the State, but preventive detention must not be confused with punitive detention, and I am not prepared to admit that the person against whom action has been taken under the Preventive Detention Act is necessarily guilty of what is alleged against him. Now, we can make exaggerated statements in this House, but there is no doubt that our young State has had to pass through troublous times. In 1947 we achieved our independence. We had the partition and the passions that that partition roused were of a very disturbing character. We had for centuries neglected social reform, we had neglected economic reform, and the poor man had no opportunities of getting justice. Naturally in a period where you have revolutionary ideas, extreme revolutionary movements growing up, it is statesmanship not to think only of maintaining order but to concern oneself with the problems of such social readjustments as will make normal living in the community

[Shri P. N. Sapru.]

possible. Therefore, it strikes me that we cannot have this preventive detention as a permanent measure. We have all of us, both the Government and the opposition parties, to create a situation in which preventive detention will become absolutely unnecessary. I say that the responsibility is great both of the Government and the Opposition. Certainly the opposition has a right to oppose, but the Opposition should behave with responsibility. You cannot preach the doctrine of violence without undermining the foundations of a democratic State. The alternative however to preventive detention is, to proceed against a person under the ordinary processes of law. I do not know and I have not been able to understand why it should be necessary for us, considering that the cases of preventive detention are now so few, to retain a measure which we use only against a very small section of people. True, we have Advisory Boards. I know that the Advisory Boards have a hard task. They try to do justice but it is difficult for an Advisory Board to come to a crucial or final or satisfactory judgment on the material placed before it. After all when you are acting as a judge, you don't rely on untested evidence. In cases of preventive detention sometimes you have to rely upon the evidence of accomplices and though you give an opportunity to the accused to appear, the accused or the internee cannot appear through counsel. They had the Defence of the Realm Act in England during war time and my recollection is, I think I am almost right in my assertion, that counsels were permitted to appear in the Defence of the Realm Act cases. You had great judges upholding the rights of the individual. Many people have forgotten the majority judgment in *Rex Vs. Halliday* but all remember the great minority judgment of Lord Shaw of Dumbferlane. It is a monumental judgment and some jurists have said that Lord Shaw was right. During the second world war, Lord Atkins delivered a monumental Judgment in *Anderson Vs. Liversidge*

and many jurists now think that he was perhaps right, because the House of Lords almost upheld the doctrine of State necessity laid down in *Eric Vs. Carrington*. Here the satisfaction of the detaining authority is of a subjective nature and what often happens in courts of law is that the affidavits filed on behalf of the Government are not of a satisfactory nature. I will explain what I mean. In Britain, the practice is for the Home Secretary, that is to say the Minister for Home Affairs, to file an affidavit certifying that he had satisfied himself that the case against the detenu is a right one. Now I have found affidavits filed by comparatively minor officials and it is very difficult for the court, when it has this material before it, to give a satisfactory judgment in a case for example, involving an application for a writ of *habeas corpus*.

SHRI RAJENDRA PRATAP SINHA: I hope the hon. Minister will take note of it.

SHRI P. N. SAPRU: I was going through the statistical material which have been furnished to us and I find that the number of cases in which the Advisory Boards have found themselves unable to accept the view of the Government is rather somewhat large. I will just read out the portion and I wish to draw the Home Minister's attention to it because it is a serious thing to deprive a man of his liberty even for 24 hours. You know that the Constitution says that you may not keep a man in custody for 24 hours without bringing him before a magistrate. Here you keep a man for 15 or 20 days and you say that he is guilty of preaching subversive doctrines. I quite understand that the word subversive may include so many things.

SHRI BHUPESH GUPTA: We all know that.

SHRI P. N. SAPRU: But in these matters we should develop a balanced outlook and I am sure that the Home Ministry presided over as it is by an eminent son of India, has a balanced

outlook. Therefore I was going to invite the attention of the House to certain figures. In Bombay the number of persons ordered to be released by Advisory Boards was 17. Number of persons in whose cases detention orders were upheld was 33. Number of detenus whose cases were pending before the Advisory Board was 13 and number of detenus released by Government is 25. Number of detenus released by High Court was one. It is very difficult for the High Court to interfere in an application for writ of *habeas corpus*. All that the Government has got to do is to show that the order is illegal and not proper. That is all. So the real test is what the Advisory Board did. Seventeen is rather a large number. Then in West Bengal the number released was 3, number of detentions upheld was 8, number pending with the Advisory Board was 8 and number of detenus released by Government was 17. In our State there was only one case and the State Government released him. I think that even if we want to retain preventive detention, there are various directions in which the existing provisions regarding it can be liberalized. Of course our aim should be to do away with preventive detention as early as possible. I am not suggesting for a moment that the situation is not serious in the country or in certain parts of the country. We have had in these four days some disgusting exhibitions of violence but we should not allow ourselves to be unnerved by these exhibitions of unruliness. We should take in this matter as in all matters, a balanced view and I think that it is right that we should not depart from the fundamental principle of the rule of law and parliamentary democracy. We are not a people's democracy. We are not a totalitarian State. I hope we shall continue to be a democratic State and it is in that democratic way that we should view this question of preventive detention. Speaking in this House years ago, when the Criminal Law Amendment Act was under consideration in this very Chamber, I said—and I quoted Mr. Asquith and said

that it was not only necessary that we should maintain order but that it was also necessary that we should maintain order by measures which public opinion can regard as ethical measures. Here the difficulty is that you take action against a man who can be proceeded against in an ordinary court of law for a speech or for an injudicious piece of writing. You take action against him and detain him and then at once public sympathy begins to go to him. I think that should be avoided. We should not try to make martyrs of men who do not deserve to be martyrs; we should not help them to be martyrs. I think, therefore, the whole question of preventive detention deserves to be reviewed at the earliest possible opportunity. I do not say that it should be done tomorrow, or that it can be done the day after tomorrow. But it should be viewed from a new angles. Speaking for myself, Sir, and that is my personal faith and this is a confession of faith, I attach very great importance to individual liberty. Of course, there are many matters in which I would like to see regimentation in our life. I would like to see a lot of regimentation in economic spheres. But there are certain spheres in our life where, in order that a man may be able to live a rich and full life, it is necessary that he should be allowed free expression of views, free expression of views should be guaranteed to him. I do not say that in the case of the Preventive Detention Act, the State has acted with any bias against leading members of the Opposition. That stand, I think, cannot be substantiated. But when the principle of a thing is bad, things occur which are not desirable and which one does not like. Therefore, preventive detention is something which leaves a bad taste in one's mouth.

Mr. Vice-Chairman, the safeguards provided here, as you will see, are not satisfactory. It says:

"Nothing in this section shall entitle any person against whom a

[Shri P. N. Saprú.]

detention order has been made to appear by any legal practitioner in any matter connected with the reference to the Advisory Board, and the proceedings of the Advisory Board and its report excepting that part of the report in which the opinion of the Advisory Board is specified, shall be confidential."

So I do not think that even the High Court when it has to deal with a *habeas corpus* application can claim to have a look at the report of the Advisory Board. They cannot ask that the report should be placed before them. Then again, Mr. Vice-Chairman, it is not that the Advisory Board must satisfy itself that the man is guilty, because it is not a tribunal. It is just a board which sees whether there are grounds, reasonable grounds for suspecting that such a person is or is not guilty. The period for which a person can be detained is laid down here. But is it right that a person should be deprived of his liberty for that period without adequate opportunity being given to him to show that he was not, in fact, guilty? I do not for a moment suggest that there has been any misuse of the powers given under the Preventive Detention Act. I do not for a moment suggest that there was never any case for preventive detention in this country. As I said, in 1947, we achieved our independence and we had terrible problems to face. We are still having so many difficult problems to handle. But the British Government started this preventive detention when they passed the Regulation III of 1818 and then they went on passing Acts after Acts of preventive detention and it became a chronic habit with them to govern India with the Preventive Detention Acts on the Statute Book. Now we should avoid creating a situation like that. Therefore there should be some effort on our part as a democratic State to appreciate the views of those who think that preventive detention should go at as early a date as possible. I am not competent enough to advise the Home Ministry

when it should go. They have the whole picture of the whole country before them and they can decide when it should. But the efforts should be to see that it goes at the earliest possible moment.

Mr. Vice-Chairman, I do not want to tire the House with any further remarks. But I felt that it was my duty to speak on this matter about which I am a little cranky, if I may say so, for I have a legal conscience regarding this matter. I personally have no liking for preventive detention. I should like it to disappear as soon as possible from this country. Sir, we have otherwise an excellent Constitution. We have a Constitution of which we can be rightly proud. We have a Constitution which guarantees fundamental rights to our citizens. We have a Constitution which embodies in noble language directive principles of State policy. We have a Constitution which gives to our citizens adult franchise and we have a government which is doing almost everything which it can humanly do to uplift the vast masses of our population. We have had centuries of poverty in this country; we have had centuries of misery in this country. It is surprising, however, that in passing our social verdicts on things that happen, we do not think of the ultimate responsibility for what has happened. Often the ultimate responsibility has to be traced not to those who have committed foolish acts, but the ultimate responsibility is that of the social system, of the economic system which leads decent men, decent human beings to behave as brutes. Mr. Vice-Chairman, we should develop in these matters that frame of mind. Often when one has to sentence a criminal, one has to ask himself this question: "Placed in those circumstances, would I not have committed that crime?" Between the economic environment of the individual and the individual there is a very intimate connection. If we improve our economic condition, if we give to our workers a fair deal, I think it will be possible for us to

have a society in which we can govern without the use of preventive detention, or even for the matter of that other pieces of repressive legislation.

3 P.M.

**SHRI BHUPESH GUPTA:** Mr. Vice-Chairman, once again in this House I rise to participate in the discussion of one of the blakest Acts of our time, namely, the Preventive Detention Act. Once again we have been regaled with arguments from the Treasury Benches, which are not only out of the way but in way scant because these arguments we have been hearing from the very inception of this measure, the Preventive Detention Act, or its predecessor under the British Government. Therefore there is nothing new in what Mr. Datar has said. He has only repeated the old story and I think the Minister will have been spread that trouble if a sort of a gramophone record of his speech were kept, and every year it could have been played in this House. Well, I do not say His Master's Voice because I do not know who the master is. Nevertheless the Minister would have been spared the trouble of making such speeches if such a device was contrived.

The other day in the House of the people the hon. Minister for Home Affairs introducing this motion said he was meeting under the shadow of Kharagpur and Kalka. He gave a literary touch to the whole matter. We are indeed meeting under the shadow of Kharagpur and Kalka, but picture in your mind the kind of thing we are getting there. It is not merely as if somebody had done that act where the railway train was set in motion without the driver. That act all of us have condemned. Nobody in the country would support such acts. But is it all that we get from Kharagpur? Not at all. After that incident the Government took advantage of the incident to politicalise on it. Political speeches were made in order to create certain climate in this Parliament and in the country outside to

justify the Preventive Detention Act and its continuance. That is what happened.

Now, Sir, after that incident, the unfortunate incident, we find that the whole of the railway colony has been made over to the police. Women and children are being beaten; particularly the women are being insulted and molested by the police. I have got letters from that particular area. We are meeting under the grim shadow of such insulting and atrocious incidents in our country. We also learn from that place that particularly the minors are being terrorised and intimidated. I would like to know whether we would like to live under such conditions. I also have got information saying that, because in that unfortunate train the passengers were Bengalis, efforts are now being made by the Railway Administration, to their eternal shame, to set Bengalis against non-Bengalis. I can tell you on the floor of the House never, never will Bengalis go against the non-Bengalis, no matter what the provocation is. That was displayed in the course of the anti-merger movement. Sometime back I told you on the floor of the House that the merger proposal would be buried ten feet deep. I think we have succeeded in achieving it and there was not a single incident which took place against any community.

This is the sort of thing that is happening—terrorism, vandalism, blackmail, intimidation, butchery. Such is the catalogue of crimes committed by the people who are supposed to keep law and order and who are supposed to be the custodians of peace and tranquillity in the country. Indeed this is the shadow under which we live. Why Kalka happened? Go into the enquiry, but I can tell you politically the speech of the hon. the Prime Minister and the speech of Mr. Lal Bahadur were responsible to some extent because, instead of looking into the complaints against the

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police, they spoke in a manner which would encourage the police.

SHAH MOHAMMAD UMAIR (Bihar): When the matter is *sub judice* and when a commission has already been appointed to enquire into it, will you, Sir, permit such remarks which are not to the point and which go out of the way when the matter is under judicial process?

SHRI BHUPESH GUPTA: The hon. Minister has found his way into the House. He will take a little time to understand which is out of the way and which not. All that I am saying here is that reference has been made in introducing this Bill that we "are" meeting under.....

THE VICE-CHAIRMAN (SHRI P. S. RAJAGOPAL NAIDU): You can refer to that matter, but don't go into the merits of the case.

SHRI BHUPESH GUPTA: I am not going into the merits of the case. I do not know how the case will be decided, but I know five workmen have been killed in cold blood, and it has been described as a cold-blooded murder by a Congress M.L.A. of the Punjab and not by any Communist, Socialist or any one who sits in the Opposition. Sir, this is what I mean, but I tell you that it was most regrettable that the hon. the Prime Minister and the Minister for Railways spoke in such accents in the other House which would encourage the policemen instead of restraining them from.....

DR. R. P. DUBE: But what has that to do with the motion?

SHRI S. N. MAZUMDAR (West Bengal): It has much to do. You should have pulled up the Home Minister there.

SHRI BHUPESH GUPTA: You can interrupt as many times as you like and I am not the person who is going to yield to you. I can tell you that but for the speeches probably the policemen would not have been so

frenzied and violent as they had been in Kalka. This is what I said. Therefore, Mr. Vice-Chairman, when you talk about the police administration measure your words because, if you have a word of encouragement and incitement—because police also can be incited, as it was done in this case—you have the grim tragedies and butchery as you had in Kalka. This is what I am going to tell. Therefore, we want to get out of that shadow, out of that darkness, out of that horrible situation into which some of the members of the Government.....

SHRI AKBAR ALI KHAN: Don't put the labour on the wrong track because you will be ultimately responsible. It is a disservice to the country.

SHRI N. C. SEKHAR (Travancore-Cochin): It is you who put the labour on the wrong track.

SHRI BHUPESH GUPTA: Let the hon. Member hold his patience. Let us show sympathies for a while for those people whom you have killed, show some kind of compassion for the families whose bread-winners you have taken away. Therefore I say we want to be out of that situation. I say we all want to be out of that situation. I would ask: Why is not the Chairman of the Railway Board arrested under the Preventive Detention Act for the incident in Kalka? I ask why this is not being used. It is the people who have been killed, it is they who are suffering, it is they who have been beaten and bullied in that place, and you have sought to justify all this thing in the name of violence. The Minister has said that not a single railway property was destroyed there. We shall see what happens when the enquiry comes, but remember, hon. men of the Congress Party, that one of your honoured colleagues called it a cold-blooded murder. Now I know the hon. Members opposite do not, at least many of them do not want the Preventive



Detention Act. There are some like Mr. Akhtar Husain and my hon. friend from Hyderabad who, just for the sake of speaking, speak on a subject sometimes to catch the eye of the Minister.

THE VICE-CHAIRMAN (SHRI P. S. RAJAGOPAL NAIDU): Do not make any personal insinuations against any Member of this House.

SHRI BHUPESH GUPTA: Anyway the gracious eyes of the Ministers are so fascinating and alluring that some of them may like to speak in order to catch them just as sometimes we get up to catch your eyes. I tell you that majority of the Congressmen in the country do not want this Preventive Detention Act to continue. The Congress supporters and others have never wanted that. But it is the coterie that they have created among the Ministers who demand its continuance. It is not the security of the State that is threatened today; it is the security of some of these people who occupy positions that is threatened and that is why they want this thing.

