

MR. CHAIRMAN: The Home Minister is expected to make a statement on the subject tomorrow.

### PAPERS LAID ON THE TABLE

#### PAPERS *re.* THE DELHI ROAD TRANSPORT AUTHORITY

THE DEPUTY MINISTER FOR RAILWAYS AND TRANSPORT (SHRI O. V. ALACESAN) : Sir, X. lay on the Table a copy of each of the following papers under subsection (3) of section 38 of the Delhi Road Transport Authority Act, 1950: —

(1) (i) Balance-Sheet of the Delhi Road Transport Authority for the year 1951-52.

(ii) Profit and Loss Accounts of the Delhi Road Transport Authority for the year 1951-52.

(iii) Financial Review by the General Manager, Delhi Transport Service, for the year 1951-52.

(iv) Audit Report on the Annual Accounts of the Delhi Road Transport Authority for the year 1951-52 together with the replies of the Delhi Road Transport Authority to the audit objections.

(2) (i) Balance-Sheet of the Delhi Road Transport Authority for the year 1952-53.

(ii) Profit and Loss Accounts of the Delhi Road Transport Authority for the year 1952-53.

(iii) Financial Review by the General Manager, Delhi Transport Service, for the year 1952-53.

(iv) Audit Report on the Annual Accounts of the Delhi Road Transport Authority for the year 1952-53 together with the replies of the General Manager, Delhi Transport Service, to the objections, and the orders of the Delhi Road Transport Authority thereon. [Placed in Library. See No. S—495/54.]

### THE PREVENTIVE DETENTION (AMENDMENT) BILL. 1954

MR. CHAIRMAN: Now we are coming to familiar ground.

SHRI B. GUPTA (West Bengal): Can we not ask him to go away without introducing this Bill?

MR. CHAIRMAN: Be decorous and dignified in the Parliament, whatever you may be outside.

SHRI B. GUPTA: It is a very undignified Bill—not a dignified Bill as the one we passed yesterday; it is an undignified Bill that is being brought up.

MR. CHAIRMAN: Don't interrupt before the Bill is introduced. You will have your turn and you can make your remarks at that stage. I hope you will all behave with great decorum and dignity.

SHRI B. GUPTA: How do you expect us, Sir, to behave properly when the Bill is very bad and provocative?

MR. CHAIRMAN: The storm has come in!

THE MINISTER FOR HOME AFFAIRS AND STATES (DR. K. N. KATJU) : It is bursting without any provocation whatsoever.

MR. CHAIRMAN: There is nobody to bring him to order. Mr. Mazumdar, you sit by his side.

SHRI S. N. MAZUMDAR (West Bengal): This Bill is as much a provocation to me as it is to him.

MR. CHAIRMAN: That does not matter.

DR. K. N. KATJU: Mr. Chairman. I beg to move:

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

The Bill is a very short Bill but I have no doubt that it will lead to very lengthy considerations. I think that it is desirable that the House should have a picture of the background behind this legislation. The Constitution came into force on the 26th January 1950. Before that it was open to each State or to each Province as it was then called to have a Public Security Act of their own choice with any kind of provisions which they liked and the result was that, prior to 1950, there were Public Security and Public Safety Acts practically in every Province of India which means Part A States and also in some Part B States. The result was that there was no uniformity in the law relating to public security and public safety. When the Constitution came into force on the 26th January 1950 it was immediately considered as to what was to be done, whether it was desirable to let the old state of affairs continue or whether to have a uniform law on the subject. The House would recollect that under the Constitution the question of preventive detention is expressly recognised—I shall come to that aspect of the matter later—but in the Seventh Schedule the subjects about which laws can be enacted have been split up. In the Union List, entry 9 is "Preventive detention for reasons connected with Defence, Foreign Affairs, or the security of India"—India as a whole. In the Concurrent List, I believe it is entry 3 by which power has been given both to the Central Government as well as to the State Governments and therefore both to the Central Legislature, this Parliament, as well as to the State Legislatures to enact legislation on 'preventive detention for reasons connected with the security of a State, the maintenance of public order, or the maintenance of supplies and services essential to the community'. This matter therefore, was fully considered; in so far as security of India, foreign affairs and defence were concerned, Parliament was the only legislating authority but in so far as the security of a State was concerned

and the maintenance of public order was concerned, the authority was concurrent. In 1950 it was decided that it was better to have one law and therefore, with the concurrence of all the States, this law was undertaken and at that time the Preventive Detention Act was passed for one year. Then it is a matter of public knowledge that in 1951 the Preventive Detention Act was revised and it was extended to another year. There was a long debate in the Parliament as it then stood. Then came the general elections and first we had a Preventive Detention Act in the old Parliament for six months and then, after the elections, in the Parliament as it is at present constituted of two Houses, we dealt with this subject at very great length. I think it occupied altogether about 15 days in this House and in the other House and every single section of the Act was thoroughly considered and revised and I submit, Sir, that the Government went to the utmost length to make the law as lenient as it possibly can do under the circumstances. The House would recollect that that law was enacted for two years but, in the course of the debate, I gave an assurance that in order to give Parliament an opportunity of examining for itself as to how the law has been worked and also to give an opportunity to the Government for reassessing the position after the expiry of 12 months, I shall lay a statement about the working of the Act at the end of 12 months before each House of Parliament and move a Resolution giving an opportunity to each House to debate the matter. Therefore we had a big debate upon it last year, in 1953, on the working of the Act and in 1954 the question at once arose as to what was to be done—whether the Act can be withdrawn and dropped or just allowed to die out or whether the Act was necessary. After the closest consideration—most anxious Mr. Chairman. I may assure you—the Government came to the conclusion that in the discharge of their duty to the whole of India and in concurrence —and I repeat now—in concurrence

[Dr. K. N. Katju.] with practically each State of this great Union, the Government came to the conclusion that the law cannot be allowed to lapse. It would have been very easy to extend it for two years but then general elections would be approaching and the country would be in the midst of an election tempo and therefore we thought that the best course would be to extend it for three years so that the new Parliament when it meets in 1957 at any time will have the opportunity to assess the whole situation in the light of the past working of the Act for five years or rather seven years, and also in the light of events as they develop during the next general elections and it was from that point of view and not from any sinister motive .....

SHRI B. GUPTA: Why not say, next generation?

DR. K. N. KATJU: .....that the Act is sought to be extended to three years. That assurance of mine stands; I have given it in the other House and I repeat it here, that the Government propose to give an opportunity to this House as well as to the other House for a full examination of the working of the Act as to whether the Act has been properly worked or whether it has been oppressively worked, whether the power given has been exercised without due care and caution and whether there is any ground whatsoever for any complaint. So in the years 1955 and 1956 there will be that annual Resolution about the consideration of the working of the Act during the preceding 12 months and in 1957 we can examine the whole thing afresh.

Sir, some complaint has been made that this Bill has been made deliberately very short so that nothing else may be considered according to the rules of procedure except this question of extension; but I repeat again—Mr. Chairman, you will remember it—that in the year 1952 immediately after the general elections, I believe it was in the month

of July or in the month of May, we went very carefully into each and every section and so far as I can see, there is no room whatsoever for any further liberalisation. There was no necessity for any further examination and it was from that point of view that we thought that the only thing that remained to be done was to change the figure, namely, 1954, to 1957. That is the background to which I wanted to draw your attention.

Now comes another aspect of the case and that is the subject of Preventive Detention itself. There will be plenty of eloquence. I am dying to hear it myself. I have heard a great deal of it during the last two or three years. If I could, I could speak too. It is all very easy to talk of the altar of the Goddess of Liberty, democratic liberty, democratic institutions, of the necessity for punishment after trial and to say that detention without trial is the grossest injustice and so on and so forth. Sir, I am bound by the Constitution and the Constitution was framed after four years of most careful consideration that this country is capable of and the Constitution-makers came to the conclusion that Fundamental Rights should be granted to the people of the land. But, Mr. Chairman, you will find that in each article of the Constitution specifying a Fundamental Right the Constitution-makers have been most careful to say that there are certain restrictions, certain qualifications about each one of these Fundamental Rights. I can go into each article beginning from article 14—freedom of expression, freedom of the Press, acquisition of property, freedom of this and that—and then you will find "provided", "provided" in each case.

Now, in the case of this detention business, there is a fundamental right—right to a trial, right to personal liberty and right to punishment after trial. These are all there. But there again in that very article, article 22, the Constitution framers said that there can be preventive detention and there should be preventive detention.

I submit that we are not joking with the country.....

SHRI B. GUPTA: I challenge that statement.

MR. CHAIRMAN: Look here, you will get your chance.

SHRI B. GUPTA: It does not say "should be".....

DR. K. N. KATJU: I submit that preventive detention is in that way in article 22 itself. It does not say that you must make a law about preventive detention, but the power is given to Parliament to make a law and then it has fully specified—there is on full page—as to what that law should or should not do. The restriction should be .....

*(Interruptions)*

What is the good of these interruptions? Now, Sir, I emphasise this aspect of the matter, because as I understand the Constitution, and as I read the Constitution, the idea of the Constitution-makers was that there should be a sort of two laws running parallel together. There is the Constitution and the maintenance of proper relation with foreign countries, considerations of defence, considerations of the security of India, security of the State and maintenance of order are of the first importance. Therefore, the Constitution framers said: "Here is a fundamental right, here shall be also a law made by Parliament, law made by Parliament in regard to the Union List on three subjects, namely, Defence, Foreign Affairs and the Security of India—law made either by Parliament or by the State Legislature in relation to the security of the State, of that particular State, or the maintenance of public order or essential supplies".....

SHRI B. GUPTA: Maintenance of your order and not public order.

Mn. CHAIRMAN: Please sit down.

SHRI S. N. MAZUMDAR: That was your argument.

DR. K. N. KATJU: I submit that all argument saying: "Oh this is going to be an emergency law, the emergency does not subsist therefore, the law should be abolished or the law need not be enacted at all"—I submit \_\_\_\_ ..

SHRI B. GUPTA: (*Showing a book*) Patelji said.....

DR. K. N. KATJU: What is the meaning of throwing the book at me? My hon. friend has disturbed me ten times.

SHRI B. GUPTA: I shall disturb him eleven times.

MR. CHAIRMAN: Please **sit** down. I think you had better go out and come back.

DR. K. N. KATJU: I respectfully submit that it is no good saying that there is no emergency and, therefore, there need not be any law. The law should be there, so that an emergency, whenever it arises, should be met then and there; and not wait for a law to come into existence if the emergency has appeared and has disappeared. The whole question which is of much greater importance and vital importance is that the law, when it has been enacted, does not hurt anybody. It does not hurt the law abiding citizen. It remains in the background. What Parliament should see to is that any such law is not abused, it is properly utilised, it is sparingly utilised. I can understand that point of view, but I cannot understand that the law should never be enacted, because we cannot play ducks and drakes with questions of maintaining order. Anything may arise about public affairs or foreign affairs any day. I do not want to give instances here which may be under consideration, but within twentyfour hour<sup>3</sup> action may have to be taken in order to avoid very serious consequences.

Now, Mr. Chairman, you will remember that this idea of preventive

[Dr. K. N. Katju.] detention or preventive provision is not new. There are always two things. You check the offence when it has been committed, you investigate into it and you bring the offender to look. And secondly—and this is much more important—the prevention of offences. In this Code of Criminal Procedure, there have been sections which have been working for the last one hundred years—what are called preventive provisions. We have sections 108 and 107 to prevent breach of peace. There are the other three sections, sections 108, 109, and 110 which deal with good behaviour, so that a man will remain in good behaviour and may not act in an anti-social manner. This is something similar.....

SHRI H. N. KUNZRU (Uttar Pradesh): Have those sections been repealed now?

DR. K. N. KATJU: They are still there.

SHRI B. GUPTA: Then, why do you want more?

DR. K. N. KATJU: Similarly, that idea of preventive detention, was used by the Constitution-framers. See the words "preventive detention". The mode of trial is specified. It is generally reviewed. Similarly, the words "preventive detention" are specifically used. We went into it at great length two years ago and Parliament has laid down strict provisions. You may detain a man provided there is definite ground against him, that he is doing something which may be prejudicial to the defence, to the security of India, to our relations with foreign powers, security of one of the States, maintenance of order—the action must be prejudicial to any of these. Secondly, the Act provides that within five days, a statement containing the grounds of detention should be supplied forthwith to the detenu, so that he may know what have been the charges against him: he is entitled to consult his lawyer, take legal advice and then to submit his own

answer to that particular statement. He has the opportunity to say that the information received by the Government is all wrong, that he is a very law abiding citizen, all the facts charged against him are baseless, that he has done nothing wrong and that he has not done anything which has been ascribed to him. Now, on reading that, the Government may at once say: "Yes, there is some mistake somewhere, or the matter is not very serious; revoke the order; set him at liberty." If the Government thinks that there are sufficient grounds, they can send the case to the Advisory Board. The Advisory Board, Mr. Chairman, is not an ordinary appellate board. It is composed of the highest judicial talents in the land. It has got to be presided over—I emphasise this—by a High Court Judge, or a person who has been a High Court Judge or qualified to be a High Court Judge. The other two Members must also be persons who either have been High Court Judges in the past or are High Court Judges at present or are qualified to be High Court Judges. Now I emphasise this constitution of the Advisory Board because it is an independent judicial authority. It is an independent judicial authority whose decision is binding on the Government and the Act, as it was revised in this Parliament two years ago, provides that this Advisory Board should have wide powers. It may send for the detenu of its own accord and if the detenu so desires, he has a right to be heard in person. The figures which I have supplied in the Statement tend to show that many detenus, I think about 174, took advantage of this provision, appeared before the Advisory Boards and put up their own cases. The Advisory Board may send for any information it may like to have from the Government, or any document. Similarly, the detenu may suggest to the Advisory Board that certain evidence may be collected: certain statement obtained—and please remember that we are dealing here with matters which may be of the utmost secrecy, which it may be very

improper and undesirable in the public interest to make known. There fore, the Advisory Board has been given powers to see all those papers, in order to decide the man's case, but they cannot be published. The detenu has got a right to consult hi-j lawyers in order to make his representation to the Advisory Board, but he cannot appear before the Advisory Board through a lawyer. I have heard the criticism: "Oh, just look at it, representation without a lawyer is no good." Now, I can quite realise that there is that restriction in the public interest.

Sir. I was reading *The Statesman* yesterday and there the Speaker of the West Bengal Legislative Assembly, who has recently been to China, has given a summary of his impressions of that country. I am not criticising it one way or the other, there are no lawyers at all in China. The courts function there.....

SHRI S. N. MAZUMDAR: Has the hon. Minister read the Constitution of the People's Republic of China? He is misleading the House .....

MR. CHAIRMAN: He is not making a comment. He is merely stating what he read in *The Statesman*.

DR. K. N. KATJU: It is not my intention to make any comment on the constitution of any other country. I am only stating a fact. Secondly, it is said that it is not a public hearing. Of course, we are accustomed to public trials. I am only mentioning this fact that there are numerous cases, in the course of a year, which are heard, at the discretion of the court—what we call "a trial *in camera*".

It is open to a judge at any time, when he thinks that the matter is of secrecy either to the parties or in the public interest, to order the court to be cleared and the case to be put forward in private. Therefore I say that you have not to lay so much emphasis on this fact that the case is being

heard in secret, in the absence of any other persons, or that the lawyers are not there. What you should emphasise is whether there is a tribunal which is hearing the case, and secondly, whether that tribunal is, in any sense of the word, under the jurisdiction or under the control of the executive Government. And I say from that test this Advisory Board is completely independent of the Government, is a judicial tribunal, and its decision is binding, because if it says that the man should be released, the Government is bound to release him. Therefore we go back to this, that the Government provides that there should be a reference to the tribunal, if the Government is not willing to release him, and that there should be a careful investigation by this tribunal. and this tribunal must give its judgment within six weeks. No one, if there is no cause for his detention, can remain in detention for more than two and a half months—I think it is three months—but in the statement which I have circulated to the hon. Members, they might have seen that the average duration for a decision by the Advisory Board varies between one to two months. Never has there been delay in disposal, and the maximum period of detention is one year. After one year, no matter what the man may have done, he goes. Now. I sum bit, Sir, that you must bear in mind these factors which are of great importance, when we are considering whether a particular Act is a good Act or a bad Act, whether it is a tyrannical Act or whether it is a fair Act. The matters which we are dealing with are of the highest consequence. The security of India and of the States comes absolutely topmost. And then comes our foreign affairs, foreign relations, our defence, and then comes, I say, main tenance of public order. .

(Interruptions)

Now I was suggesting that if we-examine the two things, one, the importance of the matter with which the Government is dealing, und

[Dr. K. N. Katju.] secondly, the action and the measures which have been taken to stop these things, I say, there is no comparison. The Act is one of the mildest imaginable. You go elsewhere. There you find what steps are being taken. Of course, we have founded our jurisprudence, and our notions about liberty and personal liberty in trial from the British democracy and the British democratic institutions. I would request you. Mr. Chairman, just to compare these things. You have been to England many times; you have lived there. For seven hundred years people have become accustomed to a certain judicial structure, and to a certain political structure. And they are law-abiding. There you have meetings almost every Saturday or every Sunday. People will speak all sorts of things. But laws are never broken. There is no such thing as a Satyagraha, because it is a self-governing country. And law, while it remains, must be obeyed. That is the teaching. And if anyone were to incite the people by saying, "Go on. break the law, enter Parliament do this or do that" then what will happen? Where will he go? But here you have to read a newspaper, and every day, I respectfully submit, you find that political parties of varying importance are exciting people to violence, exciting people to take the law into their own hands—students, workers, labourers, middle class people, policemen—every day something is going to happen, and they make it perfectly plain, they do not conceal it. My hon. friends may not admit it, but they say "Violence is the whole basis of our political doctrine."

SHRI B. GUPTA: Who says it?

DR. K. N. KATJU: In the end. they say in so many words "Oh. we may adopt parliamentary methods; we may adopt parliamentary devices, because that may suit us for the time being." *(Interruption.)* Sir, I do not want to go into the background. I have got the files here.

What happened during the last year? When the year opened, it opened with 154 persons in detention. The year means up to the 1st of October 1953. That was the last year. It opened with 154, and it closed with 131. All those 154 had been released, but there were the new arrivals, new releases and all that. And I think the total number of persons, throughout India, who were arrested and detained under the Act new ones, was 281. So, 281 plus 154 gives the grand total. Out of the lot nearly 300 people or 250 were released, leaving a net balance of 131. Now I ask the House to note that 126 cases were examined by the Advisory Board, and the Advisory Board distinctly held that the orders were justified. And all these orders were made by three Judges, either the High Court Judges or the District, and Sessions Judges, who were qualified to be Judges. I can have the files of those 126 cases, and in each case, Sir, there were allegations, speeches, incitement to violence, and so on and so forth. These are quite well-known cases in Calcutta, because I am somewhat familiar with Calcutta. People enter the Legislative Assembly chamber. Then there was another technique adopted. They said "You are workers, you are students; don't vacate your colleges; do not vacate your institutions, and confine them in that room." What happened in Calcutta? There was a meeting of the Senate going on, and the members were just shut up. There were gentlemen of varying ages, varying academic distinctions. They were not allowed to come out, because people were lying flat.

SHRI B. GUPTA: But did anybody demand preventive detention on that score?

MR. CHAIRMAN: Why do you think that you did it?

DR. K. N. KATJU: Then, in another place, in Madhya Bharat, in Indore, what happened was that an attempt was made to enter the Secretariat, The police would not permit that. Then an attempt was made to enter

the High Court, snatch the papers and burn them and cause great harm to the High Court building itself. You say that there is no emergency because nobody gave any prior notice that Indore was going to be burned. If you catch them, if the police comes on the scene and there is firing, then there is a judicial enquiry whether the police acted in excess of their powers. I read the list in the other place. I can read it here. They incite people saying, 'You go and burn the sugarcane fields. If anybody stops you, kill, cut off heads.'

SHRI B. GUPTA: Is he reading any document? He said he was reading.

DR. K. N. KATJU: We have received notice of some amendments. One amendment is that the Preventive Detention Act should remain in force only for security purposes, for defence purposes, for foreign affairs purposes, but that it should not be there for the maintenance of order. I rubbed my eyes. What is the foremost need of this country? It is maintenance of order. Is it a matter of importance or is it not a matter of importance? The security of the State depends, I say, on the maintenance of order. For anyone to suggest that maintenance of order should be rubbed out, is saying something which seems to me extremely remarkable. It is the very root of the matter. I again appeal to the wisdom of the Constitution-makers. I have merely borrowed the phrase which was inserted in the Constitution that these are the purposes for which a Preventive Detention Act may be passed, and my hon. friend now suggests, "You may pass it for this and that but do not pass a Preventive Detention Act for the maintenance of order." I submit it is a joke. It becomes a joke if you cut out maintenance of order. Mr. Chairman, in the list that you have there, the figures are given. I am sometimes confronted with this dilemma. If the number is much too large as it used to be in 1951 and 52—Telangana

made a very large contribution to those figures—they say, 'Look at the oppressiveness of this Government' if the number is reduced, then instead of paying a compliment to us and saying that they are happy about it, they say, "There is no need for this law." There is no harm being done in Saurashtra, for example. In Surashtra, there was a *daku*, Bhupat Singh. He made life miserable. There were many murders and dacoities and looting. Then action was taken under this Act. People who used to give him shelter and used to harbour his companions were shut up. The result was that the whole thing subsided. Now, they say, 'Repeal the Act.' Under the Act action has been taken not against political parties as such, not against any expression of political opinion as such. You may advocate anything you like, but you must not go into regions of violence. Action has been taken only against people who have been harbouring dacoits. In Madhya Bharat, in the Chambal Valley, in Bombay etc. they have found it very useful. Similarly, so far as the political parties are concerned—you will find the list there—this has been applied almost indiscriminately in this sense that there is no preference shown to any one party or the other. Action has been taken in a very impartial manner.

SHRI B. GUPTA: Prove it.

DR. K. N. KATJU: I can imagine..

SHRI B. GUPTA: You can imagine it, but prove it.

DR. K. N. KATJU: I do not want to take more time. . .

SHRI B. GUPTA: Do take a little more time.

