

[Dr. Raghubir Sinh.]

be postponed because as he has said.....

MR. DEPUTY CHAIRMAN: Di. Shrimati says that the Government intends to bring a more comprehensive Bill.

DR. RAGHUBIR SINH: Yes, I am quite willing to keep it pending or postpone its further consideration pending the comprehensive Bill that they want to bring in. Because in that case I feel that it will expedite the bringing in of the promised Bill. We have been hearing of this comprehensive Bill for more or less two years now. So I hope Dr. Simmali will not oppose my request for postponement of this Bill.

MR. DEPUTY CHAIRMAN: Then further consideration of this Bill will be postponed.

SHRI K. B. LALL (Bihar): May I have a clarification about the comprehensive nature of the Bill which he has just referred to that the Government intends to bring? I want to know, so far as this subject is concerned, what he means by comprehensive Bill. I want to know whether it will include all the provinces or States.....*..

MR. DEPUTY CHAIRMAN: Yes, all provinces. So Bihar is also included.

SHRI K. B. LALL: Will any Committee be appointed? How does he propose to bring the comprehensiveness in the future Bill or is it only a slogan to shelve the bringing of Bills by hon. Members?

MR. DEPUTY CHAIRMAN: No insinuations.

Further consideration of this Bill is postponed.

THE PREVENTIVE DETENTION (AMENDMENT) BILL, 1954— *continued*

MR. DEPUTY CHAIRMAN: Mr. Leuva to continue his speech.

SHRI P. T. LEUVA (Bombay): Sir, yesterday I was dealing with the question of whether there was an

emergency condition in this country which will justify the present measure which is before the House. There was another question which was raised against this Bill and it was this that the principle of such a measure would be acceptable to the persons who were opposing the Bill only if there were actual emergency in existence. If you had examined the arguments very closely, you will find that at the time when conditions be come so desperate that lives and property of the citizens are in jeopardy, the Home Minister must rush to the Parliament and ask the Parliament to enact a measure in order to prevent the destruction of life and property. Now if his argument is accepted by Government, I would personally feel that the Government would be acting, rather in a rash manner or they would be acting without any foresight, never. Sir, the main purpose of this Bill is to prevent the commission of criminal activities, activities which might lead to the disruption of the society, which might lead to chaotic conditions in this country. If the Government comes at the time when these conditions are allowed to have full play, the effect would be that before the hon. Minister is in a position to get the necessary powers, the damage which might have been aimed at by those persons who are interested in illegal and criminal activities would have been completed and the very use and object of the measure would be frustrated. Now, is the hon. Home Minister to wait for people to burn down houses, set on fire trams and buses, kill men and women who are innocent and after damage is done, would the hon. Minister be justified in coming to this House for asking such a measure the utility of which might have already disappeared. I would therefore submit that this measure is only designed for the purpose of stopping any activities by any person which might lead to further criminal offences. The main idea is that the criminal propensities of the people are not to be allowed to

be aroused by any persons in his

country. In this connection I would invite your attention to one of the amendments moved by the Communist Party. Their amendment in short is that let this Bill be passed but you drop the words "and maintenance of order". Now, Sir, this amendment you will have to consider along with the statement which was just now made by Shri Banerjee and supported by Mr. Gupta regarding the character of democracy. If I have understood them rightly, they said that they believed in dictatorial democracies. In other words they believe in the democracy of one party to rule over the whole country. They will not brook any opposition to them. Now let us take these two things together. They say you remove these words. I said, if I understood them correctly.....

SHRI S. N. MAZUMDAR (West Bengal): You have not understood correctly.

MR. DEPUTY CHAIRMAN: Mutual complements.

SHRI P. T. LEUVA: They believe—according to them—in dictatorial democracy of the proletariat. Let us go one step forward and assume that argument but you must remember one thing that the Constitution of India is not for the protection of the proletariat only. The Constitution is.....

SHRI S. N. MAZUMDAR: I don't like to interrupt the hon. Member but he says things.....

MR. DEPUTY CHAIRMAN: You don't hear him properly?

SHRI S. N. MAZUMDAR: I don't like to interrupt the hon. Member but if he insists on discussing the dictatorships, then I must explain our position.

MR. DEPUTY CHAIRMAN: You began it against the Congress Party and now they have begun. Give and take, that is all.

SHRI P. T. LEUVA: Their argument is—according to their idea of democracy—it is the democracy of one class and they wish to destroy all other classes. Coupled with that amend-

ment, what is their amendment—it is that so far as law and order is concerned, you delete that provision and give us full liberty to deal with the situation as we like. They don't wish that their ideology should be spread by peaceful means so far as they are concerned.