Mr. Vice-Chairman, we have been told by the mover of this motion that nothing much had happened. He has quoted figures to show how very few people are under detention to justify the continuance of this Act. Three or four years ago in this House and in the other House as also earlier in the interim Parliament the argument was that so many people, 10,000 people, were under detention and that justified the continuance of the Act. It was then said that when the situation became easy there would not be any need for this at all and that this would be repealed. Now that only a few people are under detention, they come and say, "You see, only a few people are there and it is because of this Act that other people are not committing crimes." Are we a nation of criminals? Are we the people who indulge in crimes? Do you mean to say that the present situation in India has been brought about by the brand-

ishing of this Preventive Detention Act? (*Interruptions*)..... or is it because of the part we all are playing in helping our people get rid of such atrocious measures. Sir, I think they have a very wrong idea of our people. They do not have a right appraisal of how our public life is shaping. You cannot run with the hare and hunt with the hound all the time. If there are more detenus that justifies its continuance; and if you do not find any occasion to use this measure, on that ground also the measure is justified. You cannot eat the cake and have it too. Sir, this measure has been used I say abused—by the Government and the criminality of the measure does not lie in its application only; its very existence is criminal. The fact that such a measure exists on our Statute Book is a standing shame to our Constitution and a standing shame to the culture and genius of our people. That is why we want to get rid of this measure, not merely because it is abused by their officials but also because it disgraces our public life, it threatens the growth and development of democratic institutions, it stifles the processes of democracy, it terrorises the opposition parties and thereby prevents the growth of our democratic life. That is why we want to get rid of this measure. Sir, I do not know when we are going to get rid of this because as long as these people remain in power, it seems that they have made up their mind to hug this measure. There was a time when the Congress leaders spoke violently against this measure. We welcomed that. There was the great Pandit Motilal Nehru who spoke eloquently against this measure and even today his voice echoes down the corridor of history. He attacked the Preventive Detention measure in very strong terms. In the library you can get the proceedings of those days and you can read his own words. And our Prime Minister Nehru also condemned it at the Lucknow Congress. He said that any government which used such a measure did not have the right to exist. That is what he said. But it

[Shri Bhupesh Gupta.]

seems that our present Government would not think of existing without having this measure. The whole thing has been completely reversed in the new set-up.

Sir, it is interesting that just when we are thinking here of continuing this measure for another year, Dr. Khan Sahib in West Pakistan has announced his decision to repeal all such measures there. This is what he has said:

"My colleagues and I have decided that we should do away with all safety laws which give us the power to detain people without trial. These laws have been in force in the whole sub-continent of Pakistan and India for several years. Conditions in the sub-continent are still abnormal so that safety laws have been considered necessary in all the provinces of India and Pakistan. But my colleagues and I feel that we should do without these powers. This will, I hope, be appreciated by the House and the public. We do not want to retain powers the exercise of which may be misunderstood or misconstrued. We are anxious that the ordinary citizen and our political opponents should have no fear that they could be victimised in any way. Let each citizen be free in the real sense."

This is what Dr. Khan Sahib, the Chief Minister of West Pakistan, has announced on the floor of the West Pakistan Legislature. Here we find just the opposite is happening. Now, I am not.....

SHRI AKBAR ALI KHAN: Is the Communist Party allowed to exist there?

SHRI BHUPESH GUPTA: The hon. Member is a little excited.

(Interruptions)

THE VICE-CHAIRMAN (SHRI P. S. RAJAGOPAL NAIDU): I wish hon. Members maintained order.

SHRI BHUPESH GUPTA: This is what is happening there but in India we are supposed to be very democratic. We find big claims are made and yet we find the hon. the Home Minister getting up and making an exactly opposite announcement, namely, that this measure of preventive detention should continue. It does not speak well of his Government; it does not bring credit to our country; it does not bring credit to the Constitution that we have; it does not bring credit to your ways of administration.

Now, it is sometimes said that this measure is very sparingly used against political opponents. Now, I would like the hon. Members to consider some of the points that I shall make in this connection.

First of all, I would like to take the case of the Maharashtra detenues. Now, I find that there are some 31 political detenues in Nasik and other jails there. Perhaps all of them are not their political opponents even but you have arrested them with a view to suppressing the legitimate movement that they were conducting. When the States Reorganisation Commission's recommendations were published, the Prime Minister invited the country to express opinion on them and the President also invited the country to express opinion on those recommendations. Then speeches were made and what happened? When opinions began to be expressed, you started attacking the people and as far as this particular case is concerned, the Samyukta Maharashtra Committee consisted not merely of the Communists or Socialists but also Congressmen at that time. In fact, Mr. Shanker Rao Deo was the Chairman of that particular Committee and he was once a Member of the Congress Working Committee. What happened then? You decided to

modify the recommendations of the Commission. The Government took the decisions and published them. But before the decisions were published you started arresting people in Bombay under the Preventive Detention Act. On the 16th January a few hours before the announcement of the Government decision was made a number of people belonging to various political parties, including, of course, the Communists, were arrested and put under detention. Now, you ask the people to express their opinion and you arrest them even before the announcement had been made about which they were supposed to have expressed their opinion as free men. Mr. Dange who should be well known to the hon. Members of this House and who is a very important figure in the world trade union movement is now under detention under this Act. He was here on the 7th or 8th of January and he returned I think on the 16th January to Bombay from Delhi and as soon as he got out of the plane he was placed under detention under the Preventive Detention Act. That was a few hours before the announcement was made. This is how you are dealing with your political opponents. There were others also arrested; in some cases the INTUC people were arrested. Sir, it is no use trying to tell the House that these arrests were made because of the violent incidents and all that. Even before the announcement of the Government was made, these people were sent to jail under the Preventive Detention Act and such arrests of course, continued afterwards and all sorts of excuses were made in order to bring in more and more people under the operation of this Preventive Detention Act. Now, I would like the hon. Members to go through the charge sheet against Mr. Dange. Diwan Chaman Lall and others here were at one time the colleagues of Mr. Dange, and many of you have known him. Do you believe that Mr. Dange would go on exciting people to throw stones and do similar other things? The

whole movement for Simyukta Maharashtra was pledged to peaceful methods and they were preaching peaceful methods. They were speaking about peaceful methods. Leaflets were issued exhorting the people to be peaceful all through and to conduct the movement democratically. In Shivaji Park, Mr. Dange himself spoke very categorically that our movement must be peaceful. Similarly, other leaders of the Samyukta Maharashtra movement spoke calling upon the people to maintain peace. The reward was that they were all arrested under the Preventive Detention Act. Now, I know that certain incidents had taken place in Bombay, but do not try to mislead the House. All of them were arrested before any incident took place and I can tell you that for these incidents the movement is not in the least responsible, because they led a movement which was pledged to peaceful methods. Now, as you know, they are being kept in detention. I made representations to the Government. I requested the Home Ministry to look into Mr. Dange's case, as a test case, and I was prepared to discuss the whole matter with them. But nothing had been done and we were informed yesterday in the House that they had not looked into a single case. Where do we seek remedy? Yet, we are in Parliament to seek remedy. All is left to the State Government and a statistical statement is given to us in order to swallow some of the figures which mean nothing to us. We would like to discuss as to how the law had been used by the States. What had been the grounds on which people had been arrested, how the charges had been formulated. I took some pains to collect materials from the various States and I am in possession of a whole bunch of them. I would like some hon. Members to look into them. I shall carry them to their houses if they will express their desire. I will carry these papers to any Member opposite. I ask them to go through the papers and come to their own conclusions. Undoubtedly in the

[Shri Bhupesh Gupta.] charge sheets statements are made with a view to prejudicing the Advisory Board. All kinds of allegations are made. But these allegations would seem so patently absurd that you would not accept them, many of you would not accept them.

I know that it is no use talking about Advisory Board. The Advisory Board in many ways is helpless, the Advisory Board cannot test evidence, the Advisory Board cannot cross-examine witnesses. And as far as the detenu is concerned, although he is entitled to appear before the Advisory Board, he is not in a position to know the source of the evidence that is placed against him, not to speak of cross-examining the witnesses that are put up against him. Nothing he knows. He goes to make a representation and has to be satisfied with what material the Government has placed before the Advisory Board. There it is a farce. I tell you it is a farce. I have known some members of the Advisory Board expressing that this is a farce. They cannot do justice to them. In fact, the judges, many of them, consider it to be rather a bad job for them to be assigned to this kind of task. They think that they cannot do any justice. That is, the judge cannot properly function under the limitations that are placed in the way of the Advisory Board. Therefore, do not talk about the Advisory Board. The Advisory Board suffers from very serious limitations. And I think it was Shri Motilal Nehru who once pointed out how farcical the whole institution was when he spoke in the Central Assembly against the Security Bill which was being discussed at that time.

THE VICE-CHAIRMAN (SHRI P. S. RAJAGOPAL NAIDU): Please try to wind up, Mr. Gupta. You have taken already 25 minutes. There are a large number of speakers.

SHRI BHUPESH GUPTA: I have

been given one hour, as you know, Sir. But I hope to speak for less than one hour so that more time is left for others. Therefore, Mr. Vice-Chairman, the Advisory Board argument does not hold water. Even so we find the Advisory Boards, functioning under such limitations, have been obliged to release a large number of detenus. Government should apologise to the detenus who have been released by the Advisory Board because the arrests in those cases had been absolutely unwarranted even under the Preventive Detention Act. The fact that the Advisory Board released them shows that there was no ground whatsoever for arresting them, even according to the Preventive Detention Act. The hon. Minister should get up here and should apologise to those people whose liberty had been taken away even for two or three weeks in that manner and who had to be set free by the Advisory Board. You commit a crime. Then you do not apologise. You put the people under detention, under a law by which it is not justified. But then you talk as if you did justice to them. These people who were arrested, you wanted to keep them in jail, the charge sheets were fabricated, and later they were either set free or released. And now the hon. Minister is giving these statistical figures here. I would like him to go and apologise to those people who were so arrested under the Preventive Detention Act. So much so that even the law, bad as it is, could not be applied in their case at all. Have you punished those people who arrested them in such a manner? Have you punished the Police Commissioner or the District Magistrate or the Secretary who was responsible for such unwarranted, vindictive arrest of the people? You have done nothing of the sort. When you commit crime, violence on liberty, you are the makers of new India. You are unapproachable when we put forward the demands of the workers or the peasants. Workers and peasants come forward and put

forward their demand and they are described as engaging in subversive activities, they are the disruptors of our country! Such is how you view matters. Mr. Vice-Chairman, it is a matter of great shame—and I hope that this shame will be shared by hon. Members opposite—that even today after so many years of independence we live in a society when any Tom, Dick or Harry or a policeman can come and arrest anyone and put him under detention at least for some weeks to be released later on by the Advisory Board. Now not only that, if people are arrested, they could be kept in detention for at least seven weeks without the Advisory Board coming into the picture. This is the process. For seven to ten weeks, I think, you can deprive a person of his liberty without being accountable to anybody, not even to the Advisory Board. This is the position. Now, I would ask you as to why this is happening in this country. Mr. Vice-Chairman, political parties give lectures on democracy. Mr. Deshmukh said he believes in parliamentary democracy. Perhaps many of them, not all, believe in Parliament minus democracy. We believe in Parliament as well as democracy. We want them to go together. We do not want to assassinate one to flourish in another. That is what we stand for. Mr. Vice-Chairman, therefore, if the Government believe in democracy at all they should not have such measures. I was asked a question, how to deal with other cases. There is the ordinary law and many eminent lawyers in the country have time and again pointed out that such law of the land is adequate enough to deal with any real breach of the law. But now you are not concerned with the maintenance of peace and tranquillity of the people as one could understand it. You want to terrorise the people and, therefore, keep it in your armoury all the time. The fact that you are not using it does not go to your credit. You have found in your experience that the more you use this Act, the greater you get isolated from the people. The more you tried the

Preventive Detention Act in West Bengal, the more you have burnt your fingers and today you have learnt a little lesson also. We do not oppose this kind of Act by any violent means. We go to the people, explain to them the atrocity of this measure and we stand by the people and the people see that those who use this measure use it not for the welfare of their country, nor for the security of the State, nor for the reconstruction of the country, but for the aggrandizement of some vested interests and for, somehow or other, keeping some ministers in power.

That is why when the tea garden strike took place, you first tried to split the workers and then resorted to the Preventive Detention Act to deny the workers their legitimate demand.

[Mr. DEPUTY CHAIRMAN in the Chair.]

That is why, Mr. Deputy Chairman and Mr. Vice-Chairman who is descending now, we now have in West Bengal the Preventive Detention Act and see it being used against the Darjeeling plantation workers for no other reason than for suppressing their legitimate demands. When everything failed, when the workers' unity could not be broken, when their trade union movement could not be broken, when their demand was fought peacefully and democratically, there came the Preventive Detention Act and a number of workers were taken to jail and put under lock and key. On whose orders. Who asked them? Did the Congressmen or the M.Ps. ask them? Were you consulted in this matter? Was any note sent to you by the Home Ministry calling for your opinion in such a matter? Was your opinion sought? The British plantation bosses and other vested interests there decided that the Preventive Detention Act should be used. They passed on a word to the West Bengal Government and they complied with it by immediately arresting the workers. Hon. Members opposite, I suppose and I know, will vote for the

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motion. But I know at the same time that they are not being consulted regarding this Preventive Detention Act. It is an insult to your wisdom; it is an insult to your integrity; and it shows disregard for democratic methods inside the Congress Party. But to look after the affairs of the Congress Party is not my job. I leave it to hon. Members of the Congress Party to see how their Party is managed.

Mr. Deputy Chairman, this is what happened in West Bengal and this is what is happening in other parts of India today. Now, everywhere, when there is a demand from workers or peasants or other sections of the community, attempts are made to suppress them. Then the leaders are arrested. The leader of the Opposition in the West Bengal Assembly, Shri Jyoti Basu, a colleague of mine, was sought to be arrested under the Preventive Detention Act—and was actually arrested a number of times—in order to weaken the Opposition, in order to suppress the movement with which he was associated—such movement as the teachers' strike. Such things are happening. In the trade union field, you find that this measure is being used to prevent the legitimate trade union movement. For instance, in Burnpur, in a charge-sheet, it was stated:—

"That you, a discharged worker of the Sheet Mill of the Indian Iron and Steel Company, Burnpur and the general Secretary of the Action Committee of Burnpur (which was formed in 1953) to carry on an agitation among the workers of the Indian Iron and Steel Company and Indian Standard Wagon Company, Burnpur to realise some financial demands of the Hot Mill and Steel Workers Union, both of Burnpur and one of the conveners of the Asansol Sub-Divisional labour co-ordination Committee which was formed in September 1955".

They believe in writing long sentences.

"...to consolidate the action committee with the support of different leftist labour organisations in the Asansol sub-division, have been spreading discontent and disaffection amongst the workers of Burnpur and Kulti against the authorities and urging the workers to resort to slow down tactics and strike for hampering production of essential commodities and to violate orders under Section 144 Cr. P. C."

Now, there are many hon. gentlemen here, very intelligent gentlemen. I suppose they are upset by this charge-sheet. There is something said towards the end about the violation of section 144 and disaffection and all that. But in the early portion of the charge-sheet comes out the mind of the Government, the case of the Government. The worker is in the trade Union movement; is to be put in jail and therefore, the Preventive Detention Act is to be invoked. This is how it is done.

There is another interesting case where plantation worker was charge-sheeted. That was read out in the other House. I would like to read it, since hon. Members would not find time to read it. Tomorrow morning many of them may be leaving this place.

Here it is stated in the charge-sheet:

"On 22nd April, 1955 at about 08-45 hours, you went to Kathaguri Tea Estate Hospital for medicine and entered the dispensing room contrary to hospital regulations. When asked by the Hospital compounder to leave the room and receive medicine from the proper counter, you abused the medical staff and left the hospital in a violent mood. You then held a meeting over this issue on the same day

at Kathalguri Tea Estate Football ground in front of the Hospital and demanded the medical officer, Dr. Phani Mohan Ghose, to explain his conduct for having issued such rules that prohibited you from entering the dispensing room for medicine. You then incited the labourers numbering about 150 against the Hospital staff and led them in a procession to the Hospital where you surrounded the medical officer, blocked the doors of the consulting room and the dispensary, kept the medical officer and staff confined in the Hospital and abused the staff and threatened the medical officer with dire consequences."

This is how the charge-sheet is framed. You can well understand. You see, a compounder is a person against whom you may or may not have some grievance and if the worker expressed his grievance, why should he be placed under the Act? This is the sort of charge-sheet that is being framed by the hon. Members of the Government or their officers who are authorised to do so.

Mr. Dange has replied to his charge-sheet. I was speaking about his charge-sheet. He says that he has made it very clear as to what he said—that he stood for Samyukta Maharashtra and for Bombay City being included in Samyukta Maharashtra. Is it an offence to stand for it? Is there anything wrong in it? You may or may not agree. But he has every right to express his opinion and call upon the people to support it and the whole of Maharashtra is supporting it. You have put these people in jail and we are told that the Preventive Detention Act does not discriminate against any one. Well, we do not like the Preventive Detention Act to be used even against our hon. Member from Hyderabad or Mr. Jaspat Roy Kapoor. I would be the first person to speak against the Preventive Detention Act being employed against either of them or Mr. Akhtar Husain. I would be very sorry if it is used against them.