DR. K. N. KATJU: I assure hon. Members that it is not aimed against any political party, neither Communists nor Liberals nor Congressmen, nor communalists, nor the ex-Rulers. It is perfectly impartial in its application. I can say quite clearly that it has been used or utilised with the



[Dr. K. N. Katju:] utmost care and caution. I am sometimes astonished at the sparing use of the benevolent and beneficent provisions of this Act by the State Governments. I say that because we do not want to play with human lives. It is much better to detain friends some of whom I can single out here....

SHRI B. GUPTA: You are itching for that.

DR. K. N. KATJU: ....and save all the trouble, but the State Governments are most reluctant to take action, f<sup>o</sup>testify to that ffljlm personal knowledge.

SHRI B. GUPTA: You ask Dr. B. C. Roy.

DR. K. N. KATJU: Therefore I heartily recommend and commend this Bill for the consideration of the House.

MR. CHAIRMAN: Motion moved:

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

There are two amendments, one for the reference of the Bill to a Select Committee, and the other that the Bill be circulated for eliciting opinion. The amendment for eliciting opinion is out of order in the case of a Bill that has come to us from the other House, but the amendment to refer the Bill to a Select Committee is in order, if the consent of the Members whose names have been given, has been obtained. I should like to know whether Dr. Kunzru and others have agreed to serve on the Select Committee.

SHRI H. N. KUNZRU: This is the first time that I have come to know of it.

MR. CHAIRMAN: And so.....

SHRI B. GUPTA: On a point of order, Sir. I know you ara not Dr. Katju.

MR. CHAIRMAN: You should not make such remarks.

SHRI B. GUPTA: My point of order is this. You will have noted that iifc the past, when proposals for reference to a Select Committee were made,. certain names were given and very often it was understood that the gentlemen whose names were given would serve on the Select Committee,, but then, even in the course of the discussion, alterations were made. Therefore, the names have been. given here in good faith and upon, the assumption that all right-thinking men would serve on the Select Committee. The fifteen names that are here, as far as I can see, are righi-thinking persons. Therefore, we hoped that they would serve on the Select Committee. Therefore you should not take consent in this manner because it had never been done in the past. I think the matter maybe discussed here.

MR. CHAIRMAN: The whole point is that there is a rule here. It says: "The mover shall ascertain"—that means shall ascertain before making the motion—"whether a Member proposed to be named by him is willing to serve on the Committee". That is, the rule, which is observed here. I quite agree that, if on account of some reasons one or two get out or do not wish to serve, other names may be substituted, but what I want to know is whether these Members—I mentioned only Dr. Kunzru's name because his name appears first to give some kind of respectibility to the Select Committee—and then there is the name of Shri Ram Prasad Tam-ta....

SHRI S. N. MAZUMDAR: I submit-that the hon. Members whose names have been proposed may be persuaded to serve on the Select Committee..

MR. CHAIRMAN: Mr. Mahanty, do you agree?

SHRI S. MAHANTY (Orissa): Yes;. Sir.

SHRI B. C. GHOSE: On a point of order, Sir, there is no point in reading all the names to find out whether all the persons have agreed to serve. If anyone of the Members mentioned does not agree, then the whole thing falls through.

MR. CHAIRMAN: The mover shall ascertain before giving notice of a motion whether the Members proposed for the Select Committee are prepared to serve. There might be reasons like ill-health or other engagements, but it is a question of principle whether these people's wishes have been ascertained or not prior to making the motion.

SHRI B. GUPTA: May I make a suggestion?

MR. CHAIRMAN: I will ask Mr. Sekhar, the mover of the motion. Did you ascertain the wishes of these Members?

SHRI N. C. SEKHAR (Travancore-Cochin): No, I did not ascertain directly but I did it in the hope that I could persuade them .....

MR. CHAIRMAN: That will not do. Don't prompt him. If you have not ascertained, then that means the motion drops. I am sorry there is nothing else.

SHRI B. GUPTA: My wishes have been ascertained.

MR. CHAIRMAN: I asked him a straight question. Sit down. I am talking, Mr. Gupta. I asked him. He is the mover of the motion and the Tule specifically says that the mover shall ascertain whether these Members have agreed to serve and he has given the answer that he has not ascertained,

SHRI B. GUPTA: May I say .....

MR. CHAIRMAN: You have nothing to say. It is the mover and me. Therefore it falls through. The main

motion is before the House for consideration. Sardar Singh.

SHRI SARDAR SINGH (Rajasthan): Mr. Chairman, I have listened today with a great deal of attention and a great deal of, if I may so call it, curiosity to the speech which the hon. Home Minister has just made.

[MR. DEPUTY CHAIRMAN in the Chair.]

I say with curiosity, because when I came to this house, I was really puzzled in my mind as to what justification the hon. Home Minister proposed to give for bringing forward once again this particular Act

SHRI B. C. GHOSE: There is no Minister to listen.

SHRI B. GUPTA: Nobody is here.

MR. DEPUTY CHAIRMAN: The Chairman has just called him.

SHRI B. C. GHOSE: Let him come back. Then he will resume.

MR. DEPUTY CHAIRMAN: I have no objection.

SHRI SARDAR SINGH: Mr. Deputy Chairman, I should like to say that this shows the seriousness with which the hon. Home Minister.....

MR. DEPUTY CHAIRMAN: Just now the Chairman has sent for him.

SHRI B. GUPTA: We protest strongly against such things.

SHRI B. C. GHOSE: There must be somebody.

MR. DEPUTY CHAIRMAN: We will wait.

(At this stage Dr. Katju came in.)

SHRI SARDAR SINGH: Sir, I trust that the hon. Home Minister is now in a mood to listen to such comments as we may offer from this side of the House. I was very curious about what justification the Home Minister intended to give for the continuation

[Shri Sardar Singh.] of this Act. Before dealing with the speech which the Home Minister had just made, however, I would like to read out certain passages which occurred in another speech made by a previous Home Minister in Parliament. I refer to the speech of the late Sardar Patel, when this Bill was first introduced in 1950. Now this is one of the sentences:

"Besides, certain judicial pronouncements or decisions which have been made during the last couple of weeks, and certain litigation which is pending before the Courts have created a situation in which I feel, having regard to the conditions prevailing today, that unless this House takes immediate action, a grave peril to the security of the State is involved. That, therefore, is my justification for approaching this House with this piece of legislation and I thank you all and I thank you, Sir, for having accommodated me in this regard."

Mark, "that, therefore, is my justification—a grave peril to the security of the State is involved". I shall revert to these words in a little while but now there is a little more which I wish to read out. Sardar Patel later on, in the course of the same speech, expressly pointed out:

"I should like to say here that our fight is not with Communism or with those who believe in the theory of Communism, but with those whose avowed object is to create disruption, dislocation, and tamper with communications, to suborn loyalty and make it impossible for normal Government based on law to function. Obviously, we cannot deal with these people in terms of ordinary law. Obedience to law should be the fundamental duty of a citizen, etc., etc."

The two factors which emerge from Sardar Patel's speech in 1950 are these: The justification for introducing a

measure of this type is: (a) that a grave emergency must exist, and (b) that it must be an emergency which cannot be dealt with by the Government by the normal processes of law and order, the normal police force, the normal courts and the normal judicial procedure, etc. That is the principle which was clearly enunciat-

ed in 1950. Now let us look, for a moment, at the background of this measure when it was introduced at that stage. We had obtained our independence in August 1947. Immediately after that we were beset by various troubles, various threats to law and order, violence, all the troubles in fact which resulted from the partition and it was in the context of those events that a little more than two years after Independence this Preventive Detention Bill was first introduced in the Parliament. I may also point out that our Constitution had been passed, got out, had been enacted and was operating only from January 1950 *i.e.*, that this particular measure was brought on the Statute Book just a month or two after the Constitution had come in. Now, in the first instance, this measure was brought in only for a period of one year. We were told in effect, "here is an emergency; we shall have this measure for one year, we shall be able to deal with the emergency and after that we hope that there will be no need for such a measure." It was with that view in our minds, it was with that background that this measure was passed for a span of one year. After that, what happened? Let me remind you. In 1951 once again it was proposed by the Government that this same measure should be continued and through a succession of three Home Ministers, first th^fc, Late Sardar Patel, then Shri Rajagopala-chari and after that our present Home Minister, Dr. Katju, year after year, we find this piece of emergency legislation is being brought before Parliament and the Parliament being asked to sanction and carry it on for a further period—whether it is a period of

one year or two years. What we now find is that the latest proposal which the Home Minister had just made is that this measure should go on till December 1957. That means that this emergency which started in 1950 will actually have lasted for a period of 7 to 8 years. I am assuming now that the argument or justification for this measure is that there is an emergency, a continuing emergency and nothing else. That one would imagine would be the normal course of argument that would be put forward. But curiously enough, the hon. the Home Minister to-day enunciated a principle which has not yet been put forward. Believe me, Sir, it is not in any sense of disrespect towards Dr. Katju that I am making this submission. He is a very great lawyer himself for whom I have the greatest regard. But I wish to point out that the principle that he has produced in the course of his speech today is something which, I submit, is unheard of in democratic practice. What is the principle that he has brought up? That principle is that the law must be there, even before there is an emergency. In other words, the emergency may or may not arise, but the law must be there so that should an emergency arise, you can deal with it. Sir, is this very different from saying that in fact, this law must become a part and a normal part of our normal life? In other words, if I understood the Home Minister's argument correctly, although he has not said this in so many words, what has so far been described purely as an emergency measure and what Parliament has passed purely on the understanding that it is an emergency measure, is now to become, in one form or another, a part of our normal everyday life. And that is the argument which in brief, the Home Minister has put forward today, and the question this House has really got to decide is whether you accept that principle or whether you do not. I beg of you, do not deal with this matter in any other sense. Do not be

side-tracked into other collateral considerations. The main question which you have got to decide is—unless of course, I have misunderstood the Home Minister and he is willing to take a different line—the main point is, are you prepared to have this measure as a permanent part of your life; as a permanent part of our Constitution? The Home Minister referred here to the makers of the Constitution and to the Constitution itself and he pointed out that preventive detention is contained or rather the idea of preventive detention is contained in the Constitution itself. Well, if that is correct, it is also clear that the idea of the makers of the Constitution was that preventive detention, that is to say, the right of the Government to detain a man without trial, should exist only when there was a very grave emergency. There is no reason to feel that the makers of the Constitution wanted or believed that this kind of a provision would become the ordinary law of the land; and yet this is what we are being asked to accept today.

It is true the Home Minister made various points with regard to Advisory Boards. He said that detention without trial is only for a period of three months and I think he took great pains to point out that it was not three months, but only two and a half months. Very well, Sir, he may be correct about that. But that is not the point. Considerations of whether the advisory board is benevolent or otherwise, or whether the Government is using the power sparingly or not sparingly, are absolutely irrelevant. The point simply and purely is that you propose under this law to arrest anybody when Government, in its discretion decides—for whatever reason it pleases—that the person should be arrested and that Government then, has the power to keep this man under detention for a period of three months before he gets any trial at all.

I do not wish in this debate today to deal with other points and I hope

[Shri Sardar Singh.] that other Members too will point in mind, that we have got to concentrate this debate entirely upon this question of the right and the liberty of the subject. We are not concerned with other collateral considerations. We have right from the beginning—and very correctly, I may say—taken the path of democracy. We have been always very proud of that fact, and again rightly, if I may say so, that we are a democratic nation, a democratic government, a democratic system of society. Now, what is it that a democratic form is opposed to or can be distinguished from? It is to be distinguished from a form of totalitarian government. What is that which basically distinguishes a democratic form of government or society from a totalitarian system? The basic thing, Sir, is that the individual is specifically given and is allowed to retain and enjoy certain rights, certain rights with which society will not interfere, except in the very grave crises when society itself is threatened by an emergency, by a very grave danger. What are those rights? These rights, Mr. Deputy Chairman, are, broadly speaking, freedom of speech, freedom of thought, freedom of worship, freedom of religion and freedom of the individual from oppression by anybody else, whether it be by other individuals or whether it be by the Government itself. That is basically what democracy is, because it is the absence of these freedoms that distinguishes the totalitarian society from a democratic society.

Sir, let us see how these freedoms of the individual are guaranteed. How does society guarantee that the individual can enjoy those freedoms? In the first place, democracy has a popularly elected Parliament which legislates. The will of the people is represented in that Parliament. You then have the executive arm, namely the government, which is responsible

to the legislature. This, Sir, is a very important point, the responsibility of the government to the legislature. I wish to make this point clear that the responsibility for this Act which is before us today is not of this Government, but today it is your responsibility, it is our responsibility, it is the responsibility of this Parliament.

In addition to the Government, you have the judiciary and it is the judiciary, the judicial system in a country, that guarantees that the individual is protected from the highhandedness of an arbitrary government. It is only with the independence of the judiciary that you can guarantee freedom and free democracy, because the rights of the individual are protected, not only as against other individuals, but as against arbitrary acts of the Government itself. And so when you bring a measure of this type, what is it that you are essentially contemplating? You are contemplating this that though you may have an independent judiciary—and I am proud to say that we have got today an excellent judiciary, you wish to circumvent that judiciary by passing laws under which the Government can escape having to go to the judiciary to justify its acts. I am not proposing for a moment, Mr. Deputy Chairman, that the present Government is not conscious of its responsibilities. It most certainly is. The Home Minister himself is a very great democrat. And I also know, that a number of officials of the executive arm who would be responsible for administering this Act, are conscientious people who are not going to abuse their powers. But again, I say, that is not the point. When you give a particular power, you do not consider basically the question that whether you are giving it to people who are going to abuse that power or not? That is not the point. You should remember that power corrupts, and absolute power corrupts absolutely. The best government that has a particular power for itself, could be and may be

misusing that power at a given moment.

That is the reason, Sir, why historically all forms of absolute power have been abolished. First it was the Monarchy, at a later stage despotism of other kinds—even though you had benevolent despots, you had benevolent monarchs—but the system was abolished because mankind in its onward progress felt and I venture to say felt rightly, that power which is unlimited and which is uncontrolled is not right. Today, in the form of this Act, that is exactly the danger that we are facing. You are wanting to go behind the back of the judiciary in order to imprison people at your own discretion. Now, the Home Minister, Sir, in the course of his speech and, if I remember rightly both last year and probably the year before, made great play with this fact that was not only himself—it was not only the Centre, in other words—but that every State Government in the country had concurred in this legislation. Now, that is very much like the argument which we so often hear, Mr. Deputy Chairman, when a person fails to put a concrete case, he has to have recourse to saying, "well, I am not the only person who said this. Fifty other people also say what I say." When you have no argument left and when you cannot justify a case that is the kind of argument adopted. Well, you can even pass this measure because you have the majority here and in any case, it is quite obvious that if Government can get an Act of this nature, it would certainly like to have that Act because it makes the task of the Government much easier. But that is not our business; it is not for us to make the task of the Government easier in that sense, that is to say, give it arbitrary power to circumvent the judiciary. Now, democracy in this country came only in 1947, that is to say, it has lived only for a period of seven years. It is a rare plant which has to be nourished and which has to be cherished. We are a new democratic country and we should not take our responsibilities lightly. In other countries where you

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have a long tradition of democracy, you have got certain well established traditions which in turn acts as safeguards for the democratic system. Here, on the other hand, we have a new democracy, a new and tender plant which has got seven or eight years of growth and, therefore, it is our responsibility to see that all these traditions of democracy are carefully nourished and carefully cherished so that a time may come when they become so strong in our body politic that nobody can overthrow them. Today if we make qualifications to democratic methods and take short cuts in order to make things easier for Government we shall be making a grave mistake. Because it is easier for Government to deal with the situation, by using emergency powers, it is all the more reason for us, the legislators and for Government itself, to resist the temptation of making use of such powers. Now, let us for a moment examine what happens in other countries which have also taken the democratic path. You have countries such as France and Italy. In France, the Communist vote is something like 26% and yet, in spite of that, even though all kinds of other measures are undertaken against the Communists and against other political opponents a law of this type does not exist. Take the case of Italy. There again, you have an enormous Communist percentage; in fact, the Communists-Nenni combination is 37% and still the fact remains that they have no laws of this kind. It is unheard of in England, in America or in any other democracy. There is no other democracy that has a law, which is essentially an emergency law, going on for a period of several years. In 1914 the first Great War broke out; that was a very grave crisis and a real emergency for the whole of mankind. That emergency lasted for four years, 1914-18. There was another great emergency and another very grave crisis when the second World War broke out in 1939; that lasted till 1945, a period of six years. But today we are asked by the Home Minister to accept the thesis that in our country a very grave emergency has lasted not

[Shri Sardar Singh.] for four years, not for six years but for seven or eight years and I have no doubt that at the end of the period proposed by the present measure, the Home Minister of the day will come and say, "now we have had the measure so long, why not continue it for ever" and we may again be asked to vote for it. I very definitely feel, Sir, and I urge upon this House very strongly that we must take a stand against this arbitrary act. I have no doubt that the Home Minister has brought forward this measure in perfect good faith and what he believes to be in the interests of the country but that is not the question. It is essentially a test of democracy versus totalitarianism. By that I am not accusing the Government of wanting in any way to be totalitarian but here is a measure which leads that way. Therefore, I would like to put forward three very definite suggestions for the acceptance of the hon. Home Minister. I feel it is a great pity, Mr. Deputy Chairman, that the Home Minister is not here.

MR. DEPUTY CHAIRMAN: Mr. Datar is here.

SHRI SARDAR SINGH: I trust that he will take these into account when he answers.

I make three suggestions for his consideration. The first is, "Withdraw this Act altogether". I have little hope that the Home Minister is going to accept that the Act be withdrawn altogether. Therefore, I make my second suggestion which is, instead of having this Act for a period of three years, make it only for a period of one year, that is to say, till December 1955. It is useless to say that there would be election difficulties because the elections will not take place till December 1956 or early 1957 and if you reduce the period from three years to a period of one year, it would certainly be possible for you to repeal this Act long before the elections take place. My third suggestion, Sir, for the Home Minister is this. In the event of his not being able to accept either of the two suggestions which I have made, he should, when he

winds up the debate, at least give us a very definite, clear and categorical assurance that in twelve months from now, that is to say, in December 1955, he will come back to this House with the earnest intention to repeal this Act so that this, the first elected Parliament of Independent India, can, at least say that during its own life time, it has repealed this measure which can only be described as pernicious arid odious and always to be avoided except in cases of grave emergency.

MR. DEPUTY CHAIRMAN: Yes, Mr. Bhupesh Gupta.

SHRI B. GUPTA: Mr. Deputy Chairman, I thought I would speak later.

Sir, we have heard the speech of the hon. Home Minister of our country who has been sponsoring measures such as this ever since the beginning of this Parliament. Sir, we should have thought that the time has come when these gentlemen would begin to look at themselves and realise that such measures as the Preventive Detention Act are absolutely unwarranted and uncalled for in the country. I P.M.

I would like to begin my speech by reading out to you as to what has been said in a petition made by 1,07,363 persons from West Bengal to the other House. In the petition they say: "Let not the first Parliament of India elect on the basis of universal adult franchise go down in history as a body of panicky legislators who permitted to be reduced to mockery, justice, liberty and equality written in bold letters in the Preamble of our Constitution, and who dealt a staggering blow to the Indian Republic and all that it should stand for."

Sir, I have read out from the petition made to the other House by public men from West Bengal who come from all sections of the people. Now, Sir, I would lay this petition on the Table of the House for reference<sup>1</sup> by other Members of the House. It is precisely this thing which, Sir, I want to speak on in the beginning. When we came to this Parliament we thought that it would be possible for

us by our common endeavours to wipe off the shame that the British had left us. We thought that the dirty and ugly inheritance that had been handed down to us by the British in the shape of these extraordinary, arbitrary and outrageous measures would be a thing of the past, but the party in power has thought it otherwise. It has thought that such measures should be hugged, and not only hugged and continued, but even expanded and continued instead of being cast aside. That is the most regrettable part of it. When the future generations would begin to look back and count the Acts of this Parliament, they will think that the first elected Parliament in the Indian Republic did not even care to eliminate and to expunge from the Statute Book measures such as the Preventive Detention Act, and this will stand to our eternal shame when history comes to be written. Sir, the hon. the Home Minister has spoken and spoken briefly and spared us the agony of hearing a dreadful speech. When you speak on such Bills you have to make a dreadful speech. But in the other House he elaborated certain provisions to justify the Preventive Detention Act. In this House too he has given out these ideas, but that was not so when the measure was first introduced in the Provisional Parliament. Sardar Patel, the then Home Minister of our country said that he was doing it in order to meet an emergency situation. He was talking of certain "dangers" and certain "explosive possibilities". Later on<sup>1</sup> after a year, when Mr. C. Rajagopal-achari, his successor, brought up this measure for renewal, told the Provisional Parliament that he was sorry and that such measure was called for because of the "abnormalcy"—as he thought—of the situation. Now we find the hon. Home Minister, Dr. Katju, telling us with unbelievable naivety that this measure is necessary because the democracy demands it. What was at one time thought to be extraordinary, what was at one time thought to be necessary on account of certain emergency conditions or ab-

normal conditions is regarded to be a perfect normal thing by the Home Minister of the day. That is why we find to-day naturally that when the Home Minister takes such a view of the matter he is not concerned to give any justification as to why he seeks the prolongation of this hated black Act in this country. He has said many things and if you look into them you find that no real point has been made out by him. He has said that he requires it to curb the activities of certain people and he has made points. He has in his mind first and foremost the Communist Party of India. We can understand his concern for the Communist Party because to his great misfortune and to the fortune of the Indian people, the Communist Party to-day representing the working class and the toiling masses offers the greatest challenge to the regime of reaction and counterrevolution and naturally the champions of counter-revolution wake up and they think that this party has to be suppressed. But I can tell the hon. the Home Minister that there is no power on earth which can suppress either the ideas of the party or its hold on the masses. Sir, the hon. the Home Minister should know by now that in one-third of the world the triumphant banner of Communists flies gloriously and no Hitler, no Mussolini, no Katju, nobody can stop that triumphant march.

MR. DEPUTY CHAIRMAN: Let us not go into that. He did not mention any 'name'.

SHRI B. GUPTA: In the speech that he made in the other House .....

MR. DEPUTY CHAIRMAN: We are not concerned with what happened in the other House. In this House he did not mention any Party.

SHRI B. GUPTA: Anyway, Sir, I know what he has in mind because such minds are known to us. The minds of counter-revolution is well-known to the classes and to the class-conscious workers. But let it not be mistaken here that it ends with the Communist Party alone; the Communist Party certainly is the main target



[Shri B. Gupta.] and we have pride of place as far as that is concerned because we are in the van of the people's struggles. But his attack is directed against the entire opposition, against all democratic parties and forces in the country which is revealed in the statement he has made on the floor of the House with regard to what he calls the working of the Preventive Detention Act. No party has been spared. The P.S.P., the R.S.P., the Forward Bloc, the Communist Party, the trade unions, the students, everybody has been attacked by this Preventive Detention Act. Therefore let us not be beguiled by the fact that this measure is only going to be used against a particular party in the country. It will be used against the entire democratic movement of the country. It has been used against them and it will continue to be used against them because the merit of this measure is that it cannot but be used against forces that challenge the reactionaries and the powers that be. Sir, that is why I say that he is declaring again a war against the democratic forces in the country. This measure is an announcement that for the coming three years, until the next elections are gerrymandered and fouaaed, they will continue to have this regime in power by the force of such measures as this. That is the crux of the matter. That is the reality of the whole thing. That is the heart of their case. That is the real posture of their mind, let the House know it.

Sir, I would like then to come to deal with some provisions of the Act. He said that he wanted to prevent certain things. He recited I think section 3 of the Preventive Detention Act to show that he wanted to protect the defence of India. He wants especially maintenance of public order. Sir, I have very carefully considered section 3 of the Preventive Detention Act and, more than that we have the demonstration of the section in actual life. Let us see what happens with regard to the clause about the defence of India. You will see from the very statement itself that this

measure has not been necessary in order to secure the defence of our country. On the contrary, I think it has not been used at all. The defence of the country cannot be secured by measures such as these. It is quite understandable that the defence of the country can be secured by the patriotism of the people, by the armed forces if it came to that and above all, by the unity of the people. You can understand that measures such as these never create those conditions which can give us a proper defence of the country. Sir, I can tell him here on the floor of the House that if our country were threatened by any imperialist power—and those Dowers have their aggressive pacts like the NATO, the SEATO agreement; it is because the ruling classes had been capitulating to the American Imperialism, to the Fascist and Imperialistic powers that they have dared to make such pacts against our country if they were ev^jj' to threaten the security of our land, even if the Government has committed sins, I can tell you on the floor of the House that if the country were threatened by the imperialist power, the Communist Party shall stand in the front line of fighters and defend the freedom and security of our land. Let there be no mistake about it.

Now, Sir, with regard to foreign relations, it is supposed to be maintained under this Act. How foreign relations are maintained under this Act, it is beyond me. I think anybody who has got any sense of proportion would be astounded to hear that measures as the Preventive Detention Act are required to ensure good and friendly relations between the various countries! It is a fatuous argument, as fatuous as this fantastic and absurd legislation. Sir, if you want good relations with countries, you have got the five principles which we have welcomed. You have got the policy of peaceful co-existence; you have got the policy of friendly and peaceful relations with other countries. Let us pursue that policy. Let us proceed along those lines and \* I

think India, great as she is, would be able to build up better friendly relations with all the democratic and peace-loving countries in the world and I can tell you that his targets— Dr. Katju's targets—the Communist Party would always be there to help build such friendly relations. In fact, Sir, the entire people of our country desire that we should find our place in the comity of nations, a place of honour, a place of pride and that we should build friendly relations with all countries of the world so that peace can be preserved and we can prosper in a climate of peace. Therefore this measure is not at all necessary for such things.

Then, Sir, comes the question of the security of the State. Who has threatened the security of the State? May I ask him where has the security of the State been threatened? We have had three years of experience since we came to this Parliament, and has there been any instance to show that the security of the State as distinguished from the security of the Government has been threatened in the country? Undoubtedly there have been movements and there will be movements. There have been struggles and there will be struggles but that does not mean that every movement and every struggle, threatens the security of the State. Is the State tottering today that certain measures as these are required to be placed on the Statute Book? Nothing of the kind. Therefore let us not talk of the security of the State. The State is as secure as it can be. If the Government changes its policy for the better, if it does not follow a policy of reaction and suppression of people and suppression of the rights and grievances of the people, I think the security of the State will not at all be endangered.

Sir, may I ask him who today has caused the Police strike in Calcutta? Not the Communists nor any Opposition parties. The policemen are used in fact to suppress the parties of the Opposition. Now, thousands of policemen are on hungerstrike in Calcutta because the Government and

the authorities have not been cared to meet the immediate grievances of these men or their very legitimate demands. That is why a situation like that has been created and the Home Minister had the gumption to suggest that we of the Opposition create discontent among the policemen. If you read what has appeared in the Press it will be clear as crystal to you that if the policemen are on hungerstrike in Calcutta it is because of the utter soullessness and rigidity of the policy of the Government. I say it is the Government's policies which are responsible for creating that unhappy and uncomfortable situation in the country and if anybody has to make amends for it, it is the Government that has to make amends for it; if anybody is to be rectified for it, it is the Government which is to be rectified. Therefore let us not talk about the security of India. We are as interested in the security of the State as anybody else. I realised that in Dr. Katju's armoury of fatuous logic and logic chopping there is not much argument left. Therefore he comes forward and tells us that this measure is required for maintenance of public order. Public order is not something interchangeable with the vagaries and the fads of the Congress regime. Public order will be maintained in the country provided the Government discharges its responsibilities, stands up to its duties and looks to the people and their interest in a right manner. Sir, look at the conditions in our country today. What has created troubles among the workers and peasants? You will find that it is inevitably the policy of ruthless exploitation and the policy of repression that are responsible for creating a situation such as that he has complained of. Therefore it is not correct to say that you want this measure to maintain public order. If public order is threatened there are provisions in the Indian Penal Code and in the Criminal Procedure Code to some of which reference has been made and by utilising those codes and their provisions public order can be protected. Sir, do I understand that

[Shri B. Gupta.] public order cannot be maintained until and unless we have this Preventive Detention Act? Even the British did not have measures such as these permanently on the Statute Book. I shall come to that later. Therefore it is not public order; it is the order of reaction, the order of tyranny, the order of corruption, the order of profiteering which is sought to be maintained by this Preventive Detention Act. Let them not talk about public order. Let them not prostitute that name in order to push on their aggrandizement against the people. That is what I want to tell them frankly and bluntly. Sir, therefore that argument does not stand either, namely that this measure is required for maintaining public order. Sir, in fact, you are yourself familiar with the provisions of law. • The British came here to rule. They came here not for our good but for our goods as we all know and they saw to it that public order was maintained. For that they made ample provisions—the Indian Penal Code and the Criminal Procedure Code—but even they did not require such measures as these. Dr. Katju if he treads along that path, if he follows the British and if he goes after that pattern, why is he not satisfied with the Criminal Procedure Code, why is he not satisfied with the Indian Penal Code, may I ask him? But, Sir, they today out-Anderson Anderson; they would out-Rowlatt Rowlatt and that is why they are going farther than what the British did and they say now 'let us have this measure for public order for another three years'. These arguments do not hold water. Can these arguments be taken seriously? Dr. Katju, I should have thought, would take the Parliament a little more seriously than he has taken. Even if he does not like us, there are many hon. gentlemen sitting on that side of the House. He should have at least tried to convince them.

I can tell you from what has appeared in *The Statesman*, that even *The Statesman* has not been convinced.

The British mentors of the present regime in an editorial published in *The Statesman*, Delhi Edition, dated the 12th December, have expressed doubts about Dr. Katju's arguments. *The Statesman* is a paper which likes such measures and even this paper could not be satisfied with the arguments that the hon. Dr. Katju produced. *The Statesman* says, 'What the Constitution permits, it does not necessarily encourage. What satisfies the letter may not accord with the spirit. Dr. Katju, we think, will agree.'

Dr. Katju never agrees with such things. He has his own way; he has his own logic; he has his own approach. He says, "Here you are; you accept it or you do not accept it.\* And he goes on merrily with his arguments. He does not bother about the gentlemen behind *The Statesman*. They have undoubtedly nurtured those persons on the Treasury Benches but they are yet to get a fuller picture of Dr. Katju and the way his mind functions.

Then, Sir, here is another paper, the *Hindusthan Standard*, a Congress-minded paper and in its editorial on December 11, entitled "Preventive Detention Act" it castigates the measure and rejects the argument advanced by Dr. Katju in the other House. I have read also the editorials published in other papers and I did not see any paper whatsoever which has accepted the arguments that Dr. Katju has advanced. I feel that, having read these editorials of the papers which generally support them he would be at pains in this House to explain a little better, a little cogently, the grounds on which he seeks the extension of this hated and black measure. He has done nothing of the kind. The only thing is that he has become a little more brief and brevity in this sense is only an example of insolence that the Home Minister can display. I protest against that way of dealing with public matters. Now, let me come to the point. Arguments do not count with them today. They have got the majority and I know that if

this majority were not under the Congress whip, many Members on that side of the House would have supported us, would have said in concurrence with us that this measure should not be passed again. But, I know, unfortunately the Congress whip will operate with all its ruthlessness and severity.

Sir, I will tell you that the petition to which I have referred has been signed not merely by the Communists, nor by the Socialists nor by Members of the Parties in Opposition. It has been signed, among others, by Congressmen and among the signatories is Shri Atul Gupta, a leading lawyer and jurist of India, who is still connected with the Congress. And there are many Congressmen who have supported this petition. Therefore, it is not at all a party question. It is a question of good sense; it is a question of democracy; it is a question of certain fundamental principles and ways of life which, I think, Dr. Katju has decided to throw overboard today and has been doing so far a number of years. I know the fate of this measure as far as this House is concerned. It is pre-determined. Dr. Katju's will will go, that is the decree of the democracy that we have got today. What the people demand will not stand. What the public demand in such mass signature petitions will not be cared. What the press demands will not go. That is also the decree of the democracy which we glibly talk about today.

Dr. Katju has talked about the Constitution of our country and I can tell him that article 21 of the Constitution wants to see that nobody should be deprived of his freedom, etc. Article 22 makes a provision, but it only empowers the Government to enact such measures, it merely empowers the Government. Now, Dr. Katju has argued in a manner as if article 22 has made it mandatory for the Government to have this measure permanently on the Statute Book. Now, Sir, it is no use trying to refer to a particular section or an article in the Constitution. What you say in the Preamble of the Constitution is

also, I suppose, something very material. You have said very great and grand things there. Why not implement them? It was necessary for you to see whether the Constitution which is to be a living document, is being treated in a manner that it may fulfil the expressed ideas and sentiments as set out in the Preamble of the Constitution. Dr. Katju has not taken that path. He is moving in the opposite direction. Therefore, it is no use trying to quote the Constitution here. I have got before me quotations from the judgments of learned Judges of the Supreme Court and High Courts—Mr. Justice Mahajan, Mr. Patanjali Sastri, Mr. Justice Mukherjea. Now, the Chief Justice of the Supreme Court of India, and the Judges of the various other High Courts, who among them has supported this measure? Who has stood for this Preventive Detention measure? Not one of them. Sir, Mr. Justice Mahajan said—to quote his words—"It cannot but be regarded as a most unwholesome encroachment upon the liberties of the people." This comes not from a Communist, whom Dr. Katju despises. It comes from a Judge of the Supreme Court whom he adores and admires. Then comes a judgment in the case of Ashutosh Lahiri *versus* the State of Delhi—Mr. Justice Mukherjea, the Chief Justice-designate of India has said: "There could be no better proof of the *malafides* on the part of the executive authority than the use of the extraordinary provisions contained in the Preventive Detention Act for purposes for which the ordinary law is quite sufficient." Then, Sir, there is a joint judgment by Mr. Justice Mukherjea, Mr. Justice Mahajan and Justice Das. A person was preventively detained for writing an article of alleged defamation. The judges made very strong remarks about this case in which a person was detained preventively for writing an alleged defamatory article. This is what the qualified Judges of the High Court and the Supreme Court are telling us. Now, I find that it is I sought to be explained that Parlia-

[Shri B. Gupta.] ment has made this law, therefore it is law. What do the foreign jurists say? I would like to refer you to a case in which Mr. Webster, one of the well known lawyers of America, said:

"It is not every act which is legislative in form that is law. Law is something more than a mere will exerted as an act of power. Law means that which bears before it condemnments, which proceeds upon inquiry and renders judgment only after trial."

SHRI P. T. LEUVA (Bombay): You are quoting an American lawyer. It is rather strange.

AN HON. MEMBER: Are you in love with Americans?

SHRI B. GUPTA: Jokes apart at this stage. We stand for anything that is good. We take from every civilized nation whatever is good. We undoubtedly stand for the American Bill of Rights. We stand for the American lawyers who fought against reaction, stood by the ideals of Jefferson and Lincoln, freedom, liberty, etc. We stand for all that is good and noble in any country. These gentlemen would never understand that kind of thing. It is beyond their comprehension. You stand for the black Acts, blackest laws in the history of mankind. Therefore, it is no use trying to refer to the Constitution. Constitution is something which is not immutable and if it is to be a living document.....

(.Interruptions )

MR. DEPUTY CHAIRMAN: Order, order.

SHRI B. GUPTA: You must see that you do not just take away whatever little grace is there in the form of certain formulations in the Preamble. You must fill it with life. You are not doing that at all. You are doing exactly the opposite thing.

Now, Sir, the Minister said, "What is there in the Preventive Detention Act?" It is very normal for him. He said that with mental ease. I say it is not so simple as all that. If I look back to the past history, what do I find? I find that it was in the beginning of the last century that the British, faced with the growing discontent in the country against them, enacted what is known as the Bengal Regulation III of 1818. As you know, Sir, the leaders were surprised at the enactment of that measure. When in 1870 a case came up before a Bombay Court, an English Barrister took up this case and fought against the preventive detention and the proceedings of that case were published in the form of a document which created a sensation in the country. It was at that time, about eighty years ago, that our people, our forbearers, joined together and said that the measure should not be allowed to go unchallenged.

Then, we know that in the beginning of the century, when the Swadeshi movement was started, and challenged the British regime, when it gave a call to the people to fight for their liberty, the British Government then came down heavily upon the people under that Regulation III of 1818 and arrested important leaders such as Aswini Kumar Dutt, Lala Lajpat Rai, Sardar Ajit Singh and Shyam Sundar Chakravarty. These were the people who were arrested and kept in detention without trial. At that time, the Congress Party, still in its infancy, raised its voice against it, and it was the President of the Congress, SVR: Rssbehari Ghosh, who condemned this measure as an outrageous measure. It was long ago, a half a century ago, when the President of the Congress condemned this measure as an atrocious measure. Then we again found that this Preventive Detention was used when the first World War broke. Sir, about 12 hundred people were arrested without trial under what was then called the Defence of India Act, and we know that the whole country protested against it-

After the war was over, like the Congress Party of our time, they too did not like to do away with that extraordinary power of preventive detention. They evolved their Rowlatt Bill, against which it was Mahatma Gandhi who raised his voice. The entire country rallied to a magnificent and majestic revolt against the Rowlatt Bill, which incorporated precisely the laws of preventive detention, and, as you know that that fight, that struggle, against that hated Bill is an epic in the Indian history today. We cannot imagine our nationalist traditions, our nationalist history, without going back to that fight against that Rowlatt Bill. It was in that spirit of such struggle and sacrifice that we built up our national movement. Jalianwala Bagh today stands as an eternal glory to the challenge of man against the tyranny of such a measure. This place is a sacred place. They are raising a monument there. We welcome that. Jalianwala Bagh is a place of pilgrimage for every Indian, regardless of the Party, because it is there that we fought one of our greatest battles. It is there that the Indian hearts spoke out in a language which made the British shudder. Today, Sir, when that place is being retained as a place of pilgrimage, I mean Jalianwala Bagh, these gentlemen come forward with this measure of shame, infamy, an inheritance of Rowlatt and Dyer. Nothing can be more scandalous, nothing can be more shameful, nothing can be more revolting, and nothing can be more insulting to the undying memory than such an act of treachery and lack of patriotism. Sir, do you believe how they are going to cultivate such things? Now they are not at all conscious of these things. We must recall our past history. Then, Sir, in the middle twenties again the British came forward with this measure and arrested about 200 people in Bengal. Among them were Subash Chandra Bose, J.M. Sen Gupta, and many other people. That is the sort of thing that was happening. Then, Sir, what happened in the thirties again? The British again used this preventive detention measure codified

in that hated Bengal Criminal Law (Amendment) Act of 1930. I was a victim of that measure. I spent four years in jail when Pandit Jawaharlal lived in .....

MR. DEPUTY CHAIRMAN: Order, order. Why do you go to the past history?

SHRI T. S. PATTABIRAMAN: He has no present arguments

MR. DEPUTY CHAIRMAN: If this Act has been misused in any way, that would be relevant. Let us not go to the past.

SHRI B. GUPTA: I have to go to the past, because my whole argument is based .....

MR. DEPUTY CHAIRMAN: You have to see if the Act has been misused.

SHRI B. GUPTA: I wish to come to I hat. I am very near it.

MR. DEPUTY CHAIRMAN: Leave alone British.

SHRI B. GUPTA: Now, Sir, when he was in the Alipore Central Jail, we were in the Presidency Jail, not very far from each other. We were inspired at that time by the ideals that the Congress upheld at one time. We went there in the Bengali way, because We believed in something else. (*Interruption.*) Yes, Sir, we believed in something else. We do not deny it. We have become more mature. We do not believe that people can be liberated with such acts. Yet we were at one with the Congress and fought against such measures. I remember how we were shocked when Pandit Jawaharlal Nehru was given two years' imprisonment. I can tell you that. But let us not go into that. For four years we had remained there. Some of our friends had remained there for eight years under that preventive detention Exactly the same argument used to be advanced by the Government at that time. Earlier we had Motilal Nehru standing by us, defending us. At I that time, I think, for a change, a good

[Shri B. Gupta.] chapter in his life—a short chapter, but a bright chapter—was attributed to Dr. Katju, because he defended the Meerut case. I remember it. But he has forgotten those things, and I am very sorry for him. But at that time, these same gentlemen condemned this measure in this same way as I am condemning it now. Sir, we have before us the proceedings of those times. We find that Shri Motilal Nehru used a much more strong language, in spite of the same type of interruptions that we have here, and he spoke against the measures such as these, with logic, with vehemence and with patriotism. That is something which we still prize. Sir, then came the war. And again the British used this measure, and you know what happened. Many Members on that side of the House had spent some time in jails under those measures, and we condemned such measures and we thought that after the transfer of power such things will be things of the past. But what happened then?

In all the States, these Defence of India Rules were more or less maintained in the form of security ordinances, public security and public safety measures and so on. Dr. Katju is well aware of that thing. In Bengal, as you know, Sir, the Bengal Special Power Ordinance was introduced in order to retain the powers of preventive detention. Then a Bill was introduced in the Assembly when the Congress took powers. At that time, Shri Profulla Ghosh was the Chief Minister, and the whole country was opposed to this thing. But that thing remained. And what happened? About 900 people were arrested under that measure—the West Bengal Security Act—passed by the Congress regime. And when this measure was challenged before the court of law, before the High Court, the Government's case did not stand. Then, what did they do? They used this old Bengal Criminal Law (Amendment) Act of Anderson, and detained some people without trial. And then, after

the coming into force of our Constitution, this Bengal Criminal (Amendment) Act was challenged in the court of law, in the High Court, I mean. And then when it was challenged, the Government found that the High Court might declare the Criminal Law Amendment Act under which still there were 370 people in detention *ultra vires*. And so Sardar Patel spent sleepless nights, and in order to nullify the High Court judgment, he rushed through the Preventive Detention Act in a matter of four hours and even he at that time had to apologise before the Provisional Parliament for bringing forward that measure. It is in order to nullify the judgment of the High Court that the Preventive Detention Act was first passed. It is something which Dr. Katju has not told us: but which is something on record in the proceedings of the Provisional Parliament. Then the High Court ruled<sup>1</sup> that the Criminal Law Amendment Act was *ultra vires* of the Constitution, but not one detenu was released. When they were sleeping in their cells, at the dead of night, like thieves, some people went there and thrust the new detention orders into their cells—orders under this Preventive Detention Act which had been passed in the course of four hours. That is the story of the Preventive Detention Act. It was not as if the Central Government here coolly thought that they should have some kind of measure like that; it was not as if the conditions in the country were such that they were worried about it. It was passed just to nullify the High Court judgment, in a panicky state, hurriedly, in indecent haste. That story Dr. Katju should have told us. Please remember that at that time there was no Advisory Board provision in the original Bill. Then in 1951 Rajagopalachari had it extended for another year. He came with a faltering voice. He is a man of logic, you know and he can explain things much better than many people. Even that gentleman had a faltering voice when he piloted the measure, because he knew he was speaking for an untenable cause. He

said, "Let me have it for one year. If abnormal conditions still remain, we shall see to that later on." He pleaded like that in the Provisional Parliament and had it passed. Never was the Provisional Parliament given the impression that this measure would remain on the Statute Book permanently. Nobody would say that C. Rajagopalachari was a progressive person compared to Dr. Katju, but he had at that time asked for a life of only one year for the measure. Then in 1952 Dr. Katju made various speeches in the House and said. "Let me have this for two years. If the conditions improve, we shall consider in our wisdom whether we should retain it on the Statute Book or not." I should have thought that he would come here before this House and the other House and explain how the conditions were worsening in the country so that another term of three years has to be granted to this measure which nobody wants. Nothing of the kind has been *done*. Indeed, the whole logic is gone. The whole argument has gone. If I were speaking in a court of law dealing with this case. I should have accused the Government of drawing heavily upon the credulity of the public and committing a fraud on the public mind. I should have made that accusation against the Government. Let Dr. Katju in reply give at least some instances to prove how the conditions in the country have worsened, or deteriorated. Otherwise, why must we pass this measure, one cannot understand. Now, he has given us some statistical material. This material is quite interesting. Government has furnished its case in its own way, and we have our own way of looking at it. He says that this shall not be used against any political parties as such. I do not know what he means by 'as such'. You cannot pass Preventive Detention orders against the Communist Party of India as such. All that you can do is that you can pick out some members of the Communist Party and put them in jail. It does not lie in your mouth to say that you are using this against any political party as such.

SHRI T. S. PATTABIRAM AN: For political purposes.

SHRI B. GUPTA: I am a political person.

SHRI T. S. PATTABIRAMAN: I said for political purposes and not political parties.