Shri AKHTAR HUSAIN: I hope that even when you, my learned friends, are in power which if it ever happens seems to be at a very distant time, I will not do anything to attract the provisions of the Preventive Detention Act and will continue to be a law-abiding citizen and indulge in no subversive activities?

SHRI BHUPESH GUPTA: I am very glad of the assurance in advance. But I think the hon. Minister or hon. Members will not support him. If he acts in that way, he will only make a laughing stock of himself. And he will have to go to some other institution to find his proper place. There will be no necessity for applying any law against them if their activities are of such a nature. I would not like this to be used against any one. But what is happening? You are using it against the parties of the Opposition, especially the Communist Party. Why should it be so? We certainly stand for certain principles. We stand for the uplift of the people. We certainly want democratic institutions to grow in our country. But I do not see any reason as to why they should pass sleepless nights. We have been told about the sleepless nights of the late Sardar Vallabhbhai Patel. I know he passed sleepless nights at that time. But why? The hon. Minister did not explain that. At that time, I think, the cases of 347 detenues were pending in the Calcutta High Court and the High Court was about to pronounce judgment declaring the detention of such people *ultra vires* of the Constitution which had come into force, and in order to obviate the difficulty and in order to frustrate the judgment, Sardar Patel got this Bill passed in a single day, after having passed sleepless nights. We are sorry for anybody who passes sleepless nights. But, at the same time, I would like to remind the House that, if you have such a law on the Statute Book, you will be causing injury to democratic institutions as a whole. You will be doing damage to the growth of democratic institutions in the country. You may have your

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good sleep with this law, and you may sleep very sound. But we on this side of the House are very much concerned with the rights and liberties of the people and we do not like the rights and liberties of the people to be trampled under foot. That is why, Mr. Deputy Chairman, we speak so much against this measure.

Now, Sir, some suggestions were made in the other House for suspending this measure. Yes, you can try and see what happens in the country. You can make an experiment of that sort. If you do not believe us, if you do not believe the Opposition, you can just suspend this measure, make an experiment, and see what happens in the country. I would like the Government to make that experiment.

Now, Sir, I want to say something about the measure being utilised against certain organised movements. I have already referred to the Samyukta-Maharashtra movement against which this measure has been used and is still being used, in order to suppress that movement. The trade union movement is the particular target of this measure. Wherever a trade union movement gathers momentum and the working class unity grows, they try to split that unity. If they fail to get any other method of doing that, they use this measure in order to smash the trade union movement. This has been our experience in West Bengal, and this has been our experience in some other places. Take for instance the Kanpur strike. Everything was done to break the Kanpur strike and serve the textile magnates. But when they found that nothing could be successful, they resorted to the Preventive Detention Act, and a large number of trade union leaders were put under arrest under this measure. This is what they are doing. Therefore I say, Sir, that this is a kind of thing which we cannot tolerate any more, and the country cannot tolerate it any more.

Now, apart from the other factors, I will tell you why this measure is not being used frequently. It is not being used frequently because the public opinion is very much against it, and naturally when the elections are going to take place, they will try to be a little more concerned about the public opinion. We know that. But in order to fill the gap, the Government is using sections 107 and 109 of the Criminal Procedure Code. And we find that thousands of people are being arrested under these sections, and they are being harassed by the Government in all possible ways. Therefore, do not try to pretend as if you have become very very liberal. If the Preventive Detention Act is not used so much, there are the other repressive measures which are being used by the Government for attacking the democratic movements. This is what is happening in the country.

Mr. Deputy Chairman, I know that our appeals will not have any effect on the Government, and I know that Dr. Subbarayan will not withdraw his amendment. After all, I know that he put his own son-in-law under detention. He has got that distinction. Dr. Subbarayan has got that distinction of putting his own son-in-law under detention, and of being very proud of that fact. Naturally he has come forward here with his amendment saying that the Act should be extended. Therefore, I do not think he will withdraw his amendment. But I would ask the Government to consider this matter a little more objectively and a little more seriously than it has been doing, and not to cloud the issue by raising all kinds of political bogies, because everybody in the country wants the democratic institutions to grow. Everybody in the country wants that parliamentary democracy also should grow in the country. Everybody in the country wants that legitimate grievances should be redressed through peaceful methods. Everybody wants that. But it is the violence of the police and the callousness of the Government, and its policies, which are responsible for these things.



It is the utter callousness of the Government towards certain very legitimate demands and grievances of the common people and the working people that sometimes leads to certain incidents. The Preventive Detention Act is a standing provocation for the country. Sir, I wonder sometimes how magnificently our people have behaved, despite provocations on the part of the Government in the form of such measures.

Now, Sir, in France, for instance, even when very violent incidents take place, they do not bring in such measures as the Preventive Detention Act. In Britain, there would be a fall of Government, if such measures are resorted to. Even during the war, Sir, it was very sparingly used, as you know. There was a big noise, when it was first invoked.

Now, Sir, I would request the hon. Members to give a little thought, and pay a little attention to what Shri Vinoba Bhave says. He has referred to the sad, regrettable and ugly incidents of police firing, while speaking in Sarvodayapuram, the other day. Now, I would also tell the hon. Members opposite that in France also, similar incidents took place, and violent incidents took place, and still the police never resorted to firing. This is published in the Times of India of yesterday. I would like only to read out this portion. It runs as follows:

"A mob of about 5,000 men stormed the police lines yesterday and carried home in triumph a group of reservists who were to leave by train for service in Algeria.

A force of about 1,000 mobile guards and special riot police, swinging gun butts and clubs, was unable to check the demonstrators' march on the railway station in this seaport and shipbuilding town. Tear gas and practice grenades were used in vain.

The mob threw anything within reach at the police—stones, iron bars and heavy bolts. Several persons were injured on both sides.

About 200 reservists were on the train. It was only after the reservists left that order was restored and the area cleared."

So, Sir, there you do not see the kind of thing that is happening here in Kalka or elsewhere. Now, Sir, I read out this thing to you in order to show that certain incidents, apparently of a violent nature, are not being dealt with in the manner in which they are being dealt with here. I would therefore like the Government to consider this matter seriously, and see whether they have got any responsibility in the matter.

Finally, Sir, I would like to appeal to the Government not to use this Preventive Detention Act, even if Dr. Subbarayan's inglorious amendment is passed. I would appeal to them not to use this measure, because this measure corrupts our public life, vitiates our public life. This measure provokes the people, and this measure tends to adversely influence the policemen who believe in suppressing the liberties of the people. I would ask the Ministers of the Central Government to personally look into the cases that we have placed before them. When I placed the case of Mr. Dange before them, they did not consider it. I sent all the material to them in various respects, but I do not have any indication that they have gone into it. You do not find time to go into the representation which relates to no other person than Mr. Dange, who is a well-known leader in the country. But the moment some incidents take place in the country, you become all eloquent and join in a chorus for condemning the Communist Party and for maligning the Communist Party. Is it right? Is it fair-play? Is it decent in public life? I would say, accuse, if you like, the Communist Party, but at the same time, when we make representations to you and when we bring to your notice certain complaints, and when we place before you the charges preferred against the Congress Government, and request you to go into them, in all fairness, you should look

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into them and personally satisfy yourself whether the Governments in the States have been behaving in a proper way, or whether they have been behaving in a vindictive and atrocious manner. I would leave it to the Government to decide for themselves. We place many things before the Government but the Government do not pay attention or any heed to them. I do not know whether in any other parliamentary democracy in any civilised country such an attitude is taken towards the opposition parties. All the time the opposition parties are maligned. All the time the opposition parties are accused of things for which they are never responsible. All the time, the crimes of other people are sought to be placed at the doors of the opposition parties, but whenever the opposition parties give any constructive suggestions to the Government or bring public grievances before the Government, the Government turns a deaf ear; they ignore them altogether. This is one of the surest ways of stifling the growth of parliamentary democracy. You can have your Parliament, you can have your votes, you can have your benches full of people who think that way, but that will not be parliamentary democracy as we understand it. I would appeal to the Government to discard their present attitude, to abandon their present ways and be more responsive to our representations and view and treat us as if we are also a factor in our public life. Today we are sitting in these benches not because of the mercies of some people there. We sit here because the people have willed that we should sit here. We sit here with a mandate from the people. Therefore, if you disrespect us, you are disrespecting the people. Mr. Deputy Chairman, I say that we are still living in an age when the legacy of the British Government hovers over us. Let us recall those days when not a single patriotic citizen of this country refrained from condemning such a law. Can you name any patriotic Indian in the political life of those days who did not condemn the Pre-

ventive Detention Act? How is it then today in the free Republic of India this measure has become so acceptable to you that you mobilise your full force here and get this passed by the force of your brute majority in Parliament? I ask you this question. Did not the people who preceded you and whose heritage you are supposed to carry, oppose this Preventive Detention Act? Did they not fight all the time against the abomination of such a measure as this? Why today should this thing be given such a place of honour in your Constitution, in your legal enactments? This is the question I ask you. I tell you the people will look after themselves. The Indian people cannot be suppressed, cannot be beaten by such measures. It is you who will suffer. It is you who will be discredited in the eyes of the historians. Therefore, I appeal to the Government that even at this late hour they should take back this measure, this measure of sin, this measure of great shame, this measure which defies all our patriotic traditions, this measure which militates against all jurisprudence and due processes of law, this measure which always hangs like the Damocles' sword on our public life and threatens all decencies of public life all the time. Such a measure should be thrown into the dust bin of history with no one to pick it up again. I appeal to hon. Members opposite that, when the motion is put, they should not vote for this and if it is passed, let Dr. Subbarayan and others on the Treasury Benches have that satisfaction, but I would urge upon the Members opposite not to vote for this. If they do not like to vote against it, let them at least remain neutral, when this motion is put. After all, you have got to speak up some day or other. I know that in their heart of hearts many of the hon. Members opposite feel like me. I know it. Mr. Sapru spoke and you know how he spoke. His views are shared by others also. Some time or other you must speak out. You must give expression to your innermost thoughts, if you have those thoughts.

Mr. Deputy Chairman, today we are approaching general elections. Let us not approach the general elections under the shadow, dark and dismal shadow, of this abhorrent Preventive Detention Act. Let our public life be cleared of this abomination, of this shame. Let us go to the elections as democrats go to elections without any fear of such a measure. Let democratic rights and liberties be given to all, and we shall see how we behave in our political life. This is all that I am asking. I am not asking for any favours of them. I do not ask for any mercies from them. What I ask them to do is to annul this measure and give up arbitrary arrests and detention of political opponents. Let them not leave this only to Dr. Khan Saheb in West Pakistan. I don't see why this Government here should not take courage in both hands—it is lacking in moral courage—and see that we all return to the heritage of our national movement. Do not leave it to Dr. Khan Saheb only. You can do it here and do it here and now. With these words, I express my strongest protest against this measure and I oppose the motion of Dr. Subbarayan. He is a learned man and a lovable person, and I was profoundly shocked to find that such a man could sponsor such an atrocious motion. I think he has been again contaminated by the infection of the Treasury Benches. I want him to be cured of this disease, of this malady, and one way of getting him cured is to make it clear to him that none of you are supporting this measure.

Dr. P. SUBBARAYAN (Madras): I have listened to Mr. Bhupesh Gupta's utterances with the attention they deserve, but I am always reminded of the famous passage in Othello—'Sound and fury carrying nothing'. That is the impression which has been left on me. He referred to some personal incidents with regard to me. I really do not want to go into personal history today, but he compelled me to say something.

SHRI BHUPESH GUPTA: I was not referring to any of his personal matters but I was referring to certain incidents connected with him as Home Minister

DR. P. SUBBARAYAN: I would remind him of the reply I gave to his friend in the Lok Sabha today, Mr. Anandan Nambiar, who asked me what was the relationship between the detenus and myself. The answer I gave him, which I repeat now, was that I observed no relationship in my administrative capacity. Therefore, it is not a question of any relation.

(Interruption.)

DR. P. SUBBARAYAN: I see that there is another voice. If she had not gone underground, she might have gone to the same place.

SHRIMATI PARVATHI KRISHNAN (Madras): I was not underground. Anyhow, I would not have been caught.

DR. P. SUBBARAYAN: That is true. If I had caught her, she would have gone to where her brother and husband went. Well, we have certain responsibilities to fulfil.

SHRI BHUPESH GUPTA: You seem to be mighty proud of it.

DR. P. SUBBARAYAN: I am proud of it. It shows that we are capable of administering this country with fairness and justice. Well, we had a difficult time at that time. I am proud to say that, when I went to Indonesia as our Ambassador, I was glad to hear from the authorities there that of all the countries that had then achieved independence since the conclusion of the Second World War, India could take her pride of place because law and order has been kept. "Law and order" is a phrase some of my hon. friends opposite do not agree with but the phrase I coined at the time of the incidents that my hon. friend Mr. Gupta mentioned was "peace and tranquillity" than "law and order", and I would rather use it.

[Dr. P. Subbarayan.]

Then there is a certain amount of responsibility placed in the Government to see that citizens are allowed to carry on their everyday avocations with a certain amount of peace and tranquillity. No country or no Government will be worth anything unless they are able to create peace for the citizens of the country. I am sure my hon. friends realise that we have not adopted the methods of putting away people overnight when we find them dangerous to society. All that we have done is to put them out of mischief so that the ordinary citizens can carry on their avocations and when they reform their ways, they are entitled to come out and do what they like. We are a democracy because Mr. Gupta laid emphasis on the word "democracy". But democracy as I understand it differs from democracy as he understands it. Democracy means, according to me, rule by deliberation, rule where every citizen has got a right to criticise the Government and say anything that he likes. Could my hon. friend Mr. Gupta have got up and said that it was the Railway Minister and the Prime Minister who brought about the tragedy at Kalka?

SHRI BHUPESH GUPTA: I did not say that. I said the speeches made by them are liable to encourage the policemen in doing such excesses.

DR. P. SUBBARAYAN: It amounts to the same thing. Six and half-a-dozen are the same as the English say. What was the meaning of his statement? What did the Prime Minister or the Railway Minister say? All that they said was, if a crowd gathers round and becomes unmanageable and they cannot be controlled except by show of force, then force has got to be shown. I can tell my hon. friends opposite that I hate the word "force". I am truly non-violent. I believe in non-violence in every sense of the term but my hon. friend should not also forget that violence breeds violence. It is because violence activities are followed by hon. Members opposite, sometimes a slight show

of force has got to be shown in order to get into balance, if I may use such a word, so that people realise that there is a Government, that the Government means to govern and not let chaos to come in. I know my hon. friends opposite love chaos because then, it is easy for them to fish in troubled waters. That is exactly the position they desire. But as far as we are concerned, on this side of the House, we do not want chaos. We want a peaceful evolution. If hon. friends opposite are able to capture the votes in this country and become a majority, I would certainly obey any laws they may pass for the simple reason that they will be the Government of the day provided they treat the minorities in the same way as we are treating the minorities today.

(Interruptions.)

HON. MEMBERS FROM OPPOSITION: Much better.

DR. P. SUBBARAYAN: I think it may mean liquidation. I might have put my friend in detention. I am afraid of being shot by being put against a wall. I know that may be the condition that may prevail but if they really obtain the verdict of the electorate, I shall say "Good-luck and Godspeed to you. Govern as well as you can and I hope in some ways better than we have done" though I very much doubt whether it will ever happen.

Well, Sir, the only position is this. The hon. Minister has explained that the number of detentions has gone down as far as my own State is concerned and I know we have a clean slate today because hon. friends opposite have become more sensible than they were when I was in power.

THE MINISTER FOR COMMERCE (SHRI D. P. KARMARKAR): "New look".

DR. P. SUBBARAYAN: My hon. friend the Minister for Commerce says "new look". I agree. I agree that a new look has arrived. But I do say that we are not going to use this power in any way detrimental to civil

liberties. But I do feel that as long as conditions are what they are today, when there is all this indiscipline in the country, when students think that they can answer examination papers with books in their hands and the invigilator is not able to go and take that book away because he is afraid that there is a knife in the hands of the students, are we in a situation really to do without this law? These are occasions when such measures are required. I can assure my hon. friends opposite..... (Interruptions.)

SHRI S. MAHANTY (Orissa): I want a clarification.....

MR. DEPUTY CHAIRMAN: You will have your say.

DR. P. SUBBARAYAN: As long as the situation is in the state that I have stated, I feel that this measure is necessary. It may be that it may never be used and I hope very much that it will not be used but much depends on the conduct and behaviour of men opposite. I tell you that in regard to the Prime Minister and the Railway Minister upsetting the business, I know for certain that my hon. friends would like this Delhi strike to continue if it could and in fact I believe they did advise for such a thing but fortunately, the workers saw what was good for them and the railway strike is at an end today because the Government have said that they will consider the case of the workers when it is put before them and I must say that it was due to the President of the Provincial Congress Committee of Delhi and Shri Feroze Gandhi that this was brought about. I know that when they went to address the workers, they were in a sort of militant mood but by persuasion they were able to get them round and get them to stop this strike. I would like my hon. friends to consider what all this means. If the strike continued, a lot of them would not be able to go home. They may have no other way of getting home. Is this the way to govern this country, to create chaos.....

SHRI BHUPESH GUPTA: Why this Preventive Detention Act.....

DR. P. SUBBARAYAN: Everything can be prevented by that. Because the act that you perform brings out the Preventive Detention Act. That is why it exists. Therefore I plead with all Members of this House including Members Opposite that we will not use this in a wrong way, we will not use this in order to put down our political opponents. We will use it only in the cause of tranquillity and peace. Whatever may happen, this Act will exist on the Statute Book till the end of 1957. All that I say is, let it remain and let us carry on so that the country may get the name of having preserved law and order in spite of being new to administration.

AN HON. MEMBER: Can Congress Ministers be detained?

SHRI M. D. TUMPALLIWAR (Madhya Pradesh): Mr. Deputy Chairman, with some observations I lend my support to the continuation of this Preventive Detention Act. It has been universally accepted that prevention is always better than cure. As an ordinary citizen of India, I am interested in the peaceful conduct of community life and the life of the individual too.

We have to see whether the existing circumstances permit such a peaceful life. It has been said times without number in this House that in the present society there are various types of elements, there are subversive elements, there are communists and there are many other kinds of elements which do not allow an individual or the community to lead a peaceful life and because of that, in order that we may be able to lead a peaceful life, we need this Preventive Detention Act.

My hon. friend of the opposition said yesterday that seeds of subversive activities are actually in the form of society itself. I do agree with him there. Therefore an all-sided revolution, on the social, economic and

[M. D. Tumpalliwar.] cultural fronts is afoot in the country. Because of this we are seeing that the old influences are waning very rapidly. Those influences, however, are very clever. They have all along been enjoying privileged positions in society, a super-position in society. Now when they see that they have lost that position, the previous position that they were enjoying, and so they have quickly organised themselves and they are trying to mislead the people. The revolution is for the uplift of the masses from all points of view. But the masses for whom the revolution is meant, are ignorant. They do not know where they are going. They are stepping into an era of ample opportunities, but they do not know how to utilise those opportunities and how to guard themselves against the evil forces. Therefore, it is quite necessary that these rising masses should have protection from these evil forces.

In this House much has been said about the happenings at Kalka. Whether the police should have resorted to firing or not is quite a different question. But I feel that the very happenings at Kalka are a strong plea for the continuation of this Act. Had the Intelligence Department of the Government been alert, if they had apprehended that some such thing would happen and put some of the men likely to create trouble, in detention, then perhaps the incidents at Kalka would not have taken place at all and our hon. friends on the other side would have had no opportunity to take up that matter in hand in the manner they have done.

SHRI S. N. MAZUMDAR: Then you should put the whole country into detention, except the black-marketeers and the rest.

SHRI M. D. TUMPALLIWAR: In this way the peace of the people is disturbed and innocent people are brought into trouble. There are various ways in which trouble can be created

I do not say that our revolution is complete and that we have attained that form of society which we want to attain. But we are on the way to it, and when we are going towards that goal, we should have peace and we should have the peaceful approach to the revolution, because we do not believe in violent revolutions. We believe in the non-violent revolution which can be understood by the common man of India and by understanding that revolution, he will help in bringing about the revolution itself. That is what we want.

About the police resorting to firing I am of the opinion that the police should never resort to firing. But that is an ideal state of affairs. It is true that the police forces should be trained to have the ability to deal with even the worst kind of situation with the least use of force. But so long as that position is not attained, that training is not acquired by our police force, we should not leave the situation to deteriorate and ask the police force to be silent on all occasions. After all, ultimately, the duty of the Government, the primary duty of the Government is to maintain law and order and if in that maintenance of law and order the police has to use force it must use force and if it fails to use force, it deserves condemnation. Under such circumstances, when the situation is compelling and the police resort to firing, then at times we have to congratulate them. Whether the firing by the police is justified or not, there are competent courts to take the decision. And as far as the Kalka incident is concerned, I am sure and I know that the case has been given to the judiciary and the judiciary will give its report.

Another argument that one hears is that this Preventive Detention Act has been misused. Whether it has been used properly or not properly used, I am not going into the details of it. But simply because this Detention Act has been, as the Opposition says, misused at times, does not mean

that this Act should not be on the Statute Book. At times as we know, even a good medicine is wrongly administered and the result is otherwise; but because some doctor has misadministered the medicine, we cannot say that this medicine, should be removed from that pharmacy.

SHRI S. N. MAZUMDAR: But the doctor should be removed.

SHRI M. D. TUMPALLIWAR: The doctor can be removed and you have got ample opportunities of removing the doctor and we do not deny you that opportunity.

Our Prime Minister the day before yesterday has rightly said that freedom misused is a danger to that freedom itself. It is true, and we know that the freedom we give the individual according to our Constitution is being misused many times. But because it is being misused we cannot say that those clauses should be removed from the Constitution. If it is misused, it can be dealt with properly. At the same time, we do want freedom and we want the liberty given to all the individuals, so that every individual may have a full life. At times these preventive measures are necessary. Ordinarily we treat a disease when it appears, but at times we have to use some measures when the disease has not yet appeared. For example when there is an outbreak of any epidemic, we do not wait for a few individuals in the neighbourhood to contract the disease. Whether anybody contracts the disease or not, we inoculate all the people in that area with the object of seeing that the disease does not spread and by thus inoculating the whole community we check the spread of the disease. In spite of all that precaution there would occur some cases. For example Mr. Banerjee said yesterday that in spite of the Preventive Detention Act, there were the incidents at Kalka. That is true. Similarly, in spite of the inoculations there will be some cases of contracting the disease. But that does not mean

that the object of the inoculation is defeated. All the more it goes to prove that the measure of inoculation is all more essential for the safety of the community. As long as the circumstances do not come normal and do not guarantee the necessary peace, the Preventive Detention Act shall be there and should be there.

It was also stated, Sir, that Pandit Motilal Nehru and other prominent leaders of India had, in the British time, condemned the continuance of this Preventive Detention Act. The times have changed since. At that time the Preventive Detention Act was used by the rulers to check the revolution which was for the benefit of the people of India and now we want continuation of this Preventive Detention Act to check the anti-revolutionary forces which come in the way of the revolution, which is going to benefit the masses of the country in the near future.

Therefore, Sir, I support the continuance of this Act and conclude my speech.

MR. DEPUTY CHAIRMAN: Yes, Dr. Kunzru.

SHRI H. N. KUNZRU: Mr. Deputy Chairman, .....

SHRI SATYENDRANATH BOSE (Nominated): Sir, I had stood before him, even once before, and I want to have the privilege of speaking now. I am also a speaker.

MR. DEPUTY CHAIRMAN: I shall call you next.

SHRI H. N. KUNZRU: Mr. Deputy Chairman, some years ago, when terrorism existed on a large scale in this country and it caused concern not merely to the Government of India but to all those people who were anxious for the peaceful evolution of their country, there might have been justification then for the use of this extraordinary measure known as the Pre-

[Shri H. N. Kunzru.]

ventive Detention Act, but it is admitted by Government that as against about 10,000 people held in detention in 1950 there are only about between 300 and 400.

SHRI B. N. DATAR: There were only about 160.

SHRI H. N. KUNZRU: Well, I do not know what it is now, but on 31st March 1956, the total number of those who were in detention was 279.

Now the fact that the number has gone down is used as a proof to show how useful the Act has proved. But does the decline in the number of detenus justify the retention of the Act on the Statute Book. That is the point that we have to consider. We are told that regrettable incidents like those that have occurred at Kazipet and Kharagpur and Kalka are still occurring. Well, they are indeed regrettable incidents and it is necessary to enquire fully into them to fix the responsibility for what has happened on the people who had incited the gullible men around them to be violent. But if this argument is sound, I should like to know whether it cannot be used to justify placing any extraordinary legislation on the Statute Book. If you think that the present situation is extraordinary and can be kept under control only with the aid of a measure like the Preventive Detention Act, tell me then when you expect a time to come when you can do without such a law.

(Interruption.)

Somebody muttered something which I could not hear.

SHRIMATI PARVATHI KRISHNAN: Ignore them.

SHRI H. N. KUNZRU: Sir, let us compare the condition of India with certain other countries, say England and France. Now is the position of India, whatever its difficulties in the years 1947 to 1952 might have been, is it more difficult than that of England or of France? In England,

according to the papers, instances quite as serious as those that have occurred in India recently, have occurred repeatedly. Strikes have occurred which seem to the Government to be utterly unjustified. The trade of the country, rather the export trade of the country has been seriously dislocated and a situation has been created that tended to disrupt the economy of England. But was this serious situation dealt with there by means of an extraordinary measure like the Preventive Detention Act? I know hon. Members can refer to the Act that was passed in 1920, but let them compare the provisions of the Act in England with the provisions of the Preventive Detention Act and tell us whether they think that the British Act can bear any comparison to the Preventive Detention Act. The situation in France is even more difficult. Nevertheless law and order have been maintained there and I have no doubt that if Government, instead of taking the comparatively easy way of detaining people without trial, were to adopt the more difficult way of finding out all such facts about those who are disturbing the peace of society, they will be able, in many cases, to dispense with the use of the Preventive Detention Act. And now, Sir, I shall give you two instances in order to show that the Act, in spite of the small number of people in detention, has been misused. Sir, we have been supplied with three statistical Statements, one relating to the period 30th September 1954 to 30th September 1955, another Statement dealing with the period beginning with the 30th September 1955 and ending with the 31st December 1955 and the third Statement dealing with the first three months of the last financial year.

Now let us consider the reasons for the detention of the persons who were detained on the 30th September 1954. The total number of persons in detention on that date according to the first statement was 132. About one-third of these, however, were detained for what has been called goondaism.



Twelve were detained in Hyderabad for communal activities and 24 were detained for goondaism in West Bengal and eight for communal agitation in Uttar Pradesh. In other words, 20 persons were detained for communal agitation and 24 for goondaism. That is, out of 132, 44 persons, or nearly 33 per cent. were detained without trial for taking part in communal activities and indulging in goondaism. Now, I ask whether in a vast country like this the Government can by using these excuses justify the continuance of the Preventive Detention Act. Surely, there is something wrong. The Government may find it of course very convenient to use the Preventive Detention Act in these cases, but is it not their duty to see that in such cases the ordinary law of the land should be made use of? I do not say that they will be able to arrest everybody whom they think to be responsible for carrying on such activities. But is it necessary that they should catch hold of everybody who, they regard, are doing harm to society at any time? Can they not maintain law and order without arresting every person whom they regard as indulging in anti-social activities or even as enemies of society?

Now, take the statistics relating to the second period from 1st October 1955 to 31st December 1955. The total number of persons held in detention on 30th September 1955 was 123. Of these one was detained for goondaism in Bombay, 21 for goondaism in West Bengal and nine for goondaism in Delhi. That means in all 31 persons were detained for goondaism in the whole of India, and five persons I think for taking part in communal activities. That is, out of 123 as many as 36 persons or say about 35 per cent. of the detenus were held for these two reasons.

DIWAN CHAMAN LALL (Punjab): What is goondaism?

SHRI H. N. KUNZRU: My hon. friend behind me wants to know what

goondaism is. He ought to know. He had better address the question to the proper quarters.

DIWAN CHAMAN LALL: Since you have raised it, why not ask them?

SHRI H. N. KUNZRU: Why, my hon. friend could ask them directly. Perhaps his questions will carry more weight with them than any questions that I put. I am not with them in these things but my hon. friend is a habitual supporter of them. Let him ask the Government why it puts its own supporters in a highly embarrassing position by doing such things. Now I do not know what that word means. In the old days goondaism was the word used for pure and simple *badmashi*. Now that word seems to be used in a special sense by the Government of India and by the Government of West Bengal.

SHRI H. P. SAKSENA: In a scientific sense.

DR. SHRIMATI SEETA PARMANAND (Madhya Pradesh): The U.P. and Madhya Pradesh Governments too have got special Acts known as Goonda Acts.

SHRI H. N. KUNZRU: Sir, I now take the third Statement which relates to the period 31st December 1955 to 31st March 1956. Here the total number of persons in detention on 31st December 1955 was 131. Out of these 25 were detained for goondaism in West Bengal, two for the same reason in Bombay and 10 in Delhi. In other words 37 persons were detained for goondaism and five for communal agitation. So 42 out of 131 persons or nearly one-third of the total number were detained for these two reasons.

These three instances that I have given are sufficient to show in my opinion that the Preventive Detention Act is being used as a short-cut to the maintenance of law and order. Are the Government justified in using the Act for this purpose? The situation may be difficult and my hon. friend Mr. Gupta is not here now, otherwise

[Shri H. N. Kunzru.]

I would have said that the state of things in his State may be particularly difficult but this ought to put the authorities on their mettle to do their best to use the ordinary law to bring the malefactors to book. When I look at this state of things and when I compare the situation in India with some of those countries in Europe, where the governance of the country is not an easy thing for those who are in charge of its destinies, I confess that I feel that the Preventive Detention Act has been kept on the Statute Book here long after the need for it had ceased. I know that we shall have to consider next year whether the Act should be continued. I do not know what the intention of the Government is with regard to this matter. Perhaps the spokesman of the Government will enlighten us on this point. But in view of the arguments that have been used to justify the continuance of the Preventive Detention Act, I doubt whether even some improvement made in the existing situation will persuade the Government to say that the Act is no longer needed. I may be doing it an injustice, but so far the course of action that it has followed does not inspire us with confidence with regard to its future intentions.

SHRI SATYENDRA NATH BOSE: Mr. Deputy Chairman, I do not belong to any political party, but unfortunately I had been a teacher in Bengal and my memory is a distressing one. The story of the Preventive Detention Act and the speeches that I have heard in support remind me of the old regime. I remember first when only eight leaders of this country were arrested—only eight, not 117—and that was to keep the law and order going and let the ship of State roll on smoothly. Well, I have heard that the ancient regime is at an end, but I suppose that the evil that it has done lives after it. I have heard people speaking in this House of Parliament—I do not know how many of them were under the spell of this law of detention.....

SHRI H. P. SAKSENA: Should we rise up to show you how many we are?

SHRI SATYENDRANATH BOSE: No, Sir. I do not want it. I think it will depress me still further. What I wanted to say is this that I have heard the partisans of law and order before, during the British regime. I have heard of the eminent necessity which kept people without trial for months. I have seen how it vitiates life, how it destroys families, how it disturbs the peace by driving underground the whole movement, how one man kept in detention maintains people who feel the inequity of it all and how it grows and grows. On the other hand I saw also other things happen in this country. I have been in Calcutta on the day when we heard with great jubilation the declaration that we shall have the maintenance of law and order in our own hands. Calcutta was then passing through a spell of internecine war. People had gone through the streets, people had gone through what may be called grave risks; there were no incidents because this simple recognition of the rights of the people has changed the mentality of the people. There have been people of different races and different religions embracing one another. This may happen in India. This will happen in India. This will again happen in India if India does not forget the philosophy that it had stood for. I have felt that we very often repeat our adherence to our ancient philosophy. But is it really for export? Is it really for earning the foreign exchange that we have shown our adherence to the great teachings of Lord Buddha? I do not know. But to say that simply because one of the great officials of the State has been detained for some hours not being able to reach a more salubrious climate than Delhi, he would be able to spill the blood of eight men and not feel it, is it so simple? Do you feel that such things had happened in India? And you still maintain that it is only in the name of law and order that you have done it? Is it not your laziness—

as one revered speaker has said—that it is normal laziness and short cut to the maintenance of law and order that has kept this iniquitous law on the Statute Book. Is it not possible, armed with all the powers at your command and all the goodwill of the majority of the people, to maintain law and order? Is it not possible for this great country and for the persons in whom the majority of the people have confidence to maintain law and order, to keep in check a few people when the majority is after you? It is really sad you have put in places persons who do not believe in the great task that India has taken upon herself. I believe that whenever we are playing a game which we have learnt from the Western States, we are not really respecting ourselves, respecting our great traditions. Why should it not be possible to use this Parliament as a clearing house of the different kinds of opinion when things are discussed in great amity? Why should it not be possible without throwing slanderous remarks against one another to discuss really grave things which affect the State? I feel it is a very grave thing that you have within the brief span of seven years of your Republic shot down as many people as perhaps in the last fifty years of British rule.