SHRI B. GUPTA: I am coming to that. I will meet your point. When he says that this will not be used against any political party as such, nobody would take him seriously. This 'as such' formula is as ridiculous as any ridiculous thing could be. We have got a list here of those who were arrested during the year under review. Out of the 415 persons who were arrested, you will find that the Communist Party's 'contribution',—if I may use his own expression, because he is a big game hunter and he wants *to* hunt us out—to these jailors of the Congress regime—is 74; students 8, —I don't know who these students are; and then other parties 47. One hundred and twenty-five out of 415 came from the Communist and other parties. Now, Sir, out of the remaining 290 I find, by closely scrutinising this thing, that only two persons were detained for profiteering and black-marketeering. Two persons for profiteering and blackmarketeering and 125 persons for political reasons! Now, may I ask whether this is not a convincing proof that this measure is being utilised for political purposes? May I also ask at the same time who is the greatest enemy of the country? Are the greatest enemies of the country the Communist Party, the opposition parties, or the profiteers and blackmarketeers? Who are the people who create famine, who create scarcity? The object of the Preventive Detention Act is also the maintenance of essential supplies and services. May I ask him who come in the way of the maintenance of the essential supplies and services? Do we come in the way—or the profiteers? It is only the profiteers and blackmarketeers who come in the way. If it is so, why then only two people from that category have been put under detention as



[Shri B. Gupta.] against 125 belonging to the various parties including the Communist Party? I am confronting you with your own statistics and so you must admit that this measure has been used pre-eminently against political parties. Now, let us not be told that we are not political persons. You yourself have stated that we are, and you must stand by what you have stated in that document of yours. It shows that it has been used against political parties. Now, it is clear that the Communist Party and the other parties are the real targets of this measure, are the persons who are being hit and sniped at by this hated measure, and that is something which is undeniable even from the official figures that we have got here.

Dr. Katju said that when the Advisory Board released people, we don't give them the credit and when more people are under detention, then of course, we also blame them. He is in a dilemma. He need not be in a dilemma at all. It is very clear. In 1950 there were 10,000 people under the Preventive Detention Act in jail according to the statement made in the other House by Shri Datar. According to us, of course, the number was much higher. It would be round about 15,000. Assuming it was 10,000, at that time, there was no provision for Advisory Board at all. The question of Advisory Board did not arise when the law was put into force in 1950. Later on came this Advisory Board in 1951. Now what does this Advisory Board again show? They want to have the credit for the Advisory Board. First let me tell them that the Advisory Board was something which was not acceptable to them. It is because of hon. Members in this and in the other House fought in regard to the provision of the Advisory Board that they were somewhat liberalized in the present Act. What happened? You will see that interesting facts are there and I think you will find, if you look at the operation of this Act in the first year after 1952 an overwhelmingly large number of people released by the Advisory Board. The reason is that

the Advisory Board did not find any ground whatsoever for their arrest. One may say 'Well, it is a good arrangement for you'. But what about those people who had been arrested, placed under detention for at least 7 or 10 weeks because under the existing law one can be kept in detention for at least 10 weeks without the Advisory Board or without anything. All that is to be done is to get hold of them, put them in jail, give them a charge-sheet and then ask them to wait for 10 weeks in jail. Now what about these 10 weeks? 10 weeks may not be much for you but 10 weeks mean much for people who believe in the service of the people, 10 weeks detention in jail without trial means downright outrage when you look at it from the point of view of human liberty and personal freedom. Have you compensated those people, those people who had been released by the Advisory Board because the police case did not stand even the test of the hated Preventive Detention Act? Have you compensated them, have you made amends to them, have you paid them any compensation or even expressed an apology to them? Nothing of the sort. You took them as you liked and when your case did not stand, you have been forced to release them and after doing that I think you should have come here in sack cloth and ashes and apologized to the House, instead of trying to flaunt what a great provision had been made in this Act. Sir, that is the logic of reaction. That is the logic of unreason. Therefore I say, don't look at it from that angle. Even in this Bill, Dr. Katju has said that so many people have been released by the Board.

MR. DEPUTY CHAIRMAN: Mr. Gupta, we have only 10 hours for this Bill and I have 12 names before me just now. Some more may like to speak. You have taken 55 minutes. Please cut short.

SHRI B. GUPTA: I will take one hour. It is quite clear. Now even in this statement Dr. Katju has said that many people had been let out by the Advisory Board. The number of

persons released on the recommendation of the Advisory Board is 65, number of persons released by the High Courts and the Supreme Court is 14 and the number of persons released by *suo mom*—Now what is *suo motu* You arrest me, put me in jail and then you have a *suo motu* recess—comes to 166. Leave out the *suo motu* thing as we know what *suo motu* means. If you want to keep them for some time, keep them for some time and then *suo motu* thing starts when you think they can be released according to you. There is no law, there is no pretence of justice or judicial procedure in it. The Advisory Board does not come in but let us take the case of the Advisory Board. 65 have been released by the Advisory Boards and the Supreme Court. As you know, the Supreme Court and the High Courts cannot go into this measure very much except when the charges are thought to be vague or outside the scope of this Act itself. Otherwise even the Supreme Court has no jurisdiction. Even under these conditions, the Supreme Court and the High Courts have been obliged to release 14 persons. That does not go to your credit. I think even if they don't take lessons from us, they should take some lessons from the Supreme Court and the High Court Judgments which are a slap in their face. It should convince them how arbitrarily their measures are being used. Much has been said about the Advisory Board by Dr. Katju. I need not dilate upon it. I would only recall what Shri Motilal Nehru said about the Advisory Boards. Same arguments almost with the same accent were made about the Advisory Board to justify this provision in the Central Assembly at that time. Shri Motilal Nehru got up and said "Don't tell me about this Advisory Board. If you give me three angels, they cannot do anything because the case will proceed on an *ex-parte* basis. We would not be in a position to look into the evidence. The accused will not have a chance of cross-examining the witnesses and follow the normal

judicial procedure. Therefore don't talk about those Advisory Boards. On the contrary, give us three men in the street and give me the right to cross-examine the witnesses, examine the documents and all that sort of thing and after that do whatever you like". That is what Pt. Motilal Nehru said in answer to the arguments made in support of the so-called Advisory Board. At that time though that argument was acceptable to the Congress Party, today we advance the same argument to Dr. Katju without improving it or trying to improve upon it. Let him answer. I would ask the son of Shri Motilal Nehru to answer this argument, if he has the courage. So, I say, let us not talk about these Advisory Boards. They say, that we can appear before them. Yes we can appear before them but we can not cross-examine the witnesses. Who are the witnesses? They are the Police-men, the I.B. Officers. You can always get, by paying Rs. 15 some people to give false information. You can always get some information. In Bengal we know they are trying to enlist some Intelligence Branch men from the refugees who are absolutely starving. They give them some money and try to entice them into their path. These people give some reports. I should like to cross-examine some of these and see how truthful they are, how God-fearing some of them are when they come before cross-examination, but I am denied the opportunity of cross-examining them. Now if you look at the criminal procedure, you will find that the face of the witness, his demeanour—everything is material in a case and in such cases I am not to see the face of my witness who may be the greatest fabricator and forger going on earth. I would ask Dr. Katju, let us have in that case the witnesses before us. We shall cross-examine them and ask them. Surely they will have the greatest fear writ on their faces when they are face to face with cross-examination by the detenus. It does not provide for that. You formulate the charge-sheet and initiate and start the whole process.....

[Shri B. Gupta.]

*(Time bell Hugs.)*

I have heard your bell. Now this charge-sheet is framed by the Government, by the Police Department and there is no question of any objective test. Only a question of subjective satisfaction. If the Government is satisfied and we know what satisfies them and what does not satisfy them—what satisfies them to modify the Bank Award and what does not satisfy them in other matters. We know all that. Therefore it is entirely a subjective test. If some officer thinks that he is satisfied, it may be a Chief Secretary, a Home Secretary or some Police Officer—an I.B. Officer—if that great gentleman in his great wisdom thinks that he is satisfied with the grounds of detention, I go to jail and he flourishes his charge-sheet against me. I fall a victim to his satisfaction. About 2PM

Action of that type, the less said the better. Therefore there is no point in saying that the Advisory Board can give relief. Under the law some people, of course, are released by these Boards. But if you look at it from another angle, from the angle of justice, from the angle of accepted jurisprudence, from the angle of the rights and liberties of the people, you will find that these Advisory Boards are just a device, a mere show to assuage the feelings of the people, to bamboozle the masses and nothing beyond that. I make no reflections on the judges, Sir. They are all good people. But how can they function if you put them in that climate in which they cannot think properly? I know, for instance, Dr. Katju cannot function in a people's democratic government as Home Minister. He will find himself absolutely uncomfortable and die immediately of mental suffocation. Nor can I find myself comfortable on the Treasury Bench as a Home Minister or a Deputy Minister in this Government because I would in that position die of mental, moral and political suffocation. Therefore, it is no use telling us about the judges. The Advisory Boards are just a device,

a show, a pretence and nothing beyond that, regardless of how good the judges may be. The very conditions there, the terms of reference that are imposed make it impossible for the judges to bring their judicial mind to bear upon the cases that come before them.

*(Time bell rings.)*

Sir, you are ringing the bell. This bell, I hope will not be the last bell as far as this matter is concerned, for we will, as long as we are here, pursue this matter.

Dr. Katju, I am glad to see, has mentioned Calcutta. Calcutta has become for Dr. Katju, a sort of an obsession. I know Calcutta and I should have thought that he should have liked Calcutta. It is a fine magnificent city of great people, carrying on the traditions of the freedom struggle, the traditions of the people of various provinces, the confluence of diverse thoughts, of progressive thoughts in our modern society. He should have liked Calcutta. But he discovered there, not the heritage of Rabindranath Tagore, nor its literature nor its political contribution, but only the Octerloney monument! All right, there is that monument there and if you do not like it, you can remove it, pull it down, be finished with it. We are not much concerned about that. Then he speaks of Azad Maidan in Bombay which is something which creates trouble for him. But does it mean that we are not to have places for a meeting? What is wrong with that? Meetings will be held. If you talk about democracy, if you refer to Hyde Park, you should remember that Hyde Park business was not evolved in one day. We all know that seven hundred years of struggle went on behind that. Thejs, were the Stuarts, the Star Chamber, the Tudors and there was the coming of Cromwell who intervened in the situation and—I know, and you also know, Sir,—how the thing was evolved. Similarly, we are also struggling for the establishing of the rights and liberties of our people and we know that before we

enjoy the fullest measure of freedom of speech, we will have to make great sacrifices. We are quite conscious of that. But when you talk of democracy, you should not jeer at the meetings that we hold. Do these meetings threaten your State? They do not lead to violence or other things. I can give you many examples.

Jyoti Basu, the leader of the Communist Party in the West Bengal Assembly, the Leader of the Opposition—because we are the largest number there, whether the Government likes it or not—was arrested after the settlement of the teachers' strike which we discussed on the floor of the House. I went there and along with him brought about the settlement of that problem. But he was arrested a few days after the settlement. He was arrested under the Preventive Detention Act, in connection with the teachers' strike. But what was there to arrest him when that strike had been settled? So what was the ground for his arrest Or detention? Naturally the Advisory Board would not like this sort of ground and when the Government realised it, he was released. When he came to the Assembly back again, he asked the Chief Minister of West Bengal. "What was I arrested for? I was arrested after the strike had been settled." Then that gentleman, the Chief Minister of West Bengal, as great as the Home Minister of India—I do not know who can replace whom—rose and said, "The hon. Member has malevolent influence in some quarters in the country". Wonderful! That is the excuse given for his arrest. Sir, if that is the position, then I think all of us have got malevolent influence in the country if we do not toe your line, if we did not ditto you. Now, what happened in this case? Mr. Basu was released, as I have said. Many people were arrested during the teachers' strike—some hundreds or so .....

MR. DEPUTY CHAIRMAN: Mr. Gupta, please give some time for other

Members also. You cannot monopolise all the time. I think some of your own party members may like to speak.

SHRI B. GUPTA: Very well, Sir. Application was made to the High Court in those cases and the High Court found that nobody should have been arrested under the Preventive Detention Act. The High Court found that and all of them were released. And you know, Sir, that unless the grounds are absolutely vague, and outside even the jurisdiction of the Preventive Detention Act, the High Court would not intervene. And when the cases went there, everybody was released. I say, this a commentary on the Preventive Detention Act and a rejection of all the arguments that are being put forward by the Home Minister.

In conclusion, I would only say a few words and I am very glad the hon. gentlemen here have been hearing me with patience. I think they will not lose anything by giving me a hearing.

SHRI H. P. SAKSENA (Uttar Pra. desh): And we want you to behave properly in future when the Home Minister is speaking.

MR. DEPUTY CHAIRMAN: Mr. Gupta, they have not disturbed you and so you should not disturb them.

SHRI H. P. SAKSENA: That is what I was telling him.

SHRI B. GUPTA: I was talking sense and therefore, the Home Minister was not disturbing.

MR. DEPUTY CHAIRMAN: Order, order.

SHRI B. GUPTA: Sir, you wanted the reason for no disturbance and I gave it.

MR. DEPUTY CHAIRMAN: Please wind up. Mr. Gupta.

SHRI B. GUPTA: Now, you have intervened. I am very glad and I am—

very grateful to them for having listened to me. But I do not know if the Home Minister listened to me at all. The Home Minister is an intelligent person—I give him that credit—and he knows that he has no ease and being a clever lawyer, he does not intervene when the case is of a losing nature. And as for the other gentlemen, Sir, they are perfect gentlemen • I like them, I sit with them and I also hope that some of them will get up speak in my support.

V.T >w, to come to this measure again, it is quite clear that there was and there is no justification at all for it. The only justification that is cited is that the States like it. Of course the Congress Governments in those States like it because the people's struggle is going on and the movements are going on and the people are trying to take the destiny in their own hands and trying to do something better for themselves. When the Government there realises this situation, they want this measure and that is why they have demanded it—those Congress Governments in the States. But that is not a certificate for this measure. It only shows the panic, it only shows the fear, the apprehension in their minds. It is not a justification for this measure. It should not be cited as an example or justification for this measure. Dr. Katju arms the State Ministries with this measure so that they may deal with the opposition as they like, especially when the opposition begins to assert itself. In West Bengal we have begun to assert ourselves. There our number is the largest in the list, and I suppose if Andhra does not slip out of their hands, we will see the same thing there. They have only just started the election campaign through the mouths of guns, not through the microphones. So from now till the elections, keep this thing, keep the powder dry, threaten the people, let it hang like a Damocles' sword over the head of the people and let them know that if they dared to raise

their voice against you, that sword will come down upon their head. The number is not material, but it is the threat that is most important here.

Threat is what they want to hold out by passing this measure. Now, let us not go into this aspect whether this measure is liberal or not. I would say and repeat that it is one of the blackest Acts that have disgraced the Statute Book of our country and this black regime is still passing this black measure with the clearest intention of suppressing the rightful and legitimate struggles and movements of the people and, above all, to suppress the opposition parties in the country. They know that before the next elections are held they will be in a difficult position and therefore every Ministry and every authority of the Congress Government is being armed with this extraordinary power for a period of three years so that they can make havoc in our country, playing ducks and drakes with the freedom and liberties of the people in order that the Congress order of reaction is maintained as it is. Those Ministers and gentlemen who believe that if such measures are retained that will help to see that people even though they get a majority of votes are not allowed to have the reins of office. It is with that object in view, it is with that purpose, it is with that intent and with that aim before them that they have embarked upon this despicable course of relying on this Preventive Detention Act. Sir, I can tell you, if Hitler and Mussolini had gone down Dr. Bidhan Chandra Roys and Shri Kailash Nath Katjus will not survive the test of time and the trial of history.

MR. DEPUTY CHAIRMAN: Mr. Pattabiraman. You should not disturb him now, Mr. Gupta.

SHRI T. S. PATTABIRAMAN: I will not give him any opportunity for that, Sir.

Mr. Deputy Chairman, after having listened to the verbose of my very very learned friend Mr. Bhupesh

Gupta, I have come to the irrevocable conclusion that this Act should not be extended for three years but that it should be kept on the Statute Book for ever.

[THE VICE-CHAIRMAN (SHRI V. K. DHAGE)  
in the Chair.]

Sir, it is a pity that in the course of his speech lasting over 75 minutes, he has talked more about politics, more about past history and more about unconnected and unconcerned things than giving any reasons for dropping this Bill. I know, Sir, that their armoury has become depleted, that they have no arguments against the Bill and that the Act has stood the test of time for the past six years. Not only that, Sir, but when the hon. gentleman on the other side was speaking on behalf of the people, on behalf of the toiling millions and the labouring masses, I would like to point out to him that the toiling masses and the labouring millions have voted the Congress into power and have given their verdict, not once, not twice but on hundreds of occasions during the elections and they have solidly supported the principles of this Bill. Sir, hon. Members of the Opposition have doubted as to whether this Bill is necessary, whether the Bill is justified and whether we should have it on the Statute Book for three more years. I would like to appeal to them and appeal to their reason to find out why this Bill has been brought about. Sir, it shall not be said against the Congress Party that we are like the British Imperialists. We have tasted the fruits of detention; we have tasted the lathi of the British soldiers and the bayonets of those people in greater measure than many of the Members of the Opposition. If today, in spite of that suffering, we had brought this measure forward. Sir, it is with justification, not for the fun of it. If we, who have suffered like that, have brought forward this Bill, we have more than one reason. Let us see what the grounds are that have necessitated the retention of this Act for another three years. Let us consider

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that dispassionately, in a calm atmosphere. Let us not give room for sentiments, for feelings and also ignorant opposition. Let us think calmly and find out whether the Bill is absolutely necessary. If the Bill is not necessary, I am sure, Sir, that we have in the Home Minister a great person who respects democracy, who loves not only the freedom of the country but also the freedom of the individual and *U* he considers that this is not necessary even for one moment, he will not retain it on the Statute Book. It is with the greatest difficulty that we have been forced to bring this. When this was introduced first, the condition of the country is well-known to all. There were great difficulties everywhere; there were dacoit menaces; there were the uprooted jagirdars and also the lands under the Rajpramukhs who were coming into alignment with the dacoits; there were also communal clashes and the foreign Governments and interested parties fomenting communal clashes and there were also people who were trying to sabotage the sovereignty of this country. Sir, this measure has been on the Statute Book and I would appeal to you to consider whether the measure has or has not justified itself. Sir, can anybody deny that the great menace of dacoits of Saurashtra, Madhya Bharat and Pepsu has not been controlled? Have not the people settled down today and are leading a normal life because of this legislation?

SHRI S. MAHANTY: Question.

SHRI T. S. PATTABIRAMAN: My friend may be questioning but the fact remains the fact. Sir, have not conditions settled and have not Government brought in order and the rule of law in Telangana where they tried to create a great calamity? Today, Sir, this Act has justified itself on more than one ground. The grounds have been, as may be clear, the maintenance of law and order is absolutely necessary. That is one thing and that is the progress of this country. Nobody, Sir, can say that with the attainment of political freedom we have attained economic freedom also. Un-

[Shri T. S. Pattabiraman.] i ess every man in this country, unless every woman in this country is assured of employment, is assured of his or her food and shelter, we shall not consider ourselves free. We are not only closing and finishing the revolution that brought us political freedom but the second phase of our revolution has commenced, namely, the economic revolution. Sir, should we not see that there is law and order and peace and tranquillity in this country so that we can conduct the second and economic revolution? Let us see what have been the activities of the parties? There are great projects that are in progress. Nobody will say that the great project of Bhakra-Nangal, the Lower Bhavani or the Damodar Valley are for the suppression of political rights. Even the worst opponents of the Congress regime will concede that these great projects are only for the benefit of the toiling masses and for the improvement of the living conditions of the people. Today, Sir, I would like to appeal to the hon. Members of the Opposition;-excluding the Communist Party, to go and study whether we have been able to progress easily in those national reconstruction projects. We know that in these great projects there have been strikes organised by the Communist Party. We know that in the Madukkarai Cement Factory near Coimbatore, the Communist had sabotaged and burnt millions and millions of rupees worth of gunny bags, Do you know for what purpose? They wanted to finish that Cement Factory but they stopped short. They want to stop the progress of the country. They are organising strikes in the Bhakra-Nangal Project, in the Damodar Valley Project and in the Lower Bhavani Project.

SHRI B. GUPTA: Absolutely false statements are being made. I protest against such statements and I think this statement should not have been made on the floor of this House. I challenge him to prove even an iota of what he said. This gentleman is in the habit of making such statements. I

tell you, Sir, km dly control him; otherwise, the debate will be stormier than it has been.

SHRI T. S. PATTABIRAMAN: Sir, I will come to concrete things.

SHRI B. GUPTA: Yes, do.

SHRI T. S. PATTABIRAMAN: Let him read the proceedings of the trial that took place with regard to the Madukkarai sabotage three years back. I do not want to be drawn into an argument. These people organise strikes to hold up the economic progress of the country.

Sir, I would like to ask the hon. gentleman who is so much agitated whether there are strikes in the great countries of China and Russia. Will there be any strike tolerated in those projects? My friend Mr. Govinda Reddy who has just returned from China says that no strike can ever be thought of or even tolerated. My hon. friends like Mr. Bhupesh Gupta can live not for a second time.....

SHRI B. GUPTA: Hon. Members of Parliament who get Rs. 21 a day and Rs. 400 a month do not go on strike but scavengers in the street go on strike because they do not get living wage.

THE VICE-CHAIRMAN (SHRI V. K. DHAGE) : I may say that we are on the Preventive Detention Bill, and not on what happens in any other country. I think Mr. Pattabiraman may avoid reference to countries other than India.

SHRI T. S. PATTABIRAMAN: He has made some points, Sir, and I have got to reply to them. I humbly submit, Mr. Vice-Chairman, that I *should* have the right to reply to those points that have already been allowed. Anyhow I will not touch them in deference to your wishes. I referred to it because my learned friend, during his speech said that the flag of the Communist Party flies over one-third of the globe unchallenged and that nobody can stop it. I am only asking him: Let us take \*» lesson from those very very forward countries, those lessons of which he is proud. I only "want to ask whether in

these great national projects of ours meant for the economic development of our country. Can there be any strike? To-day the Government is anxious and the people are anxious in this country to see that these projects are completed in record time so that they may reap the harvest. I am sure that every right-thinking person who has love and affection for the masses, who cares for the toiling millions of this country and who is interested in their economic upliftment should even request the Home Minister to see that this Bill is on the Statute Book so long as our Five-Year Plans last so that we shall have no impediment in the way of progress. In other countries, Sir, if people do come in the way of their political and economic progress they will be finished in a very short time, they will be hanged within 24 hours after they are arrested. Recent developments—I will not name the foreign countries; I would only like to say that recent developments in various foreign countries—clearly show that those who are sabotaging against the Government, those who are sabotaging against the economic prosperity of the country are called to trial before a military court and shot dead. I am really at one with the hon. Member when he says that he is against the Preventive Detention Act, but he must also conclude that the other alternative left will be to copy those so-called progressive countries and execute all those people who are people's enemies in this country. But our Government has chosen the path of Gandhism and democracy. We shall not go to the extreme of punishing the people to that extent. We still believe that such persons who are here will come to the path of progress again; that they will find their error, they will find their mistake and come back to the fold once again as reformed persons. Why I say is this. Our country has been tolerating all this opposition and we only want to see that our progress is maintained. So, Sir this measure has been there

to safeguard that our economic progress shall not be impeded in any way and that is one of the fundamental reasons for the support that we are giving to this Bill.

Sir, another great slogan that was said by those who were against this Bill is that it is a great slur on the Constitution, against democracy. I would be very much happy, Sir, if these people would have declared not only their faith in democracy but also accepted it. But these people who now talk about democracy have no faith in democracy; we know that. They have been trying to plan violence not in one place but at several places and they have been the root cause of sabotages. Many of the Opposition Members ask: Why do you want to have such a measure to-day? I would like to point out that still there are parties in this country which hold only secret open sessions among the party members and decide things which are not published to the public. I only draw your attention, Sir, to the fact that only recently, some nine months back, there was the Communist Party conference at Madura and the delegates session was not open to the public. Why should the hon. Members who are now so sensitive about criticism not come and say that "we are an open body like any other political body; our proceedings are open to the public and to the press" and thereby show that the people have full confidence in their party and they have full confidence in the public? I would like to ask a question, Sir. If they had been working for safeguarding this country's independence, why should they have secret conferences and only release notes to the press?

(*Interruption.*)

I refuse to yield.

SHRI B. GUPTA: Every false statement will be repudiated here, let it be known very clearly; otherwise you will assume that we admit such things. Don't make such statements if you are not prepared for interruptions.

SHRI T. S. PATTABIRAMAN: The hon. Member is so sensitive; he does



[Shri T. S. Pattabiraman.] not like criticism of anything; he does not like facts.

SHRI B. GUPTA: But you cannot make a false statement. No secret conferences are held.

SHRI T. S. PATTABIRAMAN: I am on my legs. Sir, with your permission.....

THE VICE-CHAIRMAN (SHRI V. K. DHAGE): I would be very glad if these acrimonies are avoided in the speeches as well as in the replies. It would be better if you were to confine yourself to the motion that is before the House, that is the Preventive Detention Act.

SHRI T. S. PATTABIRAMAN: I bow to your ruling, Sir. My point is that there are in this country certain political parties who still hold secret meetings, plan in secret and constitute a threat to the sovereignty of the State. To put down such things I want the Preventive Detention Act. That is my argument. People are sensitive to facts also but I have to state facts. My contention is that all parties in this country are not like the Congress holding their sessions in public and having them witnessed by the public and their proceedings are not secret.

(Interruption.)

I would seek your protection. Sir. I am proceeding and every time he comes and interrupts. He has no arguments.

SHRI B. GUPTA: Falsehood is to be met with denial.

SHRI T. S. PATTABIRAMAN:- What is false and what is to be denied?

THE VICE-CHAIRMAN (SHRI V. K. DHAGE) : Mr. Bhupesh Gupta, please do not interrupt the speaker while he is on his legs.

SHRI B. GUPTA: Now he is mentioning "secret meetings of the Communist Party." Naturally these things have to be immediately objected to.

THE VICE-CHAIRMAN (SHRI V. K. DHAGE): There are other speakers

from your party, and I am sure they will have the right to reply to the points that are being made out by Mr. Pattabiraman. But he should not be interrupted.

SHRI B. GUPTA: I am not, Sir, in the habit of putting up with nonsense and falsehood.

SHRI T. S. PATTABIRAMAN: Nonsense embodiment.

THE VICE-CHAIRMAN (SHRI V. K. DHAGE): I think it is the Chair which is to see whether a speaker is speaking sense or otherwise and I hope Mr. Bhupesh Gupta will not take the responsibility of the Chair while the Chairman is in the Chair.

SHRI B. GUPTA: I appeal to the Chair, Sir.

(Interruptions.)

I know he is advancing these arguments for becoming a Deputy Minister or a Parliamentary Secretary; I can understand that. Do it.

SHRI T. S. PATTABIRAMAN: I do not want that .....

THE VICE-CHAIRMAN (SHRI V. K. DHAGE): I should say that Mr. Pattabiraman is on his legs and there should be no interruption; otherwise it would be rather very difficult for the debate to go on.

SHRI T. S. PATTABIRAMAN: I bow to your ruling, Sir. I was concerning myself with facts and I think, Sir, I have the right to give expression to my opinion, as I see it. Hon. Members who .....

SHRI B. GUPTA: I have also a right to deny it.

SHRI T. S. PATTABIRAMAN: When he was speaking we kept quiet. We did not interfere with the right of speech of those hon. Members. If my facts are objectionable the Members have the chance to reply. Sir, this is democracy in action, of the kind of democracy they will give us when they are in power, that people are not allowed the right of speech to express their opinions.

XNOW my contention is, Sir, that there are many parties in this country which still have secret meetings, secret sessions and don't open their proceedings to the press. The people who champion the democracy of the press, the freedom of the press, they have never admitted the press to the proceedings of their conferences. Sir, if they are earnest in their love of democracy, why should their meetings be secret. That is what I ask, Sir. So my contention is that there are certain so-called peoples' organisations in this country which try to cut at the root of democracy in this country and also at the root of sovereignty of the country and that is why to prevent such underground activities this Detention Act is necessary. That is my submission.

Then there is another point. The Act has become absolutely necessary because people are still wedded to violence. Today we have not restricted the political rights of any people. Today if we are in this Parliament, if we are in the State Legislatures, much to the discomfort of hon. Members who criticise us, we are not here by the edict of one President or one Dictator; we are here by the right that has been given to us by the people of India. Today we have fought elections everywhere in the country and we are in these seats with the consent and concurrence of the people of this country. You know, Sir, we have got adult suffrage; we have given the right of vote to every person of 21 years of age. So we are here with the consent and concurrence of the people. Let it not be said that we are not responsible to the people or anything like that. We are not functioning in a totalitarian State where there is only one party, where there is no Opposition. In totalitarian States there is only one single party and no Opposition is allowed to exist. But today, Sir, in this country, thanks to the Constitution, thanks to the great traditions we have the greatest democracy in action and if everyone..... (*Interruptions*)..... including the hon. Lady Members who has just now interrupted is here today it is because of

democracy. I would be happy to know what would be the fate of a Member of the Opposition in the country to which she owes allegiance. We know that in this country persons who try to do sabotage, who try to cut at the root of the Constitution, who try to do even spying for other countries are tolerated. They are merely detained; they are not being shot dead as is done in other countries today. And what are the conditions in which they are detained? Not only the persons who are detained get allowances but even their wives and families and children are given allowances. I know, Sir, some Members sitting in this House right now who have got such allowances. I have got personal knowledge about it. In other countries they are just shot dead; they are not given allowances. Here today they are placed in A class. Those who have proved to be traitors to this country, who have proved to be working against the interests of the country, are rewarded by allowances, allowances not only for themselves, but family allowances, children's allowances. That is how democracy is functioning here and still these people say that there is no democracy here. What is democracy? Does democracy give the right to call names; does it give the right to cut at the root of the expressed will of the people of the country? Today the people of the country has given a very clear ruling that we the Congressmen shall rule in this country. Why don't you take it at its face value and accept that verdict? Even then what have you been doing? AJoy Ghosh, General Secretary of the Communist Party of India, pointed out about four months ago at an open Press Conference in Delhi on Hyderabad affairs what their policy was. He said, 'Do not think we are surrendering arms in Hyderabad. It is just to show that we have become non-violent but our Party still remains. If necessary we shall change our method and practise the cult of violence throughout the country.' That is what AJoy Ghosh openly said at the Press Conference

[Shri T. S. Pattabiraman.] in Delhi. I want to know from those hon. Members whether they still swear by democracy. Who is threatening democracy? Is the hon. Dr. Katju threatening democracy or are they threatening democracy? Sir, should not the people of this country be protected from such onslaughts of violence by those people? People talk about democracy. They say there is no democracy if people are not allowed to do anything they like. In our country democracy is there and this measure is only a safeguard to protect it from such anti-national activities. Democracy is there for the common benefit of the country. Taking advantage of the very very liberal conditions, some persons who have no following in the country, who have been proved that they have not got the support of the people of the country, they are trying to cut at the root of the Constitution and they are trying to see that they come into power by short-cut methods. We must protect the Constitution; we must protect democracy against this onslaught. This measure is absolutely necessary to protect the infant democracy from armed conflict and from attempts at violent capture of power.

SHRI S. N. MAZUMDAR: We know how democracy functions in Travancore-Cochin, and in Andhra.

SHRI T. S. PATTABIRAMAN: I am coming to Andhra.

SHRIMATI PARVATHI KRISHNAN (Madras): Coming to Andhra? Why don't you stick to Tamil Nad?

SHRI T. S. PATTABIRAMAN: My hon. friend knows that she has no place in Tamil Nad. Recent elections have proved that. She can go to Andhra if she wants. But in Andhra too she will learn that she will be nowhere, when the elections are over.

Sir, one argument that has been used consistently by my friends is that the Congress is determined to crush

all political opponents to extinction by using this Act. It is mere verbiage; nothing more than that. It contained no reason or no rhyme. With the political power of the Congress today—we are at the supreme zenith of power today—it is very easy. The whole world recognises our power. Mao Tse-tung and Moscow recognise it but the Communist Party members here do not recognise. That is a different matter. The world over Pandit Jawaharlal Nehru is hailed as the champion of democracy, as the protector of the rights and liberties of the toiling millions of Asia. The great powers of the world recognise it but those small gentlemen and ladies on that side are not able to recognise. It is a pity. We need not bother about that. (*Interruptions.*) Sir, I would like to ask whether the Congress has used this as a political suppression weapon. I waited for one and a half hours to hear from the hon. Member who spoke just now to quote a single instance where it has been used against a political person, against any political party. Sir, it is very easy; my hon. friend got out of it by saying the Communists were arrested. To be arrested is not a Communists' privilege alone. Sir, I would like my friends to take out the Report and turn to page four and find out the list of persons who have been detained. Sir, persons have been detained not for their political convictions or for their political principles and beliefs. They have been detained for their anti-social and anti-national activities.

SHRI S. N. MAZUMDAR: We know how the charge-sheets are cooked up.

SHRI T. S. PATTABIRAMAN: My hon. friend is not able to stand it or stomach it. I would like him to look at page 4. It is not a Communist or a Socialist who has been detained but there are a few instances of Congressmen having been detained. (*Interruptions.*) My friends are suffering from a phobia, which only Moscow clinics can cure.

SHRI S. N. MAZUMDAR: Phobia is yours, not ours.

SHRI T. S. PATTABIRAMAN: Sir, two congressmen have been detained. In Bombay one Congress worker has been detained; in Madhya Pradesh also one Congress worker has been detained, but again not for Congress activities. No one is detained for Communist activity. Persons are detained for other activities, for antisocial and anti-national activities.

SHRI S. N. MAZUMDAR: The cause of labour .....

SHRI T. S. PATTABIRAMAN: That is a different matter. I will come to it later. The question is whether if we want to ban you today, can't we do it? Can't we take the example of the so-called enlightened nations and ban all Opposition parties? We have got the power. We can amend the Constitution today, but we are not interested in doing that and we will swear that we will never do it. But I would like to know whether when those hon. gentlemen come into power they will allow other parties to exist in this country. They will be wiped out of existence. I know their love for democracy is just lip sympathy. They want to use it as a weapon to fool people and to lure people to their side. (*Interruptions.*) I am not going to be interrupted. What I want to say is if the Congress wants to curb the opposition, it has got enough support of the people to do that. But as I said we are not interested in that and we shall not do it. The Congress is not at all interested in keeping itself in position except with the consent of the people. If the people want us we shall remain. The hon. Mr. Bhupesh Gupta was saying about the march of the Communist Party. He said that no power on earth can stop it. • But, Sir, they have forgotten one missing factor and it is the people's power. They will have to reckon with the people. The people's power has stopped the Communist Party today. The will of the people of this country, of

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the masses of this country has proved that the people have no love or liking for the Communist Party. (*Interruptions.*) Mr. Mazumdar knows that he is crying in the wilderness. He must also realise that his doomsday is coming. The Ideas of March are fast approaching. His Waterloo will be fought. I know that in Tamil Nad you spoke tall. You talked about Tanjore and Telangana. What is your fate today? Out of 564 seats you got a total of nine seats with 4 per cent, of the total votes in the 12 districts of Tamil Nad. They have been voted out. They talked tall. They tried the same thing in Travancore-Cochin and they were again voted out. Similarly in Hyderabad they played the same trick. If I may take a personal matter which concerns you, Sir, you have been a victim of .....

THE VICE-CHAIRMAN (SHRI V. K. DHAGE) : I may just say that the Preventive Detention Bill is for the purpose of detaining some people on certain grounds and we are not discussing any party politics here. If references to party position is avoided, I think that would be a safe line to take in the debate.

SHRI T. S. PATTABIRAMAN: Sir, my humble submission is that we do it because of the expressed will and support of the people. As a political party, we can say our party was voted on this Bill. Our election manifesto is clear, and also our actions are there, so that people voted for us happily. We presume that this is democracy .....

SHRI S. N. MAZUMDAR: Make this an election issue.

SHRI T. S. PATTABIRAMAN: Sir, Mr. Mazumdar forgets one thing. He forgets history. In PEPSU, when the Bill was last year before the House, the hon. Members there said that they would make it an election issue. They expected big things, but they got a rout which they can never forget. Later, there it took a communal turn but that is a different "matter" .....

SHRI S. N. MAZUMDAR: In PEPSU we maintained our position.

THE VICE-CHAIRMAN (SHRI V. K. DHAGE): I would desire that there should be no interruptions, because the interruptions are leading the speaker astray, from the point of view of the Bill .....

SHRI S. N. MAZUMDAR: It is certainly a misstatement,, Sir. In PEPSU we have maintained our votes.

THE VICE-CHAIRMAN (SHRI V. K. DHAGE): Please do not interrupt. It becomes one party against another, whereas it is here a question relating to the Bill ..... (Interruptions.) Will you please let me finish? The debate has to finish within ten hours and many other Members have to speak. Some of them have to make their speeches and attend to some other important work. It would be very nice if there be no interruptions and the speaker is allowed to finish his speech.

SHRI T. S. PATTABIRAMAN: I will finish in a few minutes. Most unfortunately, out of the twenty minutes time I have been on my legs, fifteen minutes have been taken by interruptions. I got hardly ten minutes. My humble submission, Sir, is that the Communist party, in spite of its opposition to this particular Bill, has lost its ground and the Congress has secured total victory. That clearly proves that the nation, the voters and the masses solidly stand by the programme and also the legislation of the Congress Government.

I made a reference to other parties also, because those people talked about Communists. They said that the Communists have no belief in democracy. An eminent Hyderabad leader, who had experience of the Communist party for two years, said that the Communists do not want anybody to thrive; they want the others to be carriers of water; they want others to be subservient. They do not want others to thrive on an

equal basis. That is the verdict of a person who was a fellow-traveller, (Interruptions.) I am telling that the Communist party does not believe in democracy, so they must not make use of the sacred name of democracy in which they have absolutely no belief.

Another point that was made against the Congress Government today-is that they want to be in the Government seat always and especially when the elections are coming, they want to have this measure, so as to make use of the Preventive Detention Act. Sir, my humble submission is that in Andhra the elections are coming. May I know, how many members of the Communist party or the Opposition parties are in detention in Andhra? I would like you to consider whether these people can get along with arguments which are never substantiated. My humble submission is that these people make grave charges without giving one substantial instance. (Interruptions.) The general elections are coming in Andhra and it has seemed to us that no detention is there in Andhra. There is not a single man in detention in Andhra under this Act. I am sure that nobody will be detained in Andhra, till the elections are over, for political purposes. Today in Andhra the situation is a little difficult. My friends made a mention about Andhra and said that today in Andhra there is trouble. Who created the trouble? The Home Minister's statement was there. In Andhra. I warn the Government, that their *agents provocateur* are already at work today. The Andhra elections will prove to be the Waterloo of the Communist Party of India. I know that "the Ideas of March" are coming earlier—on eleventh February. They are already preparing the road for their defeat by bringing all sorts of allegations, that the Preventive Detention Act will be used by the Government. The police firing has been there, but this was caused by whom? It is not the Congressman that has been the real cause of this trouble. I warn the Home Minister to De

cautious about it that agents provocateur are already working in Andhra to see that violence is created, blood shed is created so that the elections may be stopped. If the elections are coming—they are going to be held soon—they will prove where the will of the people and the faith of the people is. The Communists are already worried about the result and they are very much agitated by reading today's newspapers. Mr. Bhupesh Gupta was out of his wits today because the news item from Madras must have upset him. All the democratic parties have joined together to fight against the totalitarian party. Today finding that the result will be against them, they are going to create trouble in every place in Andhra, create violence and stop the elections.....

SHRI B. GUPTA: He should not make such false statements here ..... •

SHRI T. S. PATTABIRAMAN: Sir, I am at liberty to say what I want. That is my surmise. If the hon. Members have a right to say that the Preventive Detention Act is one of the victories for the Congress, may I know, Sir, if the absence of it will give them room to create confusion in the people's minds. So, in Andhra the test comes. Today if there had been peaceful elections in Punjab, if there is going to be peaceful and free election in Andhra, the Communist party is going to be routed. That is why they do not want it. (*Interruption.*) So, Sir, my humble submission is that we are not using it as a political weapon; we are using it very sparingly and only when absolutely necessary. I would like to point out that the 'proof of the pudding is in the eating'. I would like to know whether they can quote one single instance where the Act has been used for political purposes. It has been used against rioters, against dacoits, against agitators who take liberty to create chaos and confusion. So, my humble submission is that in order to prevent violence, to allow the people

to exercise their vote freely and without fear, such a provision is necessary, I would even go to the length of saying that the law should stay on the Statute Book, so that it may have the desired effect. It is just like a warning signal, at the time of a storm or cyclone which gives a warning to the ocean going ships. This Act is a warning to anti-social elements and anti-Indian elements. Sir, the 'sword of Damocles' is hanging over you. You will be a victim if you go out of the path. The Act has served the purpose of not only maintaining law and order in the country but also has helped to be a warning signal, a symbol of readiness, on the part of the Government to pounce upon these anti-social elements.

There is one thing. People are trying to create confusion from one place to another. I would like to mention the bank strike which would have materialised. But thanks to the intervention by the Government, it did not materialise. I would point out that the Communist Party of India tried to make .....

SHRI B. GUPTA: You do not read newspapers.

SHRI T. S. PATTABIRAMAN: The bank employees still believe in the Government. That is why they never fell a trap to you. The bank employees were to have gone on strike on the 9th December, but Government acted swiftly and the strike was averted. All the bank employees honestly feel that their interests are safe with the Government and that they will get justice. The Communist party is the most disappointed in this because I know that the Communist party sent all over India—I am prepared to stand by it—their representatives to see that the strike was well organised. Mr. Ramamurthy who is a member of the 'Politbureau' went to Madras and stayed there; in Madras and Coimbatore he met the representatives of bank employees.. \_\_\_\_\_

SHRI B. GUPTA: Such allegations should not be made here.

SHRI T. S. PATTABIRAMAN: They wanted to create disaffection. They wanted to see that the Government, the mercantile community and the people were put to loss. If there had been bank strike the people would have been heavily hit. But thanks to the speedy action of the Government, the strike did not materialise. It was a great disappointment to our hon. gentlemen who had gone from Bengal to Madras and Coimbatore—I have personal knowledge and that is why I speak—and these are the people who speak in the name of democracy.....

SHRI B. GUPTA: That is your sphere.

SHRI S. N. MAZUMDAR: What would have been left for you to say, if you were not here .....

SHRI T. S. PATTABIRAMAN: Sir, the Preventive Detention Act should be there, not because that we like it, but it has become an absolute necessity. We want to see that the hard won independence and freedom of the country is preserved. Today the hon. gentlemen quoted from the speeches of Pandit Motilal Nehru and other eminent persons. We bow to their quotations, but today the conditions are different. What were the conditions then prevailing? There was British rule, an alien Government, which wanted to rule this country not for the benefit of the people, not with the sanction of the people, not with the will of the people; they wanted to rule the country for their benefit. Since the 15th August 1947, the situation has changed. Today we are wanted by the people; tolerated by the people; and voted by the people. The situation is different. We are here with the consent of the people. If they do not want us, they can oust us in the elections. If they want us they can vote for us in the next elections. We are ther\* for bringing

economic uplift; for giving better living conditions. To quote the conditions of the past for the present are not relevant.

Sir, I would like to submit only one thing and then come to conclusion. My friends say that they are wedded to democracy, justice and the rule of law. I cannot understand that. I would like to ask them whether their objection to this measure is on principle, and a real objection. I ask them that straight question. My friends do not like to answer it.....

SHRI S. N. MAZUMDAR: You are assuming so many things.

SHRI B. GUPTA: On principle, on practical grounds and everything.

SHRI T. S. PATTABIRAMAN: I would like to know whether these people object to the measure on principle.

SHRI B. GUPTA: Yes, on principle.

SHRI T. S. PATTABIRAMAN: Quite right, Sir. It seems they have no principles. I would like to remind them of what happened in the year 1942, when the Defence of India Rules were promulgated, and when some of our leaders were put behind the prison bars. Where was their principle then?

SHRI B. GUPTA: When your leaders went on blackmarketing, we fought.....

SHRI T. S. PATTABIRAMAN: If the hon. Members are standing still on their principles, I would like to know where their Party's principles went in the year 1942. There was this preventive detention measure and the country's leaders were taken away to unknown destinations in those days, and these gentlemen then enjoyed the company of those people and they had the pleasure of dining with Maxwell and Lord Wavell.....

SHRI B. GUPTA: That has been your habit.