HON. MEMBERS: Shame.

SHRI SATYENDRANATH BOSE: Sir, it is really a shame. I think not only inside Parliament but outside India every Indian hangs down his head in shame when he feels that in spite of the best traditions of our fathers, in spite of centuries of civilisation, in spite of all the teachings we had from our people, we are playing like ordinary brats.

AN HON. MEMBER: No.

SHRI SATYENDRANATH BOSE: Well, none would be more glad if it were really proved, but I despair. I see before me streams of blood; I see before me desolate homes; I see before me people who have been detained without trial and I see before me people who are praising that such a

method of detention is, however, the best thing that we can take recourse to under the circumstances. Sir, I feel that this great Parliament, this great country, the people who have great traditions, should have also belief in peace. It will not do merely to say that we are fortunate in having with us men of peace who have proclaimed peace, who have proclaimed the five laws of peace. That certainly becomes great and certainly becomes capable of carrying on the great traditions of this country. Let us, however, have belief in ourselves. Let us have belief in our traditions and let us have belief in our own capacity. I do not think in India at the present moment there exists any situation which cannot be tackled if the man is resolute enough, if he has got the belief in the traditions of his forefathers, if he has got belief in the recent teaching that the Father of the Nation has given to this country.

I believe in non-violence and I do not believe that, if the person is non-violent, the aggressors will not melt down and will not be disarmed if their look is threatening. I have seen such things happening. I think you also have perhaps seen—perhaps it is only after you have come into Parliament that these things have vanished. These things have not happened only once here. But I believe in India they may happen often and often.

Therefore, I say: Have belief in yourself; have belief in your own powers; have belief in your aggressors also; have belief in your Opposition who are also Indians and let there not be this blot on the name of India which has long over-run its due.

SHRI FAKHRUDDIN ALI AHMED (Assam): Mr. Deputy Chairman, I rise to participate in the discussion before this House for two reasons. In the first place, I had no intention of speaking today but for certain remarks which have been made by my friend, Mr. Bhupesh Gupta, particularly with reference to the ideal State and the condition which prevails in Pakistan. Secondly, I rise to speak

[Shri Fakhruddin Ali Ahmed.]  
because I feel that any law which seeks to destroy the liberty of the people living in a country is a bad law. But we have to consider the question whether the evils which, but for this Act, would have remained in this country would have been far worse than what we have got now because of this Preventive Detention Act. What does the history of the last few years indicate to us?

Sir, my friend, Shri Bhupesh Gupta has called it one of the darkest Acts of the Government. But I think he should be thankful to himself and his supporters that this is one of the best Acts which has done service, which has done good, to his party and his followers. But for this Act, I do not know where they would have been today. And I may tell you that it was due to this Act that they realised that the way for them now was to proceed in the way of construction, not in the way of destruction. And he will probably admit that a few years ago, we had as many as thousands of people under detention, but today, after we have seen the figures which have been placed before this House by the Government, we can take pride that there are only about 200 people under detention. That fact itself is corroborative and indicative of the method which the Government have pursued in taking advantage of this Preventive Detention Act. That fact itself shows that, whenever Government knew that the people were not resorting to acts of violence and they were doing things which are constitutional, they did not apply this Preventive Detention Act against those persons however great opponents they may be in politics. It goes to the credit of the Government and the Congress organisation that, in spite of the difficulties, in spite of all the opposition in their way, they have dealt with those people with great restraint.

We have been told of what happens in other countries. We have been told that in countries like England, this kind of Act does not exist in normal

times. It is true that in England, only during the war, only when there are abnormal conditions, this kind of Act is brought into existence. And as soon as those conditions cease to exist, those Acts are done away with. But I would like Members to consider whether we can compare our conditions with those prevailing in England. England has been a country which has been following the principle of democracy for hundreds of years, where no party exists on communal lines, where people have realised their responsibilities towards their country. But in India which only seven or eight years ago became free and where instances which we dread to think of occur, I think a measure of this kind is necessary and it is to the credit of the Congress Government and the Congress Party that, by taking these strong measures, they have prevented a greater situation, a greater catastrophe than what would have been in the country.

I was told that Dr. Khan Saheb recently gave a promise that he would do away with the Preventive Detention Act in West Punjab. I do not know what are the conditions prevailing in that part of the country. But I know this much that once an ex-Secretary of the Communist Party who happened to be a citizen of Pakistan has chosen.....

SHRI J. V. K. VALLABHARAO; An Indian. You know it better.

SHRI FAKHRUDDIN ALI AHMED: .....to come to India.....(Interruptions.)

MR. DEPUTY CHAIRMAN: Order, order.

SHRI J. V. K. VALLABHARAO: You know it.

SHRI FAKHRUDDIN ALI AHMED: So, my friends are very intolerant.

SHRI AKBAR ALI KHAN: What about other Communists? (Interruptions.)

MR. DEPUTY CHAIRMAN: Order, order. This cannot go on; please do not disturb.

SHRI S. N. MAZUMDAR: This should not be allowed. He should be corrected.

MR. DEPUTY CHAIRMAN: Half-a-dozen Members cannot talk at the same time.

SHRI S. N. MAZUMDAR: Sir, I seek your protection. That gentleman is not present in the House. On this very ground.....

MR. DEPUTY CHAIRMAN: When you make some allegations, you must also.....(Interruptions.) You cannot have one way traffic.

SHRI FAKHRUDDIN ALI AHMED: My friend is so anxious about this matter. But when one knows that he now claims to be an Indian citizen.....

SHRI BHUPESH GUPTA: He hails from Lucknow. Is not his relative still a Minister of the Government of Uttar Pradesh and does not his family live in Uttar Pradesh? (Interruptions.)

SHRI FAKHRUDDIN ALI AHMED: It may be that we have many people in India, whose brothers are in Pakistan.

SHRI S. N. MAZUMDAR: Sir, that gentleman is not present in the House. On past occasions you have ruled when we have made certain remarks even by not quoting names.

MR. DEPUTY CHAIRMAN: He has not mentioned any name.

SHRI S. N. MAZUMDAR: But he mentioned the particular person.

(Interruptions.)

5 P.M.

MR. DEPUTY CHAIRMAN: He has not mentioned any name.

SHRI BHUPESH GUPTA: I would request you to ask him as to what material facts he has in his possession

to deny what we say. He is an Indian citizen.

MR. DEPUTY CHAIRMAN: Mr. Bhupesh Gupta, nobody disturbed you when you spoke for one hour.

SHRI S. N. MAZUMDAR: Sir, the facts must be stated.

MR. DEPUTY CHAIRMAN: When you make certain allegations, you must be prepared to take also certain allegations.

(Interruptions.)

SHRI BHUPESH GUPTA: Sir, I am not unprepared to take that allegation. I am very much prepared for it. But all that I say is that he is making a statement which is not correct. (Interruptions.)

SHRI A. S. RAJU (Andhra): Sir, when Mr. Bhupesh Gupta was speaking for one full hour, nobody interrupted him. Then why are they interrupting us? This is nothing but goon-daism. (Several interruptions.)

SHRI S. N. MAZUMDAR: Sir, I rise on a point of order. The hon. Member on that side has used the word 'goon-daism'.

MR. DEPUTY CHAIRMAN: Mr. Raju, please withdraw it.

SHRI A. S. RAJU: I withdraw it.

SHRI BHUPESH GUPTA: Sir, I would just like to.....

MR. DEPUTY CHAIRMAN: Mr. Bhupesh Gupta, you must allow the hon. Member to continue his speech. (Interruptions.) You belong to a responsible Party, but you are getting up again and again and disturbing the hon. Member, and you are not allowing him to continue his speech. Please allow him to continue.....

SHRI BHUPESH GUPTA: I would certainly allow him to continue, Sir, and I do not want to interrupt him. But, Sir, I must make a submission. I feel, Sir, that the observations of the Chair, however well-intentioned, cast a kind of reflection on the Opposition.

[Shri Bhupesh Gupta.]

You may have meant them very well, but they do not.....(Interruption.) Sir, the hon. Member has made a statement, and we have the full right to refute it.

MR. DEPUTY CHAIRMAN: But you cannot go on disturbing him all the time. You must show the same amount of courtesy that you expect from others. Therefore please resume your seat, Mr. Bhupesh Gupta.

SHRI FAKHRUDDIN ALI AHMED: Mr. Deputy Chairman, I am really surprised at the attitude of my friends, that they continued to interrupt me. For one hour, my friend, Mr. Bhupesh Gupta, spoke, and not one of us interrupted him. If this is the manner in which their democracy is going to function, we shudder to think what will happen to this country and to the people who live in this country.

Now, Sir, if any fact is to be disputed by my friends there, surely they have an armoury of speakers who can deny what is stated by me before this House. But I maintain that if the conditions in Pakistan were so rosy and beautiful, why was it necessary.....

SHRI S. N. MAZUMDAR: On a point of order, Sir.

SHRI BHUPESH GUPTA: On a point of personal explanation, Sir.

SEVERAL HON. MEMBERS FROM THE GOVERNMENT BENCHES: Order, order.

MR. DEPUTY CHAIRMAN: Mr. Bhupesh Gupta, please allow him to continue. Don't interrupt him in this way.

SHRI BHUPESH GUPTA: Sir, am I not entitled to rise on a point of order? I rise on a point of order, Sir.

MR. DEPUTY CHAIRMAN: But he is not yielding to you, and when one Member is standing, you cannot speak. Please resume your seat. I am sorry we cannot go on like this.

SHRI S. N. MAZUMDAR: He has been distorting facts.

SHRI BHUPESH GUPTA: Sir, I am not interrupting him. But I rise on a point of order.

MR. DEPUTY CHAIRMAN: All right, what is your point of order?

SHRI BHUPESH GUPTA: Sir, my point of order is this. The hon. Member on that side is trying to distort what I have said. I never gave any rosy picture of Pakistan, or any thing of that sort.

MR. DEPUTY CHAIRMAN: Well, Mr. Bhupesh Gupta, you said that Dr. Khan Saheb has referred in his speech about the Preventive Detention. So you gave a rosy picture. And you must take whatever he says. There is no point of order.

SHRI S. N. MAZUMDAR: It is surprising that the Chair is interpreting it in this manner.

SHRI FAKHRUDDIN ALI AHMED: Sir, I maintain and repeat that when the conditions are rosy and beautiful in Pakistan, why was it necessary for one of their stalwarts to come here and claim Indian citizenship? And I again repeat that if this gentleman had gone there, not as a Pakistani, but as an Indian national, they know what action would have been taken by the Pakistan Government. And he was all the time treated as a citizen of Pakistan, and he was kept under detention, because he belonged to the Communist Party. Sir, my friend may take exception with regard to this particular friend, who is also a friend of mine. But he knows in his heart of hearts how his organisation has been dealt with, and why it has become necessary for some of them to find a field of operation, not in Pakistan, but in India.

Sir, I maintain that though this law is not a desirable one, considering the situation prevailing in this country during the last two years, no one can dispute the fact that it has done some-

good to our country. And the manner in which our Government in all the States have been making use of this measure, also strengthens the reason why this Act should continue, especially when we are on the verge of our second Five-Year Plan, and when we have in the midst of our citizens those who still indulge in communal activities and thus stand in the way of the unity of our people. Sir, my friend knows what happened in many other countries when they became free, or when they adopted the communist ideologies. Now he takes exception to such a harmless measure as the Preventive Detention Act. Sir, do we not know what happened in many other countries? Simply because the people opposed a certain philosophy and opposed a certain political organisation, they were not only detained, but they were simply shot in cold blood. Would that have been better? This is what our Government have done during the last six or seven years. The Preventive Detention Act only tells you that the path you are taking is not the proper path, and the moment you give up that wrong path, you will be at liberty to come and take part in all the deliberations for the improvement of the country, and this is what has been done during the last few years. Now, it has been said on behalf of the Opposition that the Government have been utilising this Preventive Detention Act against political parties. My submission before this House is, as everyone knows, that the kind of freedom which political organisations and communal organisations in this country enjoy is not enjoyed in any other part of the world. This is a fact which is so glaring that it has to be recognised even by my friends over there, and if it had not been for the large-heartedness of the Congress organisation today, they would not have been sitting here to day and making criticisms which have no basis, which have no foundation, whatsoever. This Preventive Detention Act, when considered from this point of view, has done good to our friends over there, because we find that by their presence they do make our deliberations lively. We hear all

kinds of discourses from them about democracy and about the shadows in which we are living. We know and we apprehend the shadow in which we shall live if our friends over there ever come into power, but we know that on account of their own activities, on account of their own manners and behaviour, they have today lost their support not only among a few sections of the people but in the entire country.

**SHRIMATI PARVATHI KRISHNAN:** That is what the recent bye-elections have proved.

**SHRI FAKHRUDDIN ALI AHMED:** They did not win these bye-elections on account of their philosophy. They have exploited the sentiments of our Bengali friends. They have exploited the sentiments of the Maharashtrians. It was because of that and not because of their communist philosophy that we have lost the bye-elections in Bengal, and this is a fact which they know themselves but they would not admit it. If today there is any communal trouble, they will also be helping these communal elements, because it will serve their purpose.

**SHRI BHUPESH GUPTA:** We take strong exception to such statements.

**SHRI ABHIMANYU RATH:** Who supported the Muslim League in India?

**SHRI FAKHRUDDIN ALI AHMED:** I have knowledge of who encouraged the Muslim League in many parts of India. I have seen from personal experience.

If we want that the country should be united and proceed on the path of progress, it is necessary that a measure of this type should remain on the Statute Book, so that if any man or any community goes wrong, they may be pulled up. I think that the attitude taken up by the Government with regard to the Preventive Detention Act requires encouragement and support from every quarter, and in this connection I say that, so far as

[Shri Fakhruddin Ali Ahmed.] my State is concerned, for the last one year we have not a single person under preventive detention. I know that about two years ago there were some persons who were indulging in communal activities. I think that, if all the States emulate the example set by States like Assam and Madras, there will be no need for the Preventive Detention Act, and we shall have no one to complain about what our Government is doing against them.

SHRI S. MAHANTY: Mr. Deputy Chairman, I am really thankful to you for having given me an opportunity to speak on this motion at this stage of the debate. I had no intention of participating in this debate, but certain speeches, certain provocative speeches which had no logic as their strong point, have provoked me to participate in this debate. Yesterday the hon. Minister in his usual lucid speech tried to impress on this House the desirability of continuing this measure on the Statute Book. Now, certain outstanding features of his speech were—I have itemised them as follows—(1) the number of preventive detentions are going down from 10,500 or so in 1950 to 300 or something in 1955. I am speaking from memory, subject to correction. I interrupted him: "What does it prove?" There was no answer to it. He said continuance is a restraint. Secondly, he said that nowadays the State Governments are taking recourse to other sections of the Indian Penal Code. So they have no necessity to take recourse to this measure. My observations will be strictly confined to these two points which have been conceded by no less a person than the hon. Home Minister of the Government. I do not wish to import extraneous matters like students going to examination halls with knives or what happened in Kalka or what happened in Kharagpur. The Government which fights shy to have a general discussion on the Kalka incident sidetracks and maintains its own theories, opinions and explanations about Kalka. What happened in Kalka will be a permanent source of shame to the

Government of India. Are we going to allow this kind of brutal firing by an officer of a State which professes to be a Welfare State? Sir, we all know how firing took place without any order from a Magistrate. We all know how a lathi charge preceded all those incidents. Hon. Members of the Congress Benches who are always concerned with parliamentary propriety should not have tried to influence the judicial enquiry that is going on into the Kalka incident.

MR. DEPUTY CHAIRMAN: Order, Order. Please do not make such allegations. A judicial enquiry has just been instituted and you are already making allegations that people are influencing the enquiry.