SHRI T. S. PATTABIRAMAN: If they had a real objection on principle, why did they not object to such measures then?

SHRI B. GUPTA: I have told you that we did object.

SHRI T. S. PATTABIRAMAN: There was no committee; there was no appeal to the court; people were put in prisons like anything; they were treated like flies. Where had this love for democracy gone then? Concealed in your jackets!

SHRI B. GUPTA: Mr. Vice-Chairman, this is a statement to which I strongly object. People were in detention including Mr. Dange.

(Interruptions.)

THE VICE-CHAIRMAN (SHRI V. K. DHAGE): I had said once before that party politics are not before the House for discussion.

SHRI T. S. PATTABIRAMAN: I am simply giving the history of.....

SHRI B. GUPTA: A false history.

THE VICE-CHAIRMAN (SHRI V. K. DHAGE) : I had also suggested that interruptions should not be made, because the speaker gets away from his point.

AN HON. MEMBER: They are providing us with entertainment.

SHRI T. S. PATTABIRAMAN: There fore I would now request.....

SHRI B. K. MUKERJEE (Uttar Pradesh): On a point of order, Sir. May I know whether the hon. Members should address the Chair or the speakers. They should get permission from the Chair for their interruptions.

SHRI B. GUPTA: Sir, he has not understood it. I cannot give him brains anyway.

THE VICE-CHAIRMAN (SHRI V. K. DHAGE) : I think I will have to be

very strict with regard to the procedure to be followed in this House. I have said that there should be no interruptions, and I hope there will be no interruptions, and the speaker will be allowed to proceed with his speech uninterruptedly. I will also suggest that references to party politics may be avoided.

SHRI T. S. PATTABIRAMAN: Sir, I bow to your ruling and I will confine myself to it. Sir, we know the history. In 1942 the Preventive Detention Act was used against us. The Defence of India Rules were used against us. Then the same political parties which cry hoarse today for democracy and principles in danger did not open their mouths against them. They did not ask for the release of the great leaders who had been sent to prisons. Sir, all that I wish to point out is that their love for democracy is not real, that they can adjust to circumstances, that they are time servers, and they can do everything to achieve their ends. I therefore say that they have no right to talk of democracy.

Finally, Sir, I want to say that the Preventive Detention Act has been in existence for a long time. Nobody need be afraid of it. No right-thinking person, no man who is doing his normal work and who is pursuing the right path within the four walls of the law, need be afraid of it, because there is that guarantee of the Constitution. Not only that, but we the Members of the Congress Party and other Members who support this measure, are very anxious that the law should not be used as an oppressive instrument by the executive authority. If there is to be a detention, it must be reviewed by eminent jurists, whose decision will be binding on the Government. Here is a country where the rule of law is prevalent. It is not a rule of mob that is prevalent. The rule of party is not prevalent here. Our Constitution is a supreme authority and a fountain-head of all justice in this country.



[Shri T. S. Pattabiraman.] Sir, the Judges of the High Courts and the Supreme Court are still free to criticise and undo the Government's acts, if they go against the spirit of the Constitution. With that safeguard, the number of the people detained has been very very small, and that also only for absolutely good reasons. There is absolutely no analogy between the other countries and our country. There is in this country still that freedom of expression and freedom of justice. The Preventive Detention Act has not been used against any political party or against any political opponent. It has been always used in the interests of the people or this country. Let it not be forgotten that communal clashes are still there. Not only communal clashes, but we have got more than 3,000 miles of the border territory with a foreign country. That frontier must be guarded today. The safety of the frontier area is jeopardised greatly by the world events. Should we not take the necessary measures against any infringement of the frontiers by those *agents provocateur* who come from the other side? Sir, such measures are absolutely necessary in order to preserve the long frontier that we have from the onslaught of foreign powers which may have any aggressive intentions against us. I can assure my friends there that it will be very sparingly used. This assurance has been given by the hon. Minister also. And if the executive goes wrong, the courts are there to safeguard the rights of the people. Therefore, Sir, I would like to appeal to the hon. Members of the Opposition to see that they do not fall a prey to the grand eloquence of those Members who pretend to have a great love for democracy, but whose real intentions are hidden by the velvet gloves that cover their iron hands. Let not the

other parties fall a prey to 3 P.M. them. In other countries

history has repeated itself. The other political parties have learnt bitter lessons. You can change the Congress Government here by lawful means, but once a Commu-

nist Government comes, no power on earth, no will of the people, can change it. It will be a totalitarian regime once and for all and that Government will put democracy in the coffin and nail it in. So, Sir, I would like to appeal to all sections of the House to see that the liberty of the people is preserved and I am sure that they will support this necessary legislation.

SHRI S. N. DWIVEDY (Orissa): As is usual with my friend Mr. Pattabiraman, he is so much obsessed with the Communist Party that he almost gave us nothing in support of this Bill in his long speech. It is a matter of grave concern not only to this Parliament but to the entire people of India that in this year of 1954 we are going to extend the life of this Preventive Detention Act. I do not want to go into the details of the provisions and principles embodied in it, because we had discussed them before two years ago, but what I object to is the tendency that is discernible in the attempt to extend such exceptional measures. That is not my opinion, nor the opinion of any political party, but that is the opinion recently given in a Convocation Address by a non-political person, Sardar Panikkar. What he says is appropriate to the present situation through which we are passing. He says:

"The fundamental rights of the Constitution represented \_\_\_\_"

I want to impress this upon the House because we are hearing so much about constitutional provisions, the safeguards of the Constitution, etc. This is what this gentleman says:

"The fundamental rights of the Constitution represent A/-the ideals of liberalism, but the tendency of the political life today has been to move away from them. The tendency of late is to arm the State with exceptional powers, to encroach upon the right of the individual, to give protection to those in authority and to build up in fact the framework of a servile State."

Sir, that is my real objection. By adopting measures such as this, we

are not really building up a welfare State, a democratic State; we are really moving towards the state of affairs which is so appropriately described in this short passage.

SHRI H. C. MATHUR (Rajasthan): By a late servant of the Government.

SHRI S. N. DWIVEDI: Yes, but a great citizen also. I do not say that under no circumstances should the Preventive Detention Act be in vogue in this country, but the period should be limited. I want that such Acts should be enacted or put into practice only on occasions when a Proclamation of grave emergency is issued by the President, or in case of war or in case of insurrection. On no other occasion shall I be a party to a measure such as this which curbs the civil rights of the citizens of this country. Therefore, Sir, I want to stress that Dr. Katju by bringing this Bill forward, by asking us, the Members of the Parliament to give our consent to it, is doing an injustice, a disservice, to the country. It is not only a slur on the Constitution but, I should think, it is against the democratic conscience of the people as a whole. What is the situation today? Dr. Katju has given us the background, he has given us the history of how this thing developed. I do not want to go into details about that, but what I want to tell him is that we are discussing this seven years after independence, we are discussing this ten years after the conclusion of the war. What is the situation now? He has not given us any data, any information to show that a situation of a grave emergency or even of imminent danger has arisen. He has not indicated that any such emergency is going to arise within 24 hours or two days or two months after which the ordinary law of the land will not be able to cope with. But he has gone into the background of it, and I think that by going into the history of the entire thing, he has really lost his case. In the other House he did not like people referring to his speeches

of Sardar Patel or Rajaji. He said that he did not even want to hear quotations from the speeches of Gandhiji. He said, 'I do not know what would have been their reactions, if they had been here now. So do not quote them, for I am the master of the situation. I know the situation which prevails today. So, I do not want any of those quotations. I do not accept them.' But at the same time, he complained that Members were talking too much on a very simple measure for hours together, whereas, when Sardar Patel brought it forward, the whole thing was finished within a few hours. Why was it so? What was the reason for it? It was because Sardar Patel gave them a complete picture of uncertainty then prevailing in the country, and the entire Parliament agreed with him although it was an extraordinary measure, although they did want that the liberty and freedom of any individual should be curtailed. They had their apprehensions that the provisions of the Act might be mis-used by people in authority, but still it was accepted by the House as a whole because they were aware of the position then. But again in 1952 this measure was brought forward. There was no emergency. As a matter of fact, we had had general elections in this country on adult franchise very peacefully and it was indeed such a success that our Election Commissioner was invited to other countries to advise them on their own general elections. We made such a great achievement in establishing democratic traditions in this country. But what was the fear complex that was guiding this Government to bring that measure forward in spite of opposition from all parties and individuals in the Parliament and outside? It was this: They felt they had only a minority of the votes in the elections, they were afraid of their own existence, and so they were hesitant to give complete freedom to other people without any restrictions. Therefore they brought forward this measure. Not only that, Sir, but when the measure was brought forward, Dr. Katju gave us this

[Shri S. N. Dwivedy.] assurance. I am quoting from the Parliamentary Debates. He says:

"I wish to make it quite clear that this Bill is not...."

I am talking today in 1952—

".... going to be enacted for the suppression of any political opinion. It is certainly directed against individuals who may be engaged in activities which are enumerated in the Constitution, activities which may be dangerous to the preservation, of our defence, to the conduct of our external affairs or to the security of India."

That was what he said and I shall presently show you from the document which he has presented to us how none of these conditions prevail today. But today we are meeting in 1954. We see the food situation is eased, there is no problem of food. We see the international situation is very much favourable and for which we give credit to our Prime Minister. Not only that. We also say that in the entire country today there is stability, there is security, there is peace and people are appreciating our administrative efficiency and not only that. People claim that in the elections that have been held after the general elections, the party in power—the stand of the party in power—is vindicated. If that is so, he has not shown us any nor have I come across even a single instance in the speech of the Home Minister. The speaker who so eloquently spoke just now, while speaking about economic progress, said 'we will not allow anybody to come in the way of economic progress.' I agree with this. I say 'by all means do go forward with it on the basis of socialism.' The Prime Minister has recently begun to speak about socialism and a few months ago he was calling this opportunism, but I don't know perhaps because of his recent visit to China and South East Asian countries he has now come to the conclusion that without socialism, without great social and econo-

mic changes on the basis of socialism this country can have no real freedom, so to say. So he is talking today of socialism. Really if you want to build up this country and want to usher economic freedom on the basis of socialism, I think my Party will go whole-hog with you to see that no impediment in this matter stands in the way. But you don't do that.

Kindly show us an instance, a single instance although we are in the midst of the Five Year Plan and the first Plan period is going to be over and we are in the fourth year of the Plan today. They have not shown us any instance. In spite of so many things—these strikes etc. and the Minister was very much particular and he said, 'They go to the students, the labourers and they go to the middle-classes, they go to the teachers etc. and they organise, they ventilate their grievances and there are deputations coming and processions are led everywhere and there is hullabaloo and the Minister for Home Affairs cannot remain silent' etc. but they have not shown us a single instance where the progress of work in connection with the Five Year Plan has been obstructed or impeded in any way. There is not a single instance to show that. So according to the Plan we are progressing. It is admitted by you that the Plan is going on nicely and you have shown us that in some spheres, in the agriculture, in cotton, in jute and in some others you have achieved your target. This is a picture given by you. If there is such a situation prevailing today, I don't know with what purpose you bring this measure. If the tendency is not as has been described, to make it a servile State what is the purpose to give bureaucracy more extraordinary powers?

What is the experience? Our people have shown due regard to our old and democratic traditions which are held so sacrosanct and give their full support in spite of the well-known

fact—which everybody in this country knows—that there is great discontent, there is unemployment, there is the people who are fed up with this administration and day in and day out they want to be relieved of this burden of administration but still they ungrudgingly don't want to come in the way of the administration and they don't want to put obstacles in the way. Has there been any instance, has the Minister told us any country-wide movement during these two years or in the immediate past where any attempt has been made to subvert this Constitution or there has been any insurrection to do away with the present administration? Nothing like that has happened. So what is the purpose? The purpose is the one and the only one *viz.*, to see that democracy does not thrive in this country and in the name of democracy a most autocratic rule prevails. I don't want to yield to anybody, whoever he may be. I want to say another thing. The Home Minister, in spite of this experience, in spite of the support that he has got from all sections and the law abiding people of this country, is not satisfied with the present laws or the present powers that he has with him. He not only wants this Preventive Detention Act but he wants to arm himself with more powers. Recently it has not come before us but it has been passed in the other House—the Criminal Procedure Code is being amend-ed^for what purpose? Is it for en-making justice cheap and quick—no-larging the freedom of the people or tor giving them more opportunities or thing like that but it is for file purpose of protecting the authorities—protecting the bureaucracy from criticism, valid criticisms, not in speeches, but by writing in the press. You want to gag them, you want to gag all sources of opposition, honest criticism which are essential for the functioning of democracy. That is the Home Minister today. So this is nothing surprising. I should have thought that all Congress Members—there were some Congress Members who opposed this

measure and I really appreciate them—should have the courage to kick this organization. There were some who opposed this measure in the other House—2 or 3 of them. I would ask friends who really have faith in democracy and I would ask friends in the Congress Party, if they want to have a Welfare State and want that in spite of all turmoil and disturbance and forces of chaos and civil war, if they want to build in this country a Welfare State, to come forward and be courageous enough to oppose this and tell the Home Minister "You are proceeding on a wrong way, and we will not ditto you." They should say, "Really you are not the people, not the opposition party, but you are digging your own grave—not only yours but for the future of democracy as well."

Therefore my objection is on account of fundamental principles. I am a believer and my party is a believer in the democratic and peaceful methods. We eschew violence.

(*Interruptions.*)

You may want to take to violent methods but we want that in this country the forces of violence must be curbed. We are of that opinion....

(*Interruptions.*)

If anybody wants to subvert the State by violent means, we want to curb that spirit and we want to arouse the democratic conscience and the democratic forces of the people to fight this menace. Some of these forces want to subvert the Constitution and make democracy a difficult affair in this country. I believe that the real danger to liberty is not these processions or meetings but the real malady is somewhere else—in not dealing effect-

[Shri S. N. Dwivedy.] I live and in not solving vital problems that face us and face the citizens of this country, face the individuals of this country and face the toiling masses of this country. This Government is incapable of doing that. This Government has saown, by it? action in the last so many years that it does not want to interfere or disturb the present *status quo*. Therefore they are terribly afraid of the people in spite of slogans of professed socialism, this and that. They talk so much about socialism, I ask them most humbly and ask Congressmen 'Why do you not adopt in your party constitution that hence forward you have as your aim, the establishment of a democratic socialist society in this country?' They would not, whatever the Prime Minister may say. It may not be palatable to my friends like Mr. Saksena. It will be very unpalatable to him but the fact remains that the Congress Party today neither in its constitution nor in its rules nor anywhere else has promised or has taken this pledge that they will establish a democratic socialistic society in India. The Prime Minister may mouth a thousand things; but these have no meaning whatsoever to me unless and until the party itself has them. In its constitution, in its actual functioning; otherwise it is like a dictator saying something, and that has to be believed and the resolutions, constitution or deliberations do not matter at all. If that is what you want, I have no objection. But it is a fact which nobody can deny, that the Congress party wants a co-operative commonwealth. Perhaps they hope to establish such a co-operative commonwealth by their present connection with the present Commonwealth of Nations. They probably hope to achieve their purpose by this means, and perhaps according to them, they have already achieved that aim.

But my objection to this proposition is that it does not give that much room, it does not give that much of independence to our people which

would enable them to deliberate, to discuss and to come to a conclusion as to how the Government of this country should work in this country. Therefore, I oppose this measure.

Next, Sir, I come to our Home Minister's statement to which I have just now referred. As I said, I do not want to go into the details about this Act and the provisions contained in it. It is not necessary for me to do that, for other hon. Members have touched on it. Let us take this statement here. On page 4, which Mr. Pattabiraman has just now showed us, we can clearly see that for which this Act is made, that is to say, security, foreign relations, defence. Nowhere do you find in the report that is placed before us, that any of these conditions or things have been violated or that there has been any detention on account of these things. But you will find that in as many as 13 States out of 26 States mentioned here, no man has been taken prisoner, that there is not a single detenu at present in jail. That is one thing that we see from this statement. The second thing that we see from it is this. There is none who has been detained in connection with the defence of the country. And as for foreign affairs, or for other purposes, only two persons have been detained. Now, under security of the State you detain people. Were they a real danger to the security of the State? What are the offences for which they are detained? They are enumerated here. It is stated here: "Violent activities, indulgence in such activities, or preaching violence, crimes, goondaism, bad character, communal agitation, anti sales-tax." I would request the House to mark this offence—anti-sales-tax, and then threatening of dacoity, etc., etc. May I most humbly ask, was not the provision of the Criminal Procedure Code or the existing law that is in vogue in our country quite sufficient to deal with these offences? Is it necessary for

this purpose that you should resort to this proposal and ask this Parliament to pass a measure of such an extreme unwarranted undemocratic nature? Is it fair, I ask you, to do that? Sir, if you analyse this statement, you will come to the inevitable conclusion that the security of the State, the security of the nation as a whole, is not threatened anywhere. There is no disturbance so far as the essential commodities are concerned. There is no difficulty as regards the defence of the country, or about its foreign affairs. But if there is anything that has arisen, any difficulty, it is simply a matter of law and order. It is a question of law and order in some State here or there. Then if you are so very zealous to see that your Constitution is obeyed, then, when there is no threat to the security of the State or anything like that, but when it is a matter of law and order, you should allow the States to deal with that situation. But the Home Minister comes here and says, "See, all the States have agreed". I would ask him to find out why. We all know how the States give their opinion. No State wants to take this responsibility. They will not say "We do not want it," if you at the Centre think that such a measure is of great importance, is necessary. Nobody would take that responsibility. I want to ask the Home Minister whether these figures that are now presented to us, were given to the different States when their opinion was sought? Were they told that these are the offences for which these people have been detained? Did you tell them, "We do not think there is imminent danger or any such possibility or eventuality, but give your opinion."

[MR. DEPUTY CHAIRMAN in the Chair.]

Nothing of that kind is done. You say, "We want to extend it. What is your opinion?" Even now, Sir, it is the fact that in some States in India where they have the State Act, it has

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not been taken recourse to by the State. This only proves that there is no need for it and left to themselves, the States by a majority would have given an opinion against it.

{Time bell rings.}

MR. DEPUTY CHAIRMAN: You have taken 35 minutes Mr. Dwivedy.

SHRI S. N. DWIVEDY: No, I thought I started at 3-20.

MR. DEPUTY CHAIRMAN: No, you have already taken 35 minutes, though you wanted only 30.

SHRI S. MAHANTY: But he is the first speaker of his Party.

MR. DEPUTY CHAIRMAN: I would request every hon. Member not to take more than 20 to 30 minutes. If you are the only speaker from your Party, then I have no objection.

SHRI S. N. DWIVEDY: If any one of my Party has to speak, I will stop. It does not matter.

MR. DEPUTY CHAIRMAN: Yes, yes, go on.

SHRI S. N. DWIVEDY: There is no other Member from our Party.

MR. DEPUTY CHAIRMAN: We have only two days.

SHRI S. N. DWIVEDY: What I was saying is this. If freedom had been given to the States, then many of them would certainly have decided against this measure. So I should have been glad if the Home Minister had agreed to make a reference to public opinion or if he had circulated it to the different political parties in this country to give their verdict. Except the Jan Sangh and the R.S.S.S. people belonging to all other parties have been detained. There is a solitary congressman somewhere who perhaps championed the cause of the masses too much, much to the inconvenience of his party men.

[Shri S. N. Dwivedy.] Therefore, I say, left to themselves, the States would certainly have given a verdict against this.

Here I would like to point out that it would have been a proper thing if you had extended this measure to the whole of India, to Kashmir too, which they say, is part of this country. The Prime Minister of Kashmir always says that Kashmir is part and parcel of India. If that is so, I do not know why in the year 1954, we cannot say that this measure extends to Kashmir. The argument of the Home Minister is that the Presidential Declaration stands in the way. The other day I remember when we discussed the Untouchability (Offences) Bill, in the Select Committee there also the provision was that it should not extend to that area. But this is a matter which affects everybody and therefore, in spite of such a declaration, we should not have any objection to the extension. Therefore, I would like to ask, if the people of Kashmir are the citizens of India, why should they have a separate law under which they can do what they like? Why should we not have uniform law for the whole of India? I ask this question of the Prime Minister of Kashmir—because he is another Prime Minister,—and in this great country of India there are two Prime Ministers. We are one single country but we have two Prime Ministers. Let him ask the Prime Minister of Kashmir to agree to the extension of this Act. He could have very well done that and could have come forward with that provision.

Sir, I contest the Home Minister's statement that this is not against political opinion. I dare say and I have analysed the figures which were presented. You will find from the figures. Sir, that out of 277 persons, 56 are communists. I have heard the speech of the speaker who was espousing the cause of the Government.

I heard it most attentively. His grouse in this regard was that the Communist Party in this country is for doing something which is very objectionable and which we must all guard against. If that is so, why not say so openly? Why, for the sake of the Communist Party, you want to snatch away the freedom of millions of our people? Charges are made in this Parliament that the Communist Party is pledged to violence. That Party is saying 'No' and you say 'Yes'. Only the other day, the Prime Minister alleged that they are not a party of this country, that they have foreign flag. Not only that, in that House, I think in September, towards the close of the session, there was a discussion about the ban on Soviet Literature in the railway stalls and the Home Minister in his unique manner told Parliament that the sale proceeds of this literature goes to this political party. When the Communist Members challenged him, and asked him to show the proof, he said, 'You come to my office. I will show it to you'. If that is so, if you know that there are parties which are not loyal to this country, which are pledged to violence, which want to subvert this nation and which want, by hook or crook, to destroy the little freedom that we have got today, what are you doing? You are only opening the doors for such parties by these bills. You say it openly or embody it. I will agree with Mr. Pattabiraman when he says that it should form part of the Statute Book.' I have got a record of a document which was placed on the Table of the other House. It is a charge against the Communist Party and it is said that some Members of a Delegation who recently visited Russia in a radio talk in Moscow said that "here in Russia even the life of a dog is protected but in our country, India, those who are killers of men are highly rewarded and honoured". If these facts are true .....

DR. K. N. KATJU: May I ask from what you have read?

SHRI S. N. DWIVEDY: I have read from a document placed on the Table of the Lok Sabha. If these charges against a particular party are proved.....

MR. DEPUTY CHAIRMAN: Please hand that over at the Table.

SHRI B. GUPTA: May I know the name of the person who placed it on the Table?

SHRI S. N. DWIVEDY: You can see it from the record.