SHRI S. MAHANTY: May I make a humble suggestion? I bow to your ruling. But will you kindly listen to me before you give the ruling?

MR. DEPUTY CHAIRMAN: The enquiry has just started. It is only this morning that we read that a Judge has been appointed. Whether he has started the work, we do not know. You are already making allegations that they are influencing the judicial enquiry. Please withdraw that remark.

SHRI S. MAHANTY: I am not going to withdraw.

MR. DEPUTY CHAIRMAN: I am going to expunge it.

SHRI S. MAHANTY: Are you going to hang me before you hear me? I am perfectly in your hands, but you please listen to me, to what I say. You have been pleased to say that you do not know, the House does not know, whether the enquiry is in progress.

DIWAN CHAMAN LALL: The position is that a Judge has been appointed to hold an enquiry. Therefore, the matter is *sub judice*.

SHRI S. MAHANTY: Yesterday, the hon. Railway Minister it is part of the proceedings of this House—a



Government representative, said that an enquiry was in progress.

MR. DEPUTY CHAIRMAN: The Punjab Government has appointed a Judge. We read about it in the morning's papers.

SHRI S. MAHANTY: The very fact that a Judge has been appointed to go into this question shows that proceedings have started, and the starting point is the appointment of the Judge. Therefore, I am saying, probably you were not mindful, otherwise I am sure, a man who cares very much for parliamentary propriety, would have immediately pulled up those speakers who emphasised so much on Kalka which was completely extraneous, which had no relation with this particular matter.

MR. DEPUTY CHAIRMAN: When you have brought in all these things.....

SHRI S. MAHANTY: I am not going to touch it but I was stating.....

MR. DEPUTY CHAIRMAN: But your remark 'from the very point of appointments, the enquiry starts' is not correct.

SHRI S. MAHANTY: It is a matter of opinion.

(Mr. H. C. Dasappa got up to interrupt.)

I am not going to yield to Mr. Dasappa. You will protect me, Sir. I am not going to yield.

MR. DEPUTY CHAIRMAN: But you cannot make such an insinuation.

SHRI H. C. DASAPPA (Mysore): On a point of order. Is it open to an hon. Member of this House to say that a judicial tribunal is being influenced by any other Member or by his own colleagues? It is a breach of the privilege of Members of the House.

MR. DEPUTY CHAIRMAN: There is no point of order but I have already told you (addressing Mr.

Mahanty) that it is an insinuation and you should not make such an insinuation.

SHRI S. MAHANTY: I have not made it.

MR. DEPUTY CHAIRMAN: No speech may be allowed which is an insinuation.

SHRI S. MAHANTY: I am localising the issue.

MR. DEPUTY CHAIRMAN: Please withdraw it.

SHRI S. MAHANTY: I am not withdrawing. I am localising it. The limited issue is, from what point the judicial enquiry starts, whether it starts from the date of appointment or from the time when the enquiry actually starts into the particular incident. From what point does it start? It is a matter of opinion, but I would invite your Ruling on this point. Before I proceed, I will invite your Ruling. Otherwise I am not going to be stifled and I still maintain that it is highly improper for the hon. Members of the Congress Benches to have imported the Kalka incident into this discussion and thereby influence the judicial enquiry that is about to start. I hold and maintain it and rather I would prefer silence than to be stifled by this kind of thing.....

MR. DEPUTY CHAIRMAN: I would request the hon. Member to withdraw it. It is not right that it should find a place in the Parliamentary proceedings.

SHRI S. MAHANTY: If you give that ruling, I am in your hands, and I will cooperate with you.

MR. DEPUTY CHAIRMAN: The Rules provide that no insinuation should be made but you have made a definite insinuation. Please read the proceedings.

SHRI S. MAHANTY: I would like the proceedings to be read.

MR. DEPUTY CHAIRMAN: You can go on with your speech in the meantime.

SHRI S. MAHANTY: Till that, I have not withdrawn. So what I was trying to say is that, therefore, the only issue which is before us is whether the conditions which obtained in the year 1950 exist today and warrant the continuance of this black measure on the Statute Book. That is the only limited issue to which I will invite the dispassionate examination, analysis and appreciation of this hon. House.

Now, the question is, the hon. Minister said that the late Sardar Patel of revered memory, passed three sleepless nights before he could enact this. Sir, it is a matter of common knowledge how sleeplessness distorts minds, distorts cool thinking. I am afraid, this particular piece, this Preventive Detention Act, was the outcome of sleeplessness. If he had had sound sleep, probably this measure would not have come into being. How was this House concerned to know whether a particular gentleman had good sleep or not. We are not concerned with it. We quite concede that the circumstances in 1950 were extenuating. There might have been reasons for bringing in this kind of extraordinary legislation on the Statute Book, but according to your own figures, from 10,900 or something in the year 1950, now the number of persons under preventive detention has come to 300 and something and the reason given by my hon. friend is that it is only due to the Akali trouble in the Punjab that the number was bolstered up, otherwise it would have been half of it. Now my hon. friend who was condemning Akalis as rank communalists, is in very friendly embrace with them in the Punjab. Now then, where is the occasion for bringing in this kind of measure on the Statute Book? Now this gives the lie direct to your professions. You were condemning communalists for your own vote-catching purposes. You are now embracing them in friendly fraternity for the same reasons. To add insult to injury, you have now brought this measure to this House soon after the Buddha Jayanti celebrations. I don't know what right you have to insult the great name which stands for

charity, which stands for tolerance, which stands for compassion? As my friend Prof. Bose said, is your philosophy or your Panch Shila meant only for foreign exchange? I don't know whether it is for dollar earning or for rouble earning. At any rate it is not meant seriously. So now that both the communalists and the Communists are your allies, what reason is there for the continuance of this blessed measure?

Now the second thing is, my hon. friends have said that there has been no flagrant abuse and that only 300 persons are in detention and an intelligent mathematician of the Congress Benches was trying to compute the percentage, the ratio between the population of India of 36 crores and the persons under preventive detention. If I may put it in the usual rustic parlance, it will be like this. A bastard has been born and the mother says "It is only a small baby, why do you mind it?"

AN HON. MEMBER: What is that?

SHRI S. MAHANTY: A bastard has been born but the mother says "This is only a small baby". The smallness of the size.....

SHRIMATI PARVATHI KRISHNAN: Sir, I object to that.

MR. DEPUTY CHAIRMAN: What are you referring to, Mr. Mahanty, as bastard?

SHRI S. MAHANTY: Illegitimate child, I will say.

SHRIMATI PARVATHI KRISHNAN: I object to that.

MR. DEPUTY CHAIRMAN: An hon. Member objects to it. You should not use that language.

SHRI S. MAHANTY: I am sorry for having used that word. I would replace it as "illegitimate child."

SHRI M. GOVINDA REDDY (Mysore): Even that is wrong.

PANDIT S. S. N. TANKHA (Uttar Pradesh): "Child born out of wedlock".

**SHRI S. MAHANTY:** My friend says, "a child is born out of wedlock." The mother says that it is only a small baby. So the number of persons under detention should not confuse the fundamental question whether there is any necessity for the continuance of this measure or not.

**SHRI H. C. DASAPPA:** It was born long ago.

**SHRI S. MAHANTY:** Quite true. And you blessed the occasion. I am of the opinion that no liberty is absolute. In fact all our Fundamental Rights, which have been guaranteed in the Constitution, have been hedged in with so many kinds of conditions. I don't believe that liberty is also an absolute condition nor do I plead that liberty should be absolute. It must be related to society and the demands of society. For that there are so many sections in your existing Penal Code. Look at the Government of Orissa. From this Statement you will find that only a single person is under detention under this Act. Why? Do you mean to suggest that the Orissa Government have gone non-violent? No. You go and visit the jails in Orissa. There you will find how brutal firings have taken place, how innocent persons without trial have been rotting behind prison bars and how the High Court had to order the release of persons because the Government could not prove the charges. But they were not using the Preventive Detention Act, because you have no Preventive Detention Act in force in Orissa. The Opposition there was so strong that after a marathon debate lasting for a week, the Government could not dare to bring it on the Statute Book. Yet the Government there is dealing with the situation. There is section 107 of the I. P. C. There is the section about the lack of ostensible means of livelihood as a reason for putting persons behind the bars. Thank God there is the Indian Penal Code in your hands. So long as you have not separated the judiciary from the executive, your magistrates are there to manipulate any section of the

Indian Penal Code to suit your purposes.

**MR. DEPUTY CHAIRMAN:** Now you are making allegations against the judiciary also.

**SHRI S. MAHANTY:** Sir, my humble submission is, probably I am allergic to you. Otherwise what I was saying.....

**MR. DEPUTY CHAIRMAN:** Not at all. Your words are very clear. You are making allegations and insinuations against the judiciary.

**SHRI S. MAHANTY:** The reporters are there again and I will ask the reporters to present my speech to you. What I was saying was: So long as you have not separated the Judiciary from the executive, your magistrates are there to pervert and manipulate the sections of the Indian Penal Code to suit your purposes. So long as the judiciary is not separated from.....

**MR. DEPUTY CHAIRMAN:** Whether they are separated or not, the magistrates and the judges are always Government servants. That is how you make the allegation. You cannot make such insinuations against the judiciary.

**SHRI M. GOVINDA REDDY:** It is an insinuation

**SHRI S. MAHANTY:** Not at all; if anything, it is an insinuation against the executive. I am not making any insinuation against the judiciary.

**MR. DEPUTY CHAIRMAN:** I am sorry, you cannot say like that.

**PANDIT S. S. N. TANKHA:** The hon. Member also said: "to suit your purposes", which means that the judiciary is not independent.

**SHRI S. MAHANTY:** My hon. friend's legal acumen is wasted on this small point. I still hold that what I said may be an insinuation against the executive, but not against the judiciary.

Sir, I will now finish. I do not want to take more time of the House.

MR. DEPUTY CHAIRMAN: That is enough.

SHRI S. MAHANTY: Before I sit down. I would like to know what has happened to your order, Sir, for expunging of some of my remarks.

MR. DEPUTY CHAIRMAN: You have made definite allegations against the Home Minister and the Congress benches.

SHRI S. MAHANTY: Will you kindly read out what I said?

MR. DEPUTY CHAIRMAN: Yes. This is the transliteration:

"Sir, we all know how firing took place without any order from a Magistrate. We all know how a lathi charge preceded all those incidents. Hon. Members of the Congress benches who are always concerned with parliamentary propriety should not have tried to influence the judicial enquiry that is going on into the Kalka incident."

That is a definite allegation against hon. Members of this House.

SHRI S. MAHANTY: I would like to lodge my protest against this kind of a ruling. I would rather walk out than sit here.

SEVERAL HON. MEMBERS: Walk out. walk out.

AN HON. MEMBER: Go away.

SHRI S. MAHANTY: There was no insinuation. Yes, you have got a brute majority and so you can always steam-roller anything.

SHRI M. GOVINDA REDDY: But you cannot speak what you like.

SHRI S. MAHANTY: Read the motto: "Satyameva Jayate". You are all liars. There was no insinuation.

AN HON. MEMBER: What else is it?

MR. DEPUTY CHAIRMAN: Order, order, Mr. Mahanty.....

SHRI S. MAHANTY: I still hold that the members of the Congress party have tried.....

SEVERAL HON. MEMBERS: No, no.

SHRI S. MAHANTY: I am not the sort of man to be booed down.....

SEVERAL HON. MEMBERS: Order, order.

SHRI S. MAHANTY: I have seen greater crowds than this. It is not a question of booing down.

MR. DEPUTY CHAIRMAN: Order, order.

SHRI S. MAHANTY: Sir, the limited issue is: From which point the judicial enquiry starts.

MR. DEPUTY CHAIRMAN: From whatever point it starts, Mr. Mahanty, you have made the definite charge that the Members of the Congress Party are trying to influence—that the Congress Members of Parliament in this House are trying to influence the judicial enquiry. That is a very serious charge for any hon. Member to make against other hon. Members of this House. I would like you to maintain the prestige of this House and I would ask you, therefore, to withdraw these remarks.

SHRI S. MAHANTY: I withdraw them. But I would like to.....

DIWAN CHAMAN LALL: May I rise on a point of order, Mr. Deputy Chairman? While thanking Mr. Mahanty for withdrawing the very objectionable expression that he used, may I draw your attention, Sir, to that very objectionable statement made by him? In referring to the motto: "Satyameva Jayate" he shouted to these benches "You are all liars."

SHRI S. MAHANTY: No.

DIWAN CHAMAN LALL: No, he stated that definitely; and I do hope that in his anger he did not mean it

and I appeal to him to withdraw that expression.

SHRI S. MAHANTY: I did not.....

AN HON. MEMBER: You don't know what you said.

MR. DEPUTY CHAIRMAN: Did he say that?

SHRI S. MAHANTY: If I said that, I withdraw it.

MR. DEPUTY CHAIRMAN: That is all right. If you have said it, it is withdrawn. If you have not said it, then it is nothing to withdraw.

SHRI S. MAHANTY: Will you not listen to me? (*Interruptions.*) Will you kindly listen to me? I have co-operated with you and I have withdrawn the words. I am prepared to withdraw every word that I have said.

MR. DEPUTY CHAIRMAN: No, I don't want that.

SHRI S. MAHANTY: I am prepared to do even that. But I would like you and I would beg of you to maintain this stand and whenever any insinuation is thrown at these opposition benches, this sense of justice will be shown to the Opposition.

SEVERAL HON. MEMBERS: Yes.

SHRI S. MAHANTY: I am asking the Chair.

MR. DEPUTY CHAIRMAN: Mr. Mahanty, you can depend upon my holding the scales even. I do not want any unparliamentary expressions to be used by any Member of any Party.

SHRI S. MAHANTY: Sir, I rise on a point of order.....

SHRI H. C. DASAPPA: May I point out.....

MR. DEPUTY CHAIRMAN: Let us proceed with the business.

SHRI H. C. DASAPPA: There is another point. The hon. Member said, "The Chair is allergic towards me." It is a reflection on the Chair.

SHRI S. MAHANTY: Sir, I rise on a point of order.

MR. DEPUTY CHAIRMAN: If you want to maintain the word "allergic" you may maintain it.

SHRI S. MAHANTY: But I am rising on a point of order.

MR. DEPUTY CHAIRMAN: May be it is not proper, you should not use such expressions against any Member, much less against the Chair.

SHRI S. MAHANTY: Sir, you know how docile I am.

MR. DEPUTY CHAIRMAN: Yes, these expressions are an example of your docility.

SHRI S. MAHANTY: I rise on a point of order.

MR. DEPUTY CHAIRMAN: What is that point of order?

SHRI S. MAHANTY: Sir, the point of order is whether it is open to Members of this House to shout "Order, order" while I am addressing you.

MR. DEPUTY CHAIRMAN: That is being done, you see. It has been the order of the day, at least today. I am sorry for it. It should not be done.

SHRI H. C. DASAPPA: Sir, I move that the expression that I referred to, be expunged—I mean that reference to the Chair—that the Chair is allergic to the Member.

SEVERAL OPPOSITION MEMBERS: No, no.

SHRI S. MAHANTY: I think the hon. Member in his excitement forgets what I said. I said, "I am allergic to you."

SEVERAL HON. MEMBERS: No, no.

SHRI S. MAHANTY: But why are you shouting?

DIWAN CHAMAN LALL: What he said was: "I am allergic to you."

MR. DEPUTY CHAIRMAN: Have you finished Mr. Mahanty?

SHRI MAHANTY: I have nothing more to add.

MR. DEPUTY CHAIRMAN: Anyway, Mr. Mahanty, I would make a request to you not to use such offensive words hereafter.

SHRI S. MAHANTY: What offensive words, Sir?

MR. DEPUTY CHAIRMAN: You have been good enough to withdraw, but please avoid such expressions.

SHRI S. MAHANTY: While offering my most grateful thanks for your instruction.....

MR. DEPUTY CHAIRMAN: We don't gain anything. Neither party gains anything from using such expressions. While expressing ourselves let us use dignified parliamentary language.

SHRI S. MAHANTY: While I offer my grateful thanks to you I would only like that you will advise the hon. the Home Minister to withdraw the most offensive kind of legislation on the Statute Book, which offends the very liberty, the very fundamental rights of the people.

That is all, Sir.

MR. DEPUTY CHAIRMAN: You have been fighting for it. Very good.

SHRI KAILASH BIHARI LALL (Bihar): Mr. Deputy Chairman, I had no mind to speak but the speeches that have been made from the Opposition benches have led me to speak and I request you to allow me to speak.

Sir, I have tried to be a peaceful sort of man and at the same time I

care for such things that offend against realism.

Sir, this piece of legislation, which is being sought to be extended for a further period, is a thing which I thought at one time to be barbarous.

AN HON. MEMBER: Hear, hear.

SHRI KAILASH BIHARI LALL: "At one time" I said. Don't you forget, my friend. But today the very spectacle in the House and the way in which the Members of Parliament behaved led me to think what can be the condition outside this House.

SHRI T. BODRA (Bihar): I object strongly to the remark, Sir. This is an insinuation on Members.

SHRI KAILASH BIHARI LALL: Because we have become part of everything objectionable.

SHRI T. BODRA: He said that for the behaviour inside the House the continuance of this Act is much more necessary.

SHRI KAILASH BIHARI LALL: It is the spectacle.....

MR. DEPUTY CHAIRMAN: Each Member holds his own opinion.

SHRI KAILASH BIHARI LALL: I have said that the very demonstration in this House, the spectacle in this House led me to think what can be the condition outside this House. You are all responsible Members. What you are doing? How we are all behaving here? I don't say "you"; we all. I say if this is the conduct of the House you can very well imagine what others can do outside. My friend, Dr. Subbarayan, has said what the students can do, how they strike and all that.

DR. R. B. GOUR (Hyderabad): Are you speaking on behalf of the Party?

SHRI KAILASH BIHARI LALL: This is becoming the habit on the part of some Members.

SHRI T. BODRA: He now says.....

SHRI KAILASH BIHARI LALL: I was saying "barbarous" and I still maintain that this sort of conduct reflects in the law that is being extended today. Barbarous people cannot expect a good law and this is only a reflection of the conduct of the people in our law for which we hang our heads in shame, no doubt about it.

SHRI S. N. MAZUMDAR: I heard him say "barbarous" if I am not mistaken.

MR. DEPUTY CHAIRMAN: He is not making any allegation against anybody.

SHRI BHUPESH GUPTA: On a point of order, Sir. He said, "barbarous" people cannot expect a good law. He said barbarous people cannot but expect such law and this is reflected inside the Parliament.

MR. DEPUTY CHAIRMAN: It is not a reflection on the House. It means people outside.

SHRI KAILASH BIHARI LALL: Although I have used parliamentary language I am only sorry that the cap fits in somewhere.

(Interruptions.)

Excuse me, my friends. Don't be provoking; by so doing you will be more exposing yourselves. I was saying that the condition which is being provoked outside in the country surely compels any Government worth the name to enact such laws and the people who are responsible for this state of affairs outside should think twice whom to fix the blame upon if they are responsible in this way. The other day, on the 10th of this month I was coming by the Delhi Express. At Allahabad the train was detained for two hours. What was the reason? Some persons took it into their head, the employees took it into their head that they should get an advance for observing each festival

and because it was not sanctioned by the railway authorities they thought it proper to lie down on the rail.

DR. R. B. GOUR: Are you sure you have not pulled the chain?

SHRI KAILASH BIHARI LALL: I think if my friends behave.....

MR. DEPUTY CHAIRMAN: Don't be disturbed by them Mr. Kailash Bihari Lall.

SHRI KAILASH BIHARI LALL: You can understand from this sort of conduct and if everybody takes it into his head to enforce everything according to his own choice, then the Government, any Government worth the name must think of how to set right things in the society. Of course it is an unpleasant duty; I do not think it is a pleasant thing to keep this law on the Statute Book that Government is doing today. Everybody feels in that way.

I was only listening patiently when a retired Judge of a High Court was feeling sorry for that but, in spite of very persuasive lecture and some of the lectures from other sides also, I was not convinced at all because they were all on ideological grounds. Ideology is something else and the real thing before our eyes is quite a different thing. Today we are faced with some violent thinking in the society in which we have to live. We must not bring in all the ideology in our mind, have ideal things in our picture, in our mind and then say that this law is bad and let us live without this law. This law is a necessity if we behave in the way in which we are behaving today. Everywhere in the country see how the students are behaving, how the employees are behaving and how the general public are behaving. It is as if in course of time there will be no law, there will be no order in the society, nobody will respect any rules of conduct in life. This is the condition that is coming to prevail. If this is the thing, then of course, I think, the Government has got the right to enact such laws and

[Shri Kailash Behari Lall.]

we should of course with a heavy heart and a sense of shame in us hang our heads in shame that such a law has to continue, but the fact remains that the condition in the society obtains like this which is compelling the Government, any Government worth the name, to enact such laws. This thing you forget when you picture in your mind something ideological and when you say that such and such a thing was not there in the time of our forefathers, such was the tradition and such was the society in which we lived. Of course such sweet songs of the past days and the ideal things culled out from our history and picturing them in our mind is no doubt a fine thing. Could you bring about that condition in the society in which we live today? Of course we have the previous realities. But what is happening outside in the country? Nobody feels shame for what harm he does to the society. I can tell you even those persons who are detained under this enactment will come with folded hands before the District Magistrate and pray, "Save us from this sort of order" those persons who raised a storm in society. I have seen with my own eyes. They raised a storm in the society. The law is set in motion and when some persons had been suppressed and kept in order then other elements took the law in their hands and behaved likewise. When the law was set in motion against them they began to think "how to save ourselves". Then they came to the District Magistrate and prayed, "We are not responsible. We were misguided. Save our lives." Such is the condition of the society in which we ourselves cannot maintain order. Of course it was in the power of Mahatma Gandhi, who showed to the British Government also such power. When the Britishers saw that they cannot deal with the people in a legal and constitutional way they withdrew the police from their normal police duties and they concentrated all their police and military forces in un-

earthing secret organisations aimed at overthrowing the Government. And whenever complaints came in from somewhere that there was dacoity, that there was robbery, they would say to them, "Go and tell your Gandhi". That was the reply they had to give because Gandhiji had established that kind of mentality in the society. Even then the Britishers had to see that there was law and order. I am only sorry that that mentality is vanishing today; because of your idealism coming from the West, you always admire everything coming from the Russian side and you want to bring in that kind of conditions in our society. It does not fit in with our own life in this country and that is the most pitiable thing. If we had listened to the advice of Mahatma Gandhi we would not have even cared for the Government or for any kind of law that the Government might be enacting. Why should an honest man care for any law that the Government may have? If your conduct is all right you need not fear of any law. But that is not the case with you. The cap is fitting on your head and that is why you are crying that it is being improperly used against this party and so on. Why should anybody be afraid? I myself am a rebel, a moral rebel, a social rebel, a religious rebel and a political rebel but I have not cared for any law. If I can regulate my conduct properly, I need not care for anything. But you do not regulate your own conduct and that is why you shout that if this law is placed on the Statute Book, it will be misused. Why should you care for any law? Let it remain there. If there is no necessity for this law, it will not be enforced but why are you fighting the cause of the goondas and other anti-social elements. If the Government feel convinced that there are goondas and anti-social elements in the country and that they require this law for keeping them in check, then let the Government have this law. To oppose this and to say that this should not be placed on the Statute Book is not fair on your part.



And I think the Government is right in seeking the extension of such a law so long as such conditions continue to exist. Sir, I support the motion.

SHAH MOHAMAD UMAIR: Sir, I do not think I was prepared to speak now because at this stage it will not be possible for any speaker to speak out his mind clearly upon such an agitated question. But to obey the Chair I will just say a few words. I will not take too much time of the House but one thing I must tell and tell this House very clearly that upon this simple and routine sort of legislation I never expected that so much heat and so much sentiment would be imported. At the same time, Sir, I believe that those who have spoken so strongly against this motion must be feeling in their heart of hearts that whatever may be the actual working of this legislation in the past, their opposition to this essential piece of legislation is certainly not justified. This must be their conviction I believe. My hon. friend, Mr. Bhupesh Gupta, whom I love very much, has made such a fiery speech that it has compelled and induced me to change my mind and to take my stand just to say something at least, not in the same tone and trend as my friend over there but to express myself before this House and to assure my hon. friends that whatever may be their opposition to this legislation, I am not one of those who, because something has been said from the opposite side, would retort for the sake of report with equal vehemence. But at the same time I have to convince them.

SHRI T. BODRA: What about Patna firing? Can you.....

(Interruptions.)

SHAH MOHAMAD UMAIR: Because I am not vehement in expression so you are not properly following me or understanding me. I am merely saying that simply because a viewpoint has been placed from

that side, that is no reason why we should oppose it in the same way or in the same vehement terms. I would ask my friends that while they oppose this measure they should come forward with some justification for their opposition as well as with some concrete instances of misuse or abuse of this power. I would point out to my friend, that if it had been a party legislation, if it had been a legislation to suppress certain other parties, if it had been a legislation for the purpose of gaining advantage in elections or for the purpose of putting down other individuals who are not with us, then this legislation would have been in a different form and the results also would have been entirely different from those given in the statements before us. Now we have got these statements before us and I ask my friend Mr. Gupta whether he has calculated the number of persons detained during each of those periods? How many of them belong to the Communist Party and how many to other Opposition parties. My friend, whom I call Balaji and whom I love although he may be sitting on the other side, also made some allegation against the Government that so many members of his party have been put in detention. I have calculated this number and I have come to the conclusion—and I think if my hon. friends also tried to do that they will also feel convinced—that there is no basis for those allegations against the working of this law. They will find that it is not only one party, not only the Communist Party or the Praja Socialist Party or the Socialist Party but there are people belonging to so many parties; there are Kisan Sabhaites and others and you will not be surprised to find on page 13 that there are also persons who are with the Congress.

SHRI S. N. MAZUMDAR: That really supports us.

SHAH MOHAMAD UMAIR: Sir, all this will show that this measure is not meant to suppress any particular

[Shah Mohamad Umair.]

party or to gain any undue political advantage but simply to help the country in the present conditions. I am sure my hon. friend Mr. Gupta knows what is the present state of affairs in the different corners of this great country. Somewhere theft, somewhere robbery, somewhere loot, dacoities and subversive activities—all these things are going on and in many cases things cannot be established in the law courts and therefore sometimes this legislation helps the Government in the maintenance of peace and order. None of my friends and I also cannot say that detention of each and every individual which has been detailed in the list is perfectly justified? I am not going to assert like that; at the same time you also cannot deny that those persons who were detained, at least any percentage of them, even one per cent. of them was justifiably detained, and that ought to have been done under this law. When such is the state of affairs I would ask my friends to consider the desirability of this legislation coolly, not in that spirit of party or group but as peace loving citizens of India, and you will have to agree that this can be nothing but unavoidable and necessary.

Now, some friends—Mr. Banerjee and others—said that Pandit Motilal Nehru and Jawaharlal Nehru and all these people had condemned this sort of legislation in the past. There is no doubt about it; they did condemn this legislation. They are correct when they say that this sort of legislation was condemned in the past but we should not read only one part of their speeches or writings. We should take the things as a whole and see in what circumstances, under what context they condemned this. At that time we were slaves; we were under the thumb of the British domination. We wanted to cut that chain of slavery and be free and make our

country independent. Under those circumstances even Gandhiji condemned this sort of legislation at the time of the British rule. Why? Because they wanted to put an end to indefinite slavery. The British never wanted to free this country, they wanted no revolutionary idea and no revolutionary movement to prevail and, therefore, this legislation at the time of the British rule was cruelly misused. It was not only misused, it was wholly misplaced. Here you are free now, your country is independent and we can give this a modified form. Can you disagree with me that every one of us and all the crores of people of this country have not become angels overnight. There are anti-social elements, anti-State elements, anti-party elements, even unpatriotic elements are there. Therefore, in the interests of the country and society when you are in possession of the country it is most essential and necessary that this sort of legislation should be in reserve. But I should say not only in reserve, but it should be enforced with greater modification. As my friend, Mr. Jaspat Roy Kapoor, said it should be applied to the communal section of the people. Will you deny it that our country has been divided? The land in which you live, the land in which you are born, the land which you love, that country has been cut into two pieces because of this sort of communal spirit and communal action. And will it not be right that this law should also be applied to those persons who still want to display communalism in the same spirit as they used to do previously? But I am satisfied with the figures which have been given in the statement. This law has already been applied to the communal people and communal organisations as in the case of Punjabi Morcha, Hyderabad, R.S.S., Mahasabha and Islami Jamat, etc. etc. It has been applied wherever it was thought necessary. This legislation has served the purpose. I do not agree with my friend, Mr. Jaspat Roy Kapoor, that it was not applied to the communal people. But

I agree with him and as such this legislation is not sufficient to suppress communalism in this country. I feel that our country which has already suffered, is expected to suffer more and more and to a greater degree if Government is not prepared to bring forward an independent legislation to curb communalism at its very root. And if this sort of legislation cannot help to curb communalism, separate legislation should be brought forward. That legislation should provide not only for jail and imprisonment or internment of people who disrupt the country, but such persons must be hanged. Not only provisions like this should be there but more stringent action against all such organisation should be enforced. But at the same time I say, at least for the present when there are so many communal organisations still working in different corners of our country, at least the Government should be alert and see that the society is not disrupted any further. My friends, what can I say? You look to Pakistan. You referred to Dr. Khan Saheb's speech. As far as the preventive detention law is concerned, there has been no change in Pakistan's policy. You have picked up one word from one statement. (*Interruptions.*) I am not doing it. Your entire organisation is illegal there. What do you speak of Pakistan? My friends, whatever you have spoken here, a fraction of that your party men cannot speak in Pakistan. It is the greatness of the Indian Government; it is the greatness of Pandit Jawaharlal Nehru, our Prime Minister who is determined to implement democracy here. To that extent democracy is not being implemented in your neighbouring countries. Therefore, you should not speak so highly of what is being done in Pakistan.

Of course, something might have been told by Dr. Khan Saheb. Let us wait and see what he does. But at least at the present moment when you are comparing yourself I mean communist Party here, you cannot

say that Pakistan has done anything more for the Communist there. Rather worse, I believe.

SHRIMATI PARVATHI KRISHNAN: We are not saying that.

SHAH MOHAMAD UMAIR: You mean to say like that. As regards my.....

SHRI RAJENDRA PRATAP SINHA: My friend will agree that Dr. Khan Saheb has shown very great courage which our friends opposite dare not show.

SHAH MOHAMAD UMAIR: My friend when you convert every good thing into a bad thing, then you will never be convinced under such bad estimation. The greatness of Pandit Jawaharlal Nehru cannot be compared to any nor denied. You have accused him that he has created.....(*Interruptions.*) that the Prime Minister's speech has encouraged the police and police firing. May I say to my friend and don't be angry when I say that although I cannot speak in those terms in which you do, yet let me tell you that these anti-social elements, these criminals and criminal-minded people in the different parts of the country are more encouraged by those groups and parties, who speak on their behalf and who defend them. (*Interruptions.*) Not only that I repeat it again that the anti-social elements and the criminal elements in this country have been a great deal encouraged by such sort of statements, by such sort of angry and fiery speeches that are made here in this House and outside. (*Interruptions.*) If those criminals, anti-social elements would not have their defenders somewhere in the Legislature or outside they would not have dared to come forward with this sort of extensive programme of crime and subversiveness, which they are doing today in the different corners of the country in various garbs. My friend, therefore, it is not our Prime Minister or the Ministers who have encouraged the police for firing.

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Rather I think you have done something which is encouraging the anti-social elements to commit crimes and defy law. One of my friends said that the firing took place without the order of the magistrate. I do not know the law, but the legal person will tell you that when self-defence is to be exercised, there magistrate's order is not required.....

SHRI ABHIMANYU RATH: You come to Orissa and you will know what is happening.

MR. DEPUTY CHAIRMAN: Order, order.

SHRI ABHIMANYU RATH: Whatever it may be, do you admit that the Prime Minister is a symbol of compromise to us?

(Interruptions.)

MR. DEPUTY CHAIRMAN: Order, order.

SHAH MOHAMAD UMAIR: My dear friend, I am referring to your words. Don't be angry. It is your friend by your side who has spoken. He is not refuting, but you are contradicting on his behalf. He is not repudiating it, but you are doing that for him. However, your friend has said and it has been said.

SHRI ABHIMANYU RATH: You have got bitter experience in Orissa.

MR. DEPUTY CHAIRMAN: Order, order.

SHAH MOHAMAD UMAIR: No, no. I say that in the democratic world, among the democratic people he can say much more. He could have said much more than that. I will support him. But you do not understand the point. I say that, in a democratic set-up, you could have said much more and nobody could have objected to it. I am simply pointing out to him that this sort of thing is not unusual in democratic regime.