SHRI RAJAGOPAL NAIDU (Madras): We would like to know it, Sir.

SHRI B. GUPTA: Obviously, it is Dr. S. Sinha.

MR. DEPUTY CHAIRMAN: You cannot refer to anything that has passed in the other House except when it is a statement of policy made by a Minister.

SHRI S. N. DWIVEDY: Can I not refer to matters which have been placed on the Table of the House of the Lok Sabha? It is part of the library, I believe.

MR. DEPUTY CHAIRMAN: Unless you are prepared to place it on the Table of the House.

SHRI S. N. DWIVEDY: I have got a «copy here and I shall place it on the Table of the "Rajya Sabha.

DR. K. N. KATJU: Do it; it is very useful.

SHRI S. N. DWIVEDY: If that is the proof, I ask the Government to come in a straightforward manner. This is not the way to curb Communism. We have seen how violent activities in this country have proved a failure because Mahatma Gandhi came forward and proved, by his own action, that non-violent mass action could succeed in removing Imperialism and oppression in this country. By adopting and having this Constitution we

have shown to the world that real progress can be achieved—although it is not speedy and expeditious on account of the misdeeds of the Government, but speedy and expeditious progress can be achieved by following democratic methods, by working out the democratic principles. If that is so, why have this Bill? We have seen the parties and the people who believe in secret methods. They do not openly come out and say that they believe in secret methods. They would never come forward and say so openly because there is no place in the country for secret methods and they would be confined only to a few persons, if at all. If they think in terms of secrecy and violence, they would be condemned by the people and there will be no place for them in the society. When we took this risk of adult franchise, apprehensions were expressed even from high quarters that the people are uneducated, people are illiterate and that if they were given the freedom of adult franchise, they cannot use it and that there will be bloodshed, chaos, instability and so on. That apprehension has proved false and we have seen that by and large the people of India who have a tradition, who believe in the methods of Mahatma Gandhi, have shown that they believe in peaceful methods, that they believe in democratic principles but you are going to murder that democracy by bringing black measures like this. You are going to induce people to go into secret methods in order to do away with the repressive methods that you are undertaking. Therefore, Sir, I oppose this Bill and I would even make this last appeal to the Home Minister—I do not know if in the next Session he would be some other Minister—to have this credit of leaving it to his successor to decide. Let him say, "I withdraw this Bill. I will go on without any detention rules. The Civil Procedure Code, the Criminal Procedure Code and all other laws are sufficient for my purpose. I go with a clean slate. Let the other



[Shri S. N. Dwivedy.] Minister feel the pulse of the people, let him feel the pulse of the political parties and let him feel the opinion of the Parliament here and then come forward with a Bill, if necessary". Let him make some room for the country to progress more liberally.

Thank you, Sir.

SHRI AKHTAR HUSAIN (Uttar Pradesh): Mr. Deputy Chairman, the Bill which is before us had been, in some different forms, before this House on previous occasions also and on every occasion hon. Members of the Opposition have utilised the opportunity of carrying on a propaganda of hatred, calumny, slander and vilification against the Government.

SHRI S. N. MAZUMDAR: Don't give that opportunity.

SHRI B. GUPTA: Of truth.

MR. DEPUTY CHAIRMAN: You must also be brief, Mr. Akhtar Husain. There are eight Members from your Party. You must leave them some time.

SHRI AKHTAR HUSAIN: Yes, Sir. I deeply regret to find, Sir, that even though all these arguments have been advanced in the past and rejected not only by this House but in the other House also, they are repeated with parrot-like precision every time. I had thought, Sir, that my hon. friends when they tried to oppose this Bill or when they put forward opposition to the measure, would advance some substantial grounds which would enable this House to decide whether the Act has been misused in any manner in the past which would justify our refusing to extend its operations for a further period of three years more. Instead of that, what do we find? We find that hon. Members go on abusing not only the Government but also the Congress Party and the Home Minister. Now, this Bill was not originated

by the Home Minister. The present Home Minister was not the one who brought forward this Bill and put it on the Statute Book for the first time. It has been in existence since at least the Regulation III of 1818. The question is.....

SHRI S. N. DWIVEDY: He is following the footsteps of the British.

SHRI AKHTAR HUSAIN: There was Regulation III of 1818 which was considered essential for the safety of the State and for the prevention of subversive activity. We objected before, in the era before Independence, to this Regulation III of 1818. Measures like this or some similar ones were objected to not on the ground that they were not essential for the safety of the State but because they were misused against a dependent people and were used for the purpose of strengthening the hold of a Government which was not a Government of the Indians. The question now is whether the same arguments should be advanced" in the post-Independence period in respect of a measure by which we attempt to endeavour and secure the safety of our State, the safety of the life and economy of the country.

SHRI B. GUPTA: Sir, a Bengal tiger remains a tiger even if it goes to-U.P.

SHRI BASAPPA SHETTY (Mysore): Why this interruption, Sir, unnecessarily?

SHRI AKHTAR HUSAIN: Now my hon. friend of the Communist Party has tried to interrupt me with a view to prevent my saying things which would enable me to present a coherent argument.

(Interruption.)

MR. DEPUTY CHAIRMAN: Don't get disturbed by these interruptions.

SHRI AKHTAR HUSAIN: If he wants me to give a coherent argument his interruptions should not be ill-timed?

MR. DEPUTY CHAIRMAN: Mr. Gupta, nobody disturbed you when you spoke. You should not disturb anybody.

SHRI AKHTAR HUSAIN: I do not mind if they disturb. Now they say that these arguments used to be advanced by our respected leaders. The names of some of them have been mentioned. Even the name of our most respected leader, the late Shri Motilal Nehru, has been mentioned as one who opposed the Preventive Detention Act or similar measures in the past. Of course he did. The reason why he opposed those measures was that those measures were not directed towards consolidating the freedom of the country, or securing the safety and the orderly progress of free India. Therefore the analogies that have been put forward, of similar arguments that were advanced in the past by Congress leaders would no longer be applicable.

One argument that has been put forward by my hon. friend on the other side is that this measure has been utilised not for the purpose of securing the safety of the State but for securing the safety of this Government. I want to make categorical and emphatic statement that this statement has absolutely no foundation of any kind at all and my reason for saying so is conclusively proved by the figures circulated by the Government. Out of a population of 400 million people what is the total number of people under detention today. Let my learned friend read the statement and compare. 400 million people are on one side and a paltry 123 on the other who are under detention. Out of those 123, Sir, there are 40 *goondas*. Now does my friend on the other side want that this Act should not be applied against those 40 *goondas*? Does he wish to side with those 40 *goondas* against the State or those 43 persons who have been detained for harbouring dacoits? Does he want that the provisions of this Act should not be applied to them? Now if he

says that the provisions of the Act should not be applied to them, of course it is his own look out; he has got his own sense of responsibility. He can say 'Well, for those *goondas* and for those persons who are harbouring dacoits even, this Act should not be applied.' That is for him to decide and it will be a matter between him and his conscience.

I can only say, Sir, that no argument has been advanced on the other side up to now to justify the withdrawal of this measure. Now, Sir, these are the various classes of people mentioned at page 14 of the Statement—40 for goondaism; 25 for communal activities; 7 for espionage and anti-State activities. Do they want to say that for espionage also this Act should not be applied? Then there are 28 for criminal activities; 3 for terrorism; 1 bad character and 43 for harbouring of dacoits. The question, Sir, is that there are various kinds of people from whom the safety of the State has got to be protected. How are we going to meet this menace? How are we going to have these people under proper control? How are we going to prevent them from committing further mischief? If my learned friend on the other side wants that this Act should be withdrawn lock, stock and barrel, what is the machinery to deal with these people? Do they want to suggest that the ordinary criminal law should be applied for dealing with such people? I submit that that is a wholly erroneous assumption on their part if they think that the ordinary criminal law can suppress these people. They have neither the experience of administration nor any experience of the working of the activities of shrewd calculating criminals. Therefore, Sir, my submission to this House stands that for a certain section of the people the continuance of this Act is essential and no cause has been shown by the other side to justify the withdrawal of this Act against such persons. Therefore its continuation on the statute book is, according to me, Sir, essential. Now the only point that remains is: What is the harm in

[Shri Akhtar Husain.] continuing this? It should not be withdrawn simply because the other side have an apprehension that it would be used against our political opponents or people who do not profess the Congress creed. The question, Sir, can be answered very easily. We have got more than 4,000 Members of Legislatures in the country and many of them are Members of the Opposition. Out of those more than a thousand Members of the Opposition and out of the hundreds and thousands of people who are misled by foreign propaganda or by other agencies, by elements disturbing law and order in the country, how many of those people have been proceeded against only on political grounds during the past year? The number is given, only 104. Now out of the large number of people who contest elections to the legislatures, who contest elections to the various-boards, contest elections to the various local bodies, think of the small number 104. It is not even 1 in 10, or 1 in 100, or 1 in 1,000 or 1 in 10,000 or even one in a million. Therefore, Sir, when you think of the considerations that have been urged by the other side, they have got only the apprehension that the Act will be misused or utilised for the purposes of suppression of contrary or opposite opinions. You have got to see whether in the past it has been so misused, and I submit that having regard to the very large number of persons who used to be proceeded against under this Act in the past when the present Home Minister took over charge of his high office and compared to the number of people who are under detention under this Act now during the two years of his holding his high office, we find that the number has been so greatly reduced that the House owes a duty to place on record its high appreciation of the most sparing use that has been made of this Act in suppressing the activities which this Act was intended to suppress. We have heard, Sir, that in the past this Act was used in a

manner which called for adverse comments by the judiciary. But during the present regime we find that the Act has been so sparingly and carefully used and the number of people who have been let off on technical grounds is so small that it would be a matter of pride for our Government, our administration and particularly for the Home Minister that this Act has controlled crimes for which it was intended and the law and order situation has been so good, so perfect that in a population of 400 millions only 123 people are in detention under this Act. I submit that this is a very creditable record of which any Home Minister, past or future, could be legitimately proud.

Then, Sir, you have to take into consideration the fact that the Act is really intended for people who carry on activities subversive to law and order calculated to overthrow the State. There are certain communal elements. We may call them religious fanatics. There are also certain other fanatic elements who for the purpose of an easy description may be called economic fanatics with a tinge of political activity in them. These economic fanatics want to subvert the democratic form of government. They want to establish a peculiar kind of government of their own and they want to have their economic theories enforced at the earliest possible opportunity whether the enforcement of such economic theories are suited to the genius of the people and whether the country is fit for them or not is not a consideration which worries such fanatics. Sir, they are insistent that their theories should be enforced immediately and we do not know whether their fanatical zeal is spontaneous, whether it is the peculiarity of their own mental make-up or whether it is brought about or inspired from somewhere outside. That is a matter which has been worrying many people but we will leave it at that. These economic fanatics want to subvert every kind of authority and they want to create confusion; they want to create chaotic conditions. How are they to be proceeded against?

They are a real menace; they are a real danger to the safety of our country and the people have an apprehension that if the activities of these people are allowed to be carried on they may cause incalculable harm and injury to our young infant State. Therefore, Sir, we have to proceed against such people, whose criminal activities are calculated to overthrow Government established by law. How are they proceeded against in other countries? In one very advanced country they are given electric chair; in another country such people are sentenced to death and sent to the gallows. A young man was executed simply because he had at one time done some Dropaganda against his country during the war. This is the extent to which they are careful in the matter of safety of their State. There are other countries with which some of my friends on the other side are very familiar and their enemies of the State and traitors have to face the firing squad. Therefore for people who carry on activities against the State or for subverting the established order of the State or for selling the State to foreigners or for any such purpose, or for creating chaotic conditions, the penalty in other countries is either an electric chair, or gallows or the firing squad. Now all these three kinds of punishments for dealing with such criminals are not to the liking of the country from where Gautam Buddha shed his light, the country from where Mahatma Gandhi preached his doctrine of non-violence or the country from where Pandit Jawaharlal Nehru secures the removal of international differences. These methods are not to our liking. We are being more merciful in dealing with such people. We just keep them in detention for short periods in the hope that they would give up their activities, their anti-national ways of thinking and that they would cease to act as agents of foreign countries. We detain them and just prevent them from indulging in their activities by detaining them just for one year at the maximum. Otherwise they are all Indians entitled to

enjoy the fruits of independence u they do not jeopardise that independence; we treat them in a sympathetic manner, in a manner in keeping with the highest traditions of our country. We are merciful to them and instead of being grateful for the merciful attitude adopted by our country in dealing with people most of whom would ordinarily have faced an electric chair or gallows or the firing squad, we are being criticised. Do we really deserve all this abuse, all this condemnation and all the harsh things that are said about us for detaining without trial persons who would subvert the State if not checked properly? I submit that it is wholly uncalled for.

Then there is another kind of people, certain fanatical elements whom I have mentioned before—not the economic fanatics, but the other type of fanatics—the religious fanatics. They try to create disaffection amongst sections of the citizens of this country. How should they be dealt with, if they want to create disaffection among say some 40 million people? There is a certain class of people who either for their own benefit or for other reasons want to create disaffection among the Mussalmans for instance. How are they to be dealt with? Would it not be a right thing to prevent these people from carrying on their communal activities just by being sent to jail and being detained for a period of one year or a shorter time till the apprehensions about their mischief are removed. If these people are allowed to carry on their mischievous activities, the difficulty will be that they would create hatred among the people against Muslim citizens of the country which would really not be in the best interests and benefit of the peace-loving and law-abiding Muslim citizens of this country. Therefore I think that it is a good thing that this Act should be available for being utilised for the purpose of suppressing such mischievous activities which would subvert the Government or deprive the Government of the loyalty of its people or activities which are cal-

[Shri Akhtar Husain.] culated to shake the very foundations and the security of our State. Such activities should be curtailed. We cannot afford to take any risk. They do not like to take any risk with safety of the nation even in England or America or in other countries where the system of totalitarianism prevails.

Now, the question is whether there is or there is not an emergency. That is the only question that should have been argued by the other side, but they have chosen to put forward all sorts of arguments which had been rejected in the past. What is the position since last year when this House was pleased to give its approval for the continuance of this measure for a period of one year? Has the international situation in any way eased? Have conditions in the West in any way improved? At the time when this measure was approved by this House last year there was only some possibility of some aid being given to Pakistan but now we find that shipments have been unloaded of the most modern military equipment. And there are moves for establishing defence organisations although they have been made innocuous by the efforts of our statesmen, by the careful handling of the situation by the leaders of our country. The result of it is that our country now occupies a unique position but the fact remains that the danger that was there a year ago has intensified if anything. Let us see what is happening in the East. In the East there used to be shooting war last year, but now due to the efforts again of our great leader the war has been stopped and an Armistice Commission is working its way to bring about peaceful conditions. Then, Sir, in the North we hear so many roads are under construction and so much preparation is going on of military activity. Again through the foresight and wisdom of our leader we have secured a declaration of the Panch Shila, the five principles. But have all these fruitful results brought

about by our leaders in the West, East and North secured such safety and security of the State which would justify our disbanding our armies and saying that everything is all right now?

4 P.M.

Every country has a predominate duty to protect its own security. It is done in every country, even in countries which have had freedom for hundreds of years and have had their own Governments for thousands of years. Far more so is it necessary for a country which has been free only for a period of seven short years. Therefore, for my friends on the other side to say that there is no emergency is wholly unjustified; is wholly uncalled for. If anything, there is reason for a more strict measure to deal with possible dangers and likely dangers. We have to be very careful in dealing with subversive elements. We cannot ignore their existence. The criminals are there and will continue to commit crime and subvert the Constitution if they find the Government in alert or ill-equipped to meet their menacing activities. The foreign spies are there and the people who do not wish us well are there. They will continue to carry on their activities for the purpose of undermining our strength or for adversely affecting our relations with foreign powers. Luckily we have at the head and in charge of our Government, foresighted people who can look ahead, who can know when and where the danger lies and when to stop that danger.

Now, my hon. friends on the other side are carried away by slogans. I have the fullest regard for their views, but sometimes they express views which are calculated to undermine the authority of our Government. They have been utilising the forum of this House for purposes of carrying on a wholly unfounded and unjustified propaganda against this Government, that the measure is being used for the purposes of suppressing political activities. If we had utilised this Bill

the purpose of suppressing political opinion, would they have had any success in Andhra, would they have been able to compel the Constitution to be suspended in Andhra, the Governor's rule imposed and fresh elections ordered? Would they have been able to give all this trouble to the Government in Travancore Cochin— if the provisions of this Act had been utilised—for suppressing political opinions or political views? I submit that it is a wholly uncalled for allegation and should not have been made by a Member of this august House. I do not know if my learned friends realise the full significance and the importance of the unfounded statements that they make that this Act is being used for the purpose of suppressing political opinion. One hundred and fifty four persons out of a total of four hundred million people have been detained under this Act. Now, thing of the insignificant number. As I have already stated, there are thousands who are Members of the legislatures, there are thousands of persons who are members of local bodies and public institutions—this Act has not been used against their election. Action under this Act has been taken only against 154 persons in the last year. Now, Sir, my learned friend Mr. Bhupesh Gupta was pleased to say that his contribution, of the Communist party—I do not know what he meant—was very large compared to the blackmarketeer. When he advanced his argument, in his oratorical fashion, he ignored the fact that the Control Acts had been abrogated. We are carrying on free trade now. There is no question of any control on essential commodities. We are even importing sugar to bring about a fall in the price of sugar and other essential commodities. The controls have been abrogated and there is free trade in essential commodities. All this has been done. And if it was found necessary to proceed against two persons, why should my learned friend feel jealous that his compatriots were many more in number than blackmarketeers and profiteers. The question is that are we

not entitled to expect from the politicians a higher standard of integrity, a higher standard of probity, public conscience and public duty than from the profiteers? It is extremely regrettable, but the poor merchant is only interested in making profit and becoming rich. The Communist party members should compare themselves with the profiteers. We expect people in public life, in politics.....

SHRI B. GUPTA: Sir, the hon Member has not understood me correctly.

SHRI AKHTAR HUSAIN: .....to behave in a very responsible manner, not to carry on any activity which even their worst detractors, their worst enemies may not be able to say: "this is anti-national, this is calculated to subvert our Government, this is calculated to undermine the very foundations of our Independence." This is something which is calculated to bring about conditions in our country which would prevent the normal and healthy growth of our country to its full stature, towards economic progress, towards progress in all spheres of human activity. I submit that if my hon. friends on the Opposition benches carry on this kind of unwarranted and unjustified propaganda against the Government, it shows that the freedom which is so dear to us is not held to be of any value in their eyes. They are prepared to take risks consequent on the withdrawal of this Act, only to satisfy their dogmatic conscience. But for sheer dogma should we sacrifice the independence of our own country and the peaceful progress and the safety of our society? That, I submit, is wholly uncalled for and wholly unwarranted. And any person in public life in free India who wants to ignore these conditions, does not seem to have adapted himself to the new conditions. With these words, I commend this House to accept the motion of the hon. Home Minister, In view of

[Shri Akhtar Husain.] the very sparing use that has been made of this Act, we can be confident that during the regime of the hon. Minister it would be used only when necessary. I hope the House would extend the operation of the Act for a period of three years.

SHRI H. D. RAJAH (Madras): Sir, the Preventive Detention Bill is before us. I thought that my esteemed friends, Dr. Katju and Mr. B. N. Datar would have better business to do. The position is very clear. This Bill which aims at detaining the people is brought before this House with a view to kill a mosquito by the aid of a gun. All the statements that have been made in this House have demonstrated that this Bill has been sparingly used: it had detained only about 225 persons, out of which 50 men were Communists; and it has uniformly been applied to all people who are opposed to the Congress; and one Congressman also fell a victim to this Bill, etc. Sir, power is a thing which is almost like a disease. This is a disease that goes with power. It is like cancer. When cancer oppresses a man and takes possession of him, it will never leave him. He will find that his grave is with that disease called cancer, which has not been cured so far. Now, the Congress party, which is wedded to democracy, says that the Bill is necessary. The Communist party which is wedded to totalitarianism, says that the Bill is bad. Now, we have seen an exhibition of class-war in this House. The democrats represented by the Congress have declared to the world: "democrats of the whole world, unite, you have everything to lose and nothing to gain." And the famous Karl Marx manifesto of the Communist party has said: "workers of the world, unite. We have nothing to lose but everything to gain." Between these two juxtapositions, of the Communists gaining everything and the democrats losing everything, this Bill has been brought about. Now there is a political turmoil, according to me, in Andhra, There was

some political turmoil in Travancore-Cochin also. Now in this turmoil, our esteemed friends, Dr. Katju and Mr. Datar, are providing ammunition for our Communist Party. Now this is an excellent propaganda for public purposes for them to say that these anti-democrats who have got a- Constitution to swear by have come out with a Preventive Detention Act in order to suppress all political opponents. If there is any democracy prevailing in this country, is the Preventive Detention Act necessary to preserve that democracy? Arguments, of course, are numerous, I can never match the arguments of that able lawyer, Dr. Katju, who has piloted this Bill. But commonsense dictates that he is ill-advised. He has no right to bring forward a measure of this nature for the approval of our House. On principle, that is not a Weapon which can kill communists. Sir, the speech which Mr. Pattabiraman made on the other side of the House is the one which rears communism in this country, and the kind of culmination and abuse which our Mr. Bhupesh Gupta is capable of is creating a reaction on that side. That is what is called a class war. I know that democracy rears communism and communism kills democracy. It is just like a child killing its mother. But I know today that even the rigid Communist Party is relaxing. Their idea of individual terrorism like Telengana actions, their idea that they can overthrow the Government of India by a single stretch of revolution, their idea that they can make the entire Indian continent become a part of Soviet Russia, all these ideas are being gradually given up, because when Pandit Nehru the other day criticised the Communist Party of India that their roots are firmly established in another country, and they owe allegiance to the other country, there was an immediate rejoinder from Ajoy Ghosh, their General Secretary, that it is not so, and that they have become national nationalists. Therefore, it stands to reason that when they have become..... (Interruption) .....If they had self-respect, if they had,

honour, they would have declared a Republic of the first magnitude and would have said "Our country is an independent country; therefore, we shall do what we like." Therefore the conflict between capitalism and communism is reflected in such a way that they veer round capitalism and imperialism, and my friends veer round communism and dictatorship. Now what is the golden mean? (interruption) Diwan Chaman Lall has asked me "Where do you stand?" I stand, honestly and sincerely, where I stand, and also by the sacred Constitution to which I owe allegiance. This big Constitution, the big Constitution which is before us is abused by both, these people and those people. Now they have reservations in their minds; they have got inhibitions of various types which I am not able to analyse. They have got a consort by which they really want to rule this country. Mr. Patta-biraman was referring to the people having given the verdict in their favour to rule this country. I do not deny it. But Dr. Katju can see that the very same people in this country have gone and given a right to these people to represent us in this House and in the Lok Sabha. This being a sovereign Parliament, the representative character of each man need not be questioned by the rulers or by the Congress Party. The question is: how to function in a State, and how to carry on work in a State? Now I am very sorry to see that the Government benches have not understood the tenets of communism. They have been telling them "Oh, look here, this Preventive Detention Act has been a weapon in our hands, and we have put into the prison 55 communists." But I may tell them, Sir, that communism does not aim at individual terrorism. You have to fundamentally understand the tenet. Communism stands for a revolution; communism is pledged to changing the society by violent means collectively. No individual communist will commit an act of terrorism, if you have seen or understood the principles and policies of communism. Now

they have got a new strategy. And that is that they must come into Parliament, they must agitate representing the grievances of the people on a larger scale, and they must conduct their affairs in a parliamentary way and seek the vote of the people by a ballot box. All that I have to think and to feel about them is that they are not superficially and openly honest about it. When we say that they have sworn their allegiance to the 1857 communist manifesto of Karl Marx, written like a Bible.....