MR. DEPUTY CHAIRMAN: Please address the Chair.

SHAH MOHAMAD UMAIR: What can I do Sir? I am attracted by my friends opposite. Sir, there is no doubt about what Mr. Gupta said. I do not say that democratically he was not right. I say that he has got the democratic right to criticise the Government and the officials of the Government in the strongest possible terms. He knows this art. Therefore, he has done it very strongly. But, at the same time, I simply want to calm him down and tell him that when you criticise the Prime Minister or the Government, you should do it in a spirit of justice, if not in a spirit of love and respect, and at least in the interests of the people whom you refer to so that they may not hang down their heads in shame. After all, whatever we do here, you and the other parties are also included in it. You are not educating the society by exporting this sort of fiery sentiments from here and proving to the people outside that there are advocates of anti-social elements in the House. They will not, at any rate, stop there and they will go on with crimes and subversive action. I know you love your country. I know also that you have got your love imported from somewhere else, but when you love your country should you guide the people in this way so that they will be encouraged to commit more and more crimes and commit more and more anti-social acts? Therefore, it is your duty as well as the duty of Pandit Nehru, that you should create healthy atmosphere in this country, which may be helpful in the actual working of this independence which you are enjoying and which other people are also enjoying. I tell my Communist friends: "If you do not like this Government, if you do not like the present administration, turn the table..... (Interruptions.) and come to power if you have got that democratic strength, if you have got that democratic following and if you have got that democratic approach to

people and politics. But if you have not got these things, then you should not give a bad name to the country and oppose all good things whenever they come before you from this side."

I once more thank the Chair and, at the same time, thank those friends who were inflamed at the speeches from this side that at least you allowed me to go on peacefully. Thank you Sir.

**SHRI B. N. DATAR:** Sir, I have no desire to prolong an already protracted debate and I should like to refer to a number of points that have been made by hon. Members. I wish to express my gratitude to those hon. Members who have seen the correct side of the picture, who have assessed the position properly and, therefore, who have come forward to support this measure only because they agree with the Government that the retention of this Act on the Statute Book is essential for preventing certain undesirable forces.

Sir, before I deal with the various points, I should like to make a reference to an hon friend, a Professor, who spoke from this side and who told us that this was an absolutely unsavoury piece of legislation. And he compared the present conditions, very unfortunately, with those that obtained during the British regime. I would point out to the hon. Member that it was perfectly correct and proper for the late Motilal Nehru and a number of other leaders to have criticised or condemned detention without trial in those days for a variety of reasons. In the first place, detention during those times were not for a short period or a few months at all, but were for years together. Secondly, the conditions then were far from satisfactory and detentions were ordered not for the purpose of advancing the interests of India, but for other purposes with which, at this stage, I would not deal at all. Therefore, I would ask the learned Professor to understand the

situation in a very practical or realistic manner. It is very easy, in our eloquence, to use expressions which are likely to be fatal or which are likely to lead to certain extremely bad results. The hon. Member referred to the possibility of blood flowing. I would deprecate all such expressions because we are now carrying on a great experiment so far as the success of democracy and the establishment of a Welfare State are concerned. Therefore, we have to use a very great sense of propriety and also proportion and avoid all expressions that are likely to lead, perhaps unconsciously, to fatal results.

Then, another hon. friend said that he was opposed to the provisions of the Preventive Detention Act on principle. I would agree that, so far as the question of principle is concerned, this is a measure which has been placed on the Statute Book by Parliament on account of certain special considerations. Therefore, I would state that, even when the Constitution was framed, the framers had taken into account the possibility that, in the interests of India, such a legislation would be necessary. And, unfortunately, within only a few months after the inauguration of the Constitution, as I stated yesterday, with great thought, after great consideration and after full deliberation, this particular Act was placed on the Statute Book. Therefore, I would submit that, so far as the Constitution is concerned, it has to take the possibility of the need for such an Act into account. That is the reason why provision was made for Parliament to make such a law, provided it was necessary.

It is for this purpose that this Act was passed and used, as I have told you yesterday, in as sparing a manner as possible. I am glad that my hon. friend, the retired judge of Allahabad High Court, has agreed that there is no misuse so far as the resort to the provisions of this Act is concerned. This comes from a retired judicial officer and therefore, I value

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his certificate that, so far as the provisions of this Act are concerned, he has nothing to state that they have been used badly.

Now, I would pass on to certain other points. A reference was made to Pakistan and to the speech of Dr. Khan Saheb for whom all of us have the greatest respect. I would point out here what the correct or factual position is so far as preventive detention in Pakistan is concerned. There were a number of provincial Acts which were in force in India before partition and after that, they were withdrawn in India and were replaced by the Preventive Detention Act of the Central Legislature. In Pakistan, however, the Public Safety Acts continued to be in force. Dr. Khan Saheb seems to have promised to withdraw the Public Safety Act in force in West Pakistan. They however, have the Criminal Law (Amendment) Act of Pakistan Central Government, and the Bengal Regulation of 1818 under which detentions can be made. That Act is still in force.

I would make a reference to the Constitution that has been passed by Pakistan. The new Pakistan Constitution, clause 7, explanation under sub-rule 4, provides for detention of persons under the Central Act or Act of Parliament or a Provincial Act or an Act of Provincial Legislature. Thus you would find that the position is not what the hon. member has stated, but it is true that Dr. Khan Saheb has promised that, so far as West Pakistan is concerned, he would like to have the Act annulled. In any case, Sir, that is a great and daring experiment that only Dr. Khan Saheb can carry out. But we find that the Bengal Regulation is there, and some Central pieces of legislation are also there.

DIWAN CHAMAN LALL: Is it not a fact also that the Frontier Crimes Regulation is still there, apart from the Bengal Regulation?

SHRI B. N. DATAR: I believe it is there. As I have stated, there are a number of provincial Acts. There were provincial Acts in the former Provinces. All these Provinces now come under West Pakistan. So, all those Acts are still there. They have got Central Acts; they have also got Provincial Acts. Therefore, if ultimately all the Acts have got to be annulled, then the process has to start both, in the two Provinces of Pakistan, as also at the Centre. But that is not the position which has now been achieved. All that Dr. Khan Saheb has stated is that in his opinion such a security measure ought to be annulled.

Then, Sir, I would pass on to other subjects. My hon. friend, Dr. Kunzru, has contended that the provisions of this Act have been abused. With due deference to him, I would submit again that so far as the use of this Act is concerned, it has been absolutely sparing, and it has been used, as I stated yesterday, in a very proper manner, because there have been only a few cases before the High Courts or the Supreme Court, and there also, as I pointed out yesterday, in the largest number of cases, whatever action was taken by the various State Governments, that action has been upheld either by the High Courts or by the Supreme Court. In fact, in the two cases that were launched in the Supreme Court during the last year—up to the end of the last month there were only two cases—the writ petitions have entirely been rejected. So, all that would show, apart from the other figures already placed on the Table of this House, that there has been a very sparing use of this measure. As I stated, Sir, we are not relying so much on taking recourse to the provisions of this Act, but the very existence of the Act on the Statute Book, as I stated, has a restraining influence, and a deterring influence, upon the anti-social elements. (Interruption). There can be no dispute about this at all.

I was almost thanking whether my friend, Shri Jaspat Roy Kapoor, had put the matter very properly, because he complained that the Act had not been used in more cases where it ought to have been used. But I would point out to him, Sir, and also to the House, that the desire of the Government is, as far as possible, not to take away the liberty of the individuals. Sir, so far as the liberty of any individual is concerned, it is perfectly right that we have to maintain the liberty of the citizen. And the Indian Constitution has made as large a provision for the maintenance or the preservation of personal liberty, as possible, but, Sir, those who are advocates of personal liberty, have also to understand that the interests of the society are larger than the interests of an individual, and if for example, the interests of the society require that the independence of a particular person, or a group of persons, or a class of persons, has to be curbed, then in the higher interests, Sir, we have to subordinate the interests of an individual to those of the society. This aspect of the case has always to be taken into account.

Then, Sir, I would make only certain comments, so far as the other points are concerned. I would request the hon. Members of this House to look into the various statistical tables that we have placed before this House. They would show that just as there has been a process of detention, there has also been a consequential process of releases going on. The releases are not necessarily at the instance of the Courts. The releases are at the instance of the Advisory Boards also. And above all, I would implore this House to note the conduct of the Government, because the releases by the Government, of the detenus, are equal to, if not more than, all the other releases taken together. So, that would show that the Government have no bias in this matter. Whatever the political complexion or otherwise of a particular person might be, the action is taken, not because he belongs to a

particular Party, nor because he holds a certain opinion, but because he does certain acts which have been pointed out in section 3, namely, whether violence has been preached, whether goondaism has been practised, or whether communal passions have been roused.

Sir, my hon. friend, Dr. Kunzru, made a reference to "goondaism". Now so far as goondaism is concerned, ordinarily goondaism scores. But there are certain circumstances when goondaism, even though subtle and refined, has got to be curbed. And therefore, I would point out to this House, Sir, that whenever there are any acts of goondaism, or whenever there are goondas appearing in certain alluring forms, or whenever violence has been preached, then all such forces have to be curbed, and have to be very sternly curbed. Therefore, Sir, I would suggest that we need not make any unflattering references to, or comments upon, the very difficult task that our various State Governments are carrying on.

Then, it was suggested, Sir, that the Central Government might intervene in this matter, and should see to it that personal records, and other grounds of detention etc. are seen. Now, I would request the hon. Members to very carefully study the provisions of this Act; it does not give the Central Government any powers of a supervisory nature. Now, all the powers are vested in the various State Governments.

SHRI BHUPESH GUPTA: May I ask one question? Is the Central Government prevented from asking for any charge-sheet and looking into it? Leave aside the question of technicalities or other formalities.

SHRI B. N. DATAR: I am afraid, we cannot ask for any such things at all, because this is a subject which entirely belongs to the States. Under the Constitution, it is open to Parliament to make laws only. That is the reason why I have oftentimes thought that all such debates ought to be held in the Legislatures of the various

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States instead of their being carried on in Parliament, where we are needlessly blamed for certain actions for which we are not at all responsible. I would, therefore, submit to this House that so far as this aspect of the matter is concerned, the Central Government have no powers at all. And if, for example, the Central Government were to intervene in such matters, it would be considered as a violation of the autonomy of the various States. That aspect of the case has also to be understood very carefully.

Then, Sir, I would point out something to my hon. friend, Shri Bhupesh Gupta, who always waxes eloquent whenever Government's attitude is to be criticised, whether rightly or wrongly. Sir, he made a reference to Vinoba Bhave. Now, I wish he would follow Vinoba Bhave also. With due deference to him, I would submit that there is an English proverb, Sir, which says that on certain occasions certain persons take recourse to the Bible. I do not know who those persons are. But anyway, Sir, I am perfectly agreeable that we should follow the great philosophy of the great social leader, namely, Vinoba Bhave. Let us follow his principles. We have no objection to it. In fact, Sir, I would point out that we are trying in our humble way to follow the line that Gandhiji has laid down, and that Vinoba Bhave is also trying to preach us. If at all there are any persons, it is we on this side who are trying to follow Vinoba Bhave to a far greater extent, and in a more effective manner, than what my hon. friends opposite are doing. They are only taking it as an argument and nothing else. I at any rate, Sir, cannot contemplate a time when my hon. friends opposite would be following Vinoba Bhave. If that were to happen, then there is no need for the Preventive Detention Act at all.

My hon. friend, Dr. Kunzru, wanted to know what the Government policy was. Taking all these things to-

gether, in the first place, it is not necessary at this stage to come out with what the Government policy is simply for the reason that still about 18 months have to go. After these 18 months, the Government would consider the situation in a calm manner, because this is a question which has to be settled by proper assessment, by reasoned assessment of the situation, because we claim to carry on our administration in a popular manner. My hon. friend indulged in jibes at the Congress Party. I would point out to him that in spite of unpopularity the Government have been maintaining this Act in the higher interests of the country and not in the interests of the party at all, and therefore the hon. Member will kindly understand that Government have sometimes to act very sternly. Therefore, the provisions of this Act have to be used in proper places wherever they are necessary. Otherwise, we shall not be using the provisions of this Act at all.

I have made reference to the various points raised. I am glad that there is this discussion and that hon. Members opposite have also an opportunity, an annual opportunity, of not merely criticising the Government but also condemning us. After all, their condemnation will keep us vigilant, because vigilance is always the price of liberty.

MR. DEPUTY CHAIRMAN: I will first put the amendment to the vote.

The question is :

"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.'"

The House divided:

AYES—65

Agrawal, Shri J. P.  
Ahmad Hussain, Kazi.  
Ahmed, Shri Fakhruddin Ali.



Akhtar Husain, Shri.  
 Ali, Shri Mohammad.  
 Anis Kidwai, Shrimati.  
 Barlingay, Dr. W. S.  
 Bisht, Shri J. S.  
 Chatterjee, Shri J. C.  
 Dangre, Shri R. V.  
 Deokinandan Narayan, Shri.  
 Desai, Shri Janardhan Rao.  
 Dharam Das, Shri A.  
 Doogar, Shri R. S.  
 Dube, Shri Bodh Ram.  
 Dube, Dr. R. P.  
 Dutta, Shri Trilochan.  
 Himatsingka, Shri P. D.  
 Jalali, Aga S. M.  
 John, Shri M.  
 Kapoor, Shri Jaspat Roy.  
 Khanna, Shri Mehr Chand.  
 Kishori Ram, Shri.  
 Krishna Kumari, Shrimati.  
 Lall, Shri Kailash Bihari.  
 Leuva, Shri P. T.  
 Mahapatra, Shri Bhagirathi.  
 Mahesh Saran, Shri.  
 Misra, Shri S. D.  
 Mohamad Umair, Shah.  
 Mookerji, Dr. Radha Kumud.  
 Naidu, Shri P. S. Rajagopal.  
 Obaidullah Sahib, Shri V. M.  
 Panigrahi, Shri S.  
 Panjhazari, Sardar Raghbir Singh.  
 Pawar, Shri D. Y.  
 Raghavendrarao, Shri.  
 Rajagopalan, Shri G.  
 Raju, Shri A. S.  
 Rao, Shri V. C. Kesava.  
 Reddy, Shri A. Balarami.  
 Reddy, Shri Channa.  
 Reddy, Shri M. Govinda.  
 Reddy, Shri Narotham.  
 Rukmani Bai, Shrimati.  
 Sapru, Shri P. N.  
 Secta Parmanand, Dr. Shrimati.  
 Sharda Bhargava, Shrimati.  
 Sharma, Shri Purna Chandra.  
 Singh, Capt. Awadhesh Pratap.  
 Singh, Thakur Bhanu Pratap.  
 Singh, Sardar Budh.  
 Singh, Babu Gopinath.  
 Singh, Shri Nihal.  
 Singh, Sardar Zail.  
 Singh, Shri Vijay.  
 Sinha, Shri R. P. N.  
 Subbarayan, Dr. P.  
 Surendra Ram, Shri V. M.  
 Tamta, Shri R. P.

Tankha, Pandit S. S. N.  
 Tumpalliwar, Shri M. D.  
 Venkataraman, Shri S.  
 Vijaivargiya, Shri Gopikrishna.  
 Yashoda Reddy, Shrimati.

# NOES—20

Banerjee, Shri Satyapriya.  
 Bodra, Shri T.  
 Deshmukh, Shri N. B.  
 Dhage, Shri V. K.  
 Gour, Dr. R. B.  
 Gupta, Shri Bhupesh.  
 Khan, Shri Abdur Rezzak.  
 Kunzru, Shri H. N.  
 Mahanty, Shri S.  
 Mazumdar, Shri S. N.  
 Nair, Shri Govindan.  
 Nair, Shri Perath Narayanan.  
 Narasimham, Shri K. L.  
 Parvathi Krishnan, Shrimati.  
 Prasad Rao, Shri V.  
 Rath, Shri Abhimanyu.  
 Sekhar, Shri N. C.  
 Sinha, Shri Rajendra Pratap.  
 Vallabharao, Shri J. V. K.  
 Venkata Narayana, Shri Pydah.

The motion was adopted.

MR. DEPUTY CHAIRMAN: I will now put the motion as amended. The question is:

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

(After a count) Ayes—61; Noes—20.

The motion was adopted.

SHRI BHUPESH GUPTA: I hope they will have now sleepful nights!