MR. DEPUTY CHAIRMAN: We do not want a lecture on communism.

SHRI H. D. RAJAH: Sir, they are attacking the Communist Party in this country.

MR. DEPUTY CHAIRMAN: Nobody attacks the Communist Party.

SHRI H. D. RAJAH: You were not here, Sir. And I know what amount of attack has passed between the two, and what amount of interruption was there, when a Congress bench Member was speaking.

MR. DEPUTY CHAIRMAN: At least you need not go on in the same strain.

SHRI H. D. RAJAH: Therefore I have indicated that the golden mean is there. Sir, politically and ideologically, this principle of democracy is universal. Now, Sir, all that I would like to say is that this Act is an Act that goes with the power, and those who want to utilise it, are always anxious to keep this Act, to whichever Party they may belong, whether it is the Congress Party or some other Party, or the British imperialists I brand them together on the same platform.

Now, I cannot understand why this Act, if at all, should exclude this Parliament's right in regard to defence in Jammu and Kashmir. Of course, I had some talk with my friend, Mr. Datar, but I am completely unconvinced as to why Parliament should give up its right which was explicitly provided in the previous Deten-



[Shri H. D. Rajah.] tion Act. Sir, our soldiers, our boys, are standing on the frontier. We are guarding the frontiers on the western side. Is it proper that in case of an emergency, in case of a declaration of war or in case of our enemies wanting to assail us along our 3,000 miles of frontier which a certain gentleman here was talking about, that we should surrender this right into the hands of the Kashmir Government? Is it proper, is it correct, is it very safe, in the event of an emergency that this vital power should be conceded to the Government of Jammu and Kashmir? That is a point which I am not able to understand, and certainly I should like clarification from the Home Minister as to why they have surrendered this vital power, when saboteurs and agent provocateurs in times of war and even in times of peace will be found there. You cannot get at them directly, but you will have to appeal to the mercy of the Jammu and Kashmir Government. That is a position I cannot understand.

TNTow, this Act is to be extended by three years. Now, between that [period and today you are going to fight an election campaign, and in that election campaign the Government in power will be a Congress Government. Dr. Katju himself referred to Andhra. He said that it was very wholesome and very necessary that during the period of the election the Governor's rule must be there. Similarly, when this Preventive Detention - Act is in force, does Dr. Katju mean to say that in the course of the general election in this country, this Preventive Detention Act will not be used against any political party even to the extent of the Government here resigning and handing over the entire administration to the President? If you do it, your motive will not be challenged; but if you do not do it you will be suspected. Therefore, this provision, according to me, is unnecessary, and even if it is necessary, you could have done it

in a very dignified way by calling all the Members of the Parliament, especially the leaders of the various parties and groups here, and discussing with them the possibility and the necessity for it and you should not have given such handles for such highly one sided criticism. Therefore, my point of view is that the life of this Act should be reduced and an assurance should be given that it is not intended to suppress political opinion but is intended to be used only very sparingly in case of emergency, and in case of an open outbreak of war.

SHRI R. C. GUPTA (Uttar Pradesh): Sir, I rise to support the motion before the House. It seems to me that a great deal of heat has been generated over a very modest issue. The issue before the House, is whether the life of the Preventive Detention Act should or should not be extended. This is the simple issue before the House. A great deal has been said with regard to the past history of this Preventive Detention Act. The speeches of some great men who fought for the freedom of the country have been quoted. Reliance has been placed on their speeches, forgetting all the time that in those days what those great people had said was perfectly correct. — In those days the Preventive Detention Act and other emergency laws were really used only against the Congress. But the question now is whether the Preventive Detention Act has or has not been used! against any political party. The Government has made its intention quite clear, that it has never been used for political purposes and it shall never be so used. The intention of the Government is quite clear from the fact that last year it was promised that, if it was found after twelve months' working of the Act that the situation had changed and it was not necessary to extend the life of the Act, it would not be extended. Now, after twelve months' working, the Government has come to the conclusion that the continuance of this measure is necessary. The

Government is strengthened in its view by the opinions of the various State Governments which have been consulted on the point. To say that the need for such a measure is non-existent now is fighting against actual facts. The States know what the situation really is and the States are also competent to enact laws if necessary, if the life of this Act is not extended by the Parliament. The figures that have been supplied to us unmistakably show that the working of this Act has been very satisfactory. Last year, on the 30th September 1953, there were about 154 persons in detention. Now, the number has been reduced to 131. If you look at the list, you will find that this number 131 is confined more or less to two or three States. The State of U. P. which is the biggest State in the country and has a population of over six crores, has only 8 detenus at the present moment. In the States of Madras and Andhra where the number of Communists is very large, you will find that there is not a single person in detention. What does it show? It shows unmistakably that the Government has not used the provisions of this Act for suppressing the Communist movement or punishing people unnecessarily for political reasons. Out of the 26 States, there are as many as 15 or 16 States where there is not a single man in detention. If you examine at the figure 131, you will find that the people who are detained are not only Communists but that there are also some Congressmen. If you look at page 13, you will find that in Madhya Pradesh, out of the two persons detained, one is a Congressman and the other a Communist. At page 12 you will find that in the State of Bombay, one Congress worker has also been detained. So, it is wrong to say that the provisions of this Act have been used for the purpose of suppressing any political movement. The analysis of the figures given on pages 12 and 13 will show unmistakably that this law has been utilised for the purpose of maintaining order only. In Madhya Bharat, out of the

36 persons detained, 33 have been detained for harbouring dacoits. After examining these figures, can there be anybody in the House who can honestly say that the provisions of this Act have not been used for a very good purpose? Today life in Madhya Bharat, Rajasthan and U. P., at least in some areas, is anything but satisfactory.

Life and property is not safe. Ganga of notorious men like Mansingh and Lakhan Singh are still at large. If the Preventive Detention Act has been utilized in a matter like this, can it be said that it has been misused? As a matter of fact, in my State of U. P. people are grumbling, peaceful citizens urge upon the Government that more and more action must be taken under the Preventive Detention Act and all those persons who harbour the dacoits and kidnappers must be brought to book and be detained. The Government has always hesitated to take action against them under this measure. So to charge the Government with such intentions is absolutely unfounded. I may give another instance. The grandson of this notorious dacoit Mansingh has been arrested and he is in jail. He was charged of committing murders and dacoities. Not a single witness has come forward to depose against him. Those who came to give evidence before the Committing Magistrates, when they went back to their houses, they were murdered, their property was looted or their houses burnt. This is the state of affairs. The argument that the life of this Act should not be extended, I think, is nothing but absolutely baseless. The number of Communists detained today, if you analyse, will not be very large. The greatest number of persons detained is in West Bengal. The number there is 34. The total number of persons detained from 1st October 1953 to 30th September 1954 in West Bengal was 113 and out of these 113, 81 were detained for violent activities, preaching of violence, 3 for goondaism.

[Shri R. C. Gupta.]

and 25 more for goondaism, *i.e.*, 28 were arrested and detained for goondaism and 81 for violent activities. I think the primary duty of every good Government is to see that the life and property of a citizen is safe. If the Government does not discharge the primary duty, the Government has no reason to continue to function as a Government. The Government must see that the life and property of every citizen in the country is quite safe and persons using unlawful means should not be permitted to do so with impunity. The number of persons

detained from 1st October 1953 to 30th September 1954 was 277 and out

- of these the largest number came from West Bengal and 33 from Madhya Bharat and 245 of them have been released. During this period *i.e.*, 277 were detained and 245 have been released. The Act was utilised for detaining 4 or 5 Members of Legislature and it will be found from this book supplied to us that one of them was detained for more than 12 months and he was from Pepsu otherwise the period for which the detention was made extends from 3 days to one month. So from these figures, I think the conclusion is quite clear that the order for detention was made
- only when it was absolutely necessary. Now the old Preventive Detention Act cannot be compared with the present one. Last time when this Act was enacted it was referred to a Select Committee which made a number of good suggestions and they were accepted by the Government. Now the law is that the man, as soon as he is arrested, is given notice, he is given all the grounds for which he is detained, he is allowed full opportunity to represent his case to the Executive authorities and then if the Executive authority does not agree with him, the matter is forwarded to the Minister of the State and the matter can also be taken up with the Home Minister of the Central Government here. After all these attempts, he can go before the Advisory Board. Now the Advisory Board consists of

very high judicial authorities. My friend says that there should have been an open trial. True, it would have been much better but it is not quite possible in every case. You cannot get evidence, in every case but there is a moral certainty that the people are out to do violence and the life of the people is not safe. In these circumstances, it is the duty of the Government to see that these persons are put behind the bars. The Statement of Objects and Reasons reads like this and I fully agree with these remarks:

"The primary reason for that enactment of this legislation was to protect the country against activities intended to subvert the Constitution and the maintenance of law and order or to interfere with the maintenance of supplies and services essential to the community. Experience in the working of the Act has shown that this legislation has proved an effective instalment in the maintenance of law and order."

\* I am therefore of the view that in the interests of the country, it is essential that the life of the Act should be extended. Without this, the life would be in danger. The conditions under which this Act was passed last year have not ceased to exist. The danger to security is still there. Communal factions are there, communal troubles are still there. You will find that some of the persons were detained for communal disturbances. The Muslim League seems to be raising its head and some persons are detained for their unlawful activities. Jamaite-Islamia is again raising its head and 8 persons were detained to curb their unlawful activities. Who does not know that the movement of the students in the Universities were really the result of persuasion by some political parties. I know of one case at least of Lucknow where there was an ordinary dispute with regard to the rules of the Union of Lucknow University. This dispute really turned into a regular riot and

the Communists from ail over \*udia came—not only from Lucknow but from various other centres of Universities and we know what was the result. The result was that buses were burnt, shops were burnt, some of the people lost their lives and there was a regular loot. Post Office boxes were broken open and there "Was loss to the extent of sev.nai lakhs. Now these activities cannot be checked by ordinary laws. Some such law as this was necessary and without some such law, it is not possible to keep such activity in proper limits. I therefore wholeheartedly support this measure.

SHRI P. T. LEUVA: Sir, I rise to support this Bill which has been put before the House. Sir, this measure has been assailed on various grounds by the Members of the Opposition. Sir, while I was listening to the speech of my hon. friend Bhupesh Gupta, I was trying to find out some light from his speech as to whether this Bill was really an undemocratic measure or not, whether this Bill, in any way infringed the canons of democracy. Sir, the ideas and ideals of democracy might vary from party to party and from country to country. Sir, it is no doubt true that according to the theory of my hon. friend Mr Bhupesh Gupta, the Bill may not be called strictly speaking, a democratic measure. He is entitled to his own opinion. But I may tell him that the fundamental principle on which democracy or any democratic institution can rest is that there must be tolerance for the views of others. Democracy means the peaceful revolution of the structure of society. But the ideology to which my hon. friend Shri Bhupesh Gupta is wedded does not believe either in tolerance or in peaceful revolution. The very way in which he was addressing this House left one with the impression that he might be much more violent outside the precincts of this House.

SHRI B. GUPTA: Was I violent?

MR. DEPUTY CHAIRMAN: Mild as a dove?

SHRI P. T. LEUVA: Whatever it may be the manner in which a man thinks is always reflected in his action. The manner in which a man behaves inside always reflects his action outside. Fortunately for Mr. Gupta, whatever he says in this House is not liable for action outside this House. But, Sir, we have to consider this Bill not from the angle of sentiments Sir, we are, after all, sitting here as responsible legislators. We cannot allow ourselves to be guided by our emotions, however noble they may be. We have to consider this piece of legislation testing it by logic and reason. My hon. friend Shri Bhupesh Gupta tried to rouse the passion of this House. But he must remember that he is not addressing a meeting of immature people outside this Parliament, but he is here confronted with, people who are .....

SHRI B. GUPTA: Confronted with a stone wall.

SHRI P. T. LEUVA: No, confronted with people who are by experience and by age wise. He may succeed in rousing the passions of the workers, in rousing the passions of the students. But he cannot rouse the passions of the Members of this House which represents the collective wisdom of the whole country.

Sir, I would try my level best to show my hon. friend and I will try to convince him that the Bill does not seek to restrain the liberty of any citizen, because after all, Sir, every law imposes in some way or other restrictions on individual liberty. Why does a legislature or society want to put restraints on the liberty of the subject? There is a fundamental reason behind it. The reason is that in order that the liberty might thrive, in order that the freedom of the individual may have full scope, it is necessary that every person must abide by the rule of law. Sir, everybody has the right and he is perfectly

[Shri P. T. Leuva.]

within his powers if he exercises his rights without trampling upon the rights of others. That is the basic and fundamental point which we have to remember. While enjoying your rights, you should behave in such a manner that, you do not trample on the rights of others. Our Constitution guarantees to everyone the right to own property; but in the exercise of that right you should conduct yourself in such a way that you are not likely to trample or abridge the right of others. Let me, with your permission, give an illustration. A person owns a house. He can live in that house. He can sell it. He can burn down that house of his, he can destroy it. But then the law intervenes and says, "You cannot burn even your own house" Why? Even though you have the right to destroy your own property, to set fire to your house, the law prevents it. The reason is that in the process of setting fire to your own house, you are likely to burn the house belonging to another. Therefore, we have to judge this measure from this point of view, whether the law must impose restrictions on the exercise of individual freedom or not. Many have said that this law seeks to restrict the liberty of the people. Now, the idea of liberty varies from country to country, from age to age. The idea of liberty which might be prevalent in the United Kingdom, for instance, may not be suitable for acceptance in, say, a country like the Soviet Union, or America or India. It all depends upon your historical growth as to what is your idea of liberty. The idea of liberty, considered as liberty as such, was never absolute and can never be absolute. It changes from time to time, according to the social needs of the time. You may remember that according to historical growth in England free-trade was supposed to be a question of principle. Similarly sometime in our country we hear people saying that prohibition of drinking of alcohol is a restraint on individual liberty. So you can see to what length, to what absurd length

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this idea of civil liberty might lead you. It is no doubt true that this Constitution to which we swear allegiance guarantees individual liberty and individual freedom. But all the same, you should remember that in the exercise of that right, you cannot trample on the rights of others. The point behind this Preventive Detention Act is this. There are two things in criminal jurisprudence. The first is that there might be a statute which penalises an offence and it is prescribed by law. You will see that the Preventive Detention Act does not create any new offence. It does not describe any offence. It does not seek to punish for any offence. That is left to the Penal Code. There offences have been defined and punishment, provided for. The whole underlying, idea of this Preventive Detention is not the punishment of offences, but the prevention of the commission of crimes. It is the sole jurisdiction of this Act that persons who are evil-minded, who are likely to commit offences, those persons should be prevented in time, from the commission of offences.

That is the only thing that is sought to be done under the Preventive Detention Act. Now, Sir, the operative section of this Act is section 3 which lays down, among other things, the reasons for detention. One is, the defence of India, the relations of India with foreign powers, or the security of India; the second is the security of the State or the maintenance of public order and the third is the maintenance of supplies and services essential to the community. So far as these three things are concerned, it vests entirely with the Central Government to pass orders. Now, Sir, nobody would suggest in the House or outside that Government should have no power to deal with these persons who will act in such a manner as to jeopardise the security of our country. The main argument has been, levelled against the question of maintenance of public order. Now, Sir inter-related with this question is the question of emergency. They say that

there should be such a type of legislation only when there is an emergency in this country. Now, Sir, after all, this question of emergency is also to be considered in a particular perspective. Let us consider the present conditions in our country. It is agreed on all hands that our country is industrially backward; we want to build our nation and we want to raise the living standards of our people. The common man should have enough to eat and he has to live in good state. These are the sentiments which are expressed from all sides of the House. It is no doubt true that it is our duty to build up our nation but how could you build the nation? For building up the nation and for industrialising the country, you require two things. One is that there must be a will on the part of the people to sacrifice for the sake of the country and secondly there must be suitable conditions in the country which will allow us to progress and to build up our nation industrially in an orderly manner. Now, Sir, may I ask one question of those friends who are those who think themselves to be the sole champions of the working class? Do they desire that this country should progress industrially or not? If they want progress and if they stick to the principles for advancement of the country, can they say that any country can progress materially without there being order in this country. Can any country, anywhere in the world, build up unless and until there is peace and tranquillity prevailing? Can you, Sir, do anything which can raise the standard of your people in chaos? In chaotic conditions, no person can put forward anything which is best in him for the service of this country. Therefore, Sir, in order that this country may progress, it is essential that orderly conditions should be secured in this country. Law and order must be maintained and people must be allowed to work according to their lights without let or hindrance. If we allow this question of law and order to go out and if we allow people to do whatever they like, if we allow people to take the law into their

their own hands, there would be no stability and without stability how can we have progress?

Sir, so many people believe that this Act is only putting restraints on the common citizens of the country. No argument is necessary for repeating it again and again that if there be any restriction on liberty, it is not on any particular person that this restraint is being imposed but this restriction is necessary for the very purpose that the liberty of the whole nation and the liberty of the common man may be preserved, may be protected and conserved. It is not for the pleasure of anybody nor even for strengthening any political party that this measure is brought forward.

It has also been said that this law is being administered for the purposes of putting down opposition. Of course, Sir, I was very happy to note that my hon. friend Mr. Bhupesh Gupta, perhaps in his weaker moment, said that in the administration of this law, no distinction and no discrimination has been made. He was constrained to admit that all political parties, excluding individuals, persons belonging to the Communist Party, the Revolutionary Socialist Party, even including Congressmen were detained under the provisions of this Act. That goes to show the purpose of this Bill.

SHRI S. N. MAZUMDAR: What did the Congressman do?

SHRI P. T. LEUVA: My hon. friend Mr. Mazumdar is asking me, "What did the Congressman do?" as to attract the provisions of this Act. Sir, the answer might be unpalatable but the answer is quite definite. You see it in the statement that has been furnished.

SHRI S. N. MAZUMDAR: That is vague.

SHRI P. T. LEUVA: There were two Congressmen, one in Bombay and another in Madhya Pradesh. Obviously, those persons were indulging in activities which were prohibited by the Preventive Detention Act. What were those activities? Surely these were not activities for advancing any political

[Shri P. T. Leuva.] ideology but were activities designed to create disorder, to hazard innocent people to take charge of public offices in furtherance of an objective of overthrowing the Government in power, so far as Madhya Pradesh is concerned.

SHRI B. GUPTA: We are all overawed.

SHRI P. T. LEUVA: My hon. friend is entitled to interrupt me, but I do not wish to lose time in listening to interruptions at this stage because we will have fuller time tomorrow but I would submit to him again that this law is solely meant for the purpose of maintaining law and order in this country. It is not meant for supporting any party in power; there is no question of taking vengeance on anybody but on those persons who believe that their objectives and aims can be achieved only through violence. These are the very persons against whom this Act will be utilised and against no one else.

SHRI B. GUPTA: Then it should be utilised against you.

SHRI P. T. LEUVA: If I join the ranks to which those persons belong, certainly this Government will be failing in its duty if it did not utilise the provisions of this Act against me. I cannot have different standards for myself and for Mr. Bhupesh Gupta.

SHRI B. GUPTA: Your party, I said.

SHRI P. T. LEUVA: It is not the question of personality but it is the question of activities—what one does, what one thinks and what one wants to do.

SHRIMATI PARVATHI KRISHNAN: Even when he thinks?

SHRI P. T. LEUVA: Then one comes within the purview of this Act.

SHRI B. GUPTA: Dr. Katju would be in perpetual detention in that case.

SHRI P. T. LEUVA: You want perpetual injunction against a man for violence?

SHRI B. GUPTA: If violence is a ground for detention, Dr. Katju would be in perpetual detention because nobody has committed so much violence as he has.

SHRI P. T. LEUVA: My hon. friend perhaps displays knowledge of civil law but he does not know that civil injunction which may be granted may be also disrespected even though at the moment the party might be sent to civil prison for some time but the injunction that Mr. Gupta wants, perpetual injunction is not granted for anybody indulging in criminal activities because you cannot restrain a person from indulging in criminal activity unless and until you impose a penalty on him. So far as Mr. Bhupesh Gupta is concerned, this injunction will have no effect whatsoever. When the rigours of a criminal statute are not sufficient to deter him, is it possible that a milder remedy of an injunction would restrain him from committing any activity which would be strictly within the law.....

SHRI B. GUPTA: It is Ave now, Sir.

Mfc. DEPUTY CHAIRMAN: Are we not sitting till six? Do you want more time, Mr. Leuva?

SHRI B. GUPTA: Give him time. Sir.

MR. DEPUTY CHAIRMAN: All right. Before we adjourn, there is an announcement.

#### **ANNOUNCEMENT RE TRANSACTION OF GOVERNMENT BUSINESS ON FRIDAY, THE 17TH DECEMBER 1954**

MR. DEPUTY CHAIRMAN: The Chairman has decided that after the disposal of Private Members' Legislative Business tomorrow, the time, if any available, at tomorrow's sitting of the House will be allotted for Government business.

The House stands adjourned till 11 o'clock tomorrow.

The House then adjourned at five of the clock till eleven of the clock on Friday, the 17th December 1954.