SHRI B. GUPTA (West Bengal): For law and order, there are provisions in the Criminal Procedure Code.

SHRI P. T. LEUVA: I am coming to that. I remember what was your stand regarding the Criminal Procedure Code as well. They say so far as the maintenance of law and order is concerned, you delete that provision. What would be the effect? These gentlemen who want to support their own ideology—Sir I have no quarrel with their political ideology and I don't mind if they come with Das Capital in their hands and preach their gospel but my only objection is that you do come with Das Capital but don't come with a sword in another hand. You preach your ideology, you convert the people in a peaceful manner and if you are successful in changing the electorate, well and good. You are entitled to rule over this country but so far as we are concerned, the democratic principle that we understand is, we only believe in one thing that once you are defeated at the polls, you must, for the "period that the Party has succeeded in gaining the confidence of the people, you must only try by peaceful means, constitutional means to bring about a change in the mentality and the mind of the people. But in this country no Government can afford to permit any party whichever party it might be, to permit any party of this character to force their ideology on the electorate by force of arms. This is the basic difference of democracy as we understand it and the democracy that they might understand. Now I would refer to one very weighty pronouncement of one of their spokesmen. He said that the people of this country are entitled to organize for the overthrow of the Government

[Shri P. T. Leuva.]
Now I don't think that they are disputing this proposition. The very word overthrow suggests that that overthrow.....

SHRI B. GUPTA: You have now overthrown.....

MR. DEPUTY CHAIRMAN: Order, order. Nobody disturbed you. You should not disturb, Mr. Gupta.

SHRI P. T. LEUVA: "Overthrow" necessarily means that the changeover is not by constitutional or peaceful means. "Overthrow" means by violent means, by force and not by methods recognized by the Constitution. What is the connection of the word "overthrow".

"Overthrow" does not certainly mean change. 4 P.M.

SHRI B. GUPTA: Then have it as throw over.

SHRI P. T. LEUVA: Even if I accept the interpretation of my hon. friend and take it as "throw over", even there when you throw over a person, it does not mean bringing about a change, it means violence. On the other hand when you speak of changeover, it means you try to persuade people and bring them to your point of view and that would be a change over, changing the government by constitutional methods. If they are able to persuade our people if they are able to convince them with their ideologies, political philosophy and with their economic philosophy, and if the people feel that these will lead to their greater happiness, then they will certainly return our friends to power. But no government can allow any party to force their ideology on the minds of the people. That would be the very negation of democracy. I would here request the hon. Members of this House to keep this amendment prominently in their minds, this amendment that has been brought forward by the Communist Party. This amendment means that they do not believe in peaceful means. The moment you delete the words "maintenance of order" from that very

moment, it would reduce the whole thing to nullity. There would be no power whatsoever in this measure, because the main duty of a government is to maintain law and order in the country. That is the primary duty of every government. The moment you accept the amendment of the Communist Party, what happens? Everybody in this country would be free to do whatever he likes. Everyone would take the law into his own hands and the Government would have no power whatsoever to deal with such a situation.

The second point that has been raised against this measure is that there should be an open trial before a judicial tribunal. Sir, those persons who have some experience of practice in law courts know very well what an open trial means. Let me first of all say that this Act we are considering does not create any new offence. The only purpose of this Act is to prevent the inculcation of criminal propensities into the people of this country. The idea is not to allow this criminal mentality to spread over the whole country, because if you allow this criminal mentality to prevail, it would be too late for anyone to amend the wrong which might have already been done. That is the reason why the only idea of this Bill is to prevent people from indulging in certain activities, as for example, inciting people to violence, harbouring dacoits etc. Now we are asked to bring these people who are indulging in these activities, before a court of law. In a court of law, we have to produce witnesses for the purpose of bringing home the guilt to the accused, or those persons who are guilty. But those who indulge in these violent crimes, they do not act singly. They have their own henchmen spread over the whole country. Do you expect any witness to come to a court of law and give evidence against the few persons who might have been unlucky to be arrested? A larger number might be outside and so the persons who come before the court to give evidence will find their lives in

clanger. The moment such a witness comes out of the court probably he might lose his life, or his relations might lose their lives. There is no guarantee that all the persons who are indulging in these activities are arrested.

Another point that should be borne in mind is that these persons who are indulging in these activities are not doing it openly. They hatch their plans in secrecy. You do not know what is passing in their minds. How is it possible for any Government to produce witnesses who will testify to the court and say, "Look here, this man has committed this particular thing."

This is not a penal statute for proving offences. The only purpose of this measure is to prevent offences being committed. You know the common saying in medicine—prevention is better than a cure. So also in this case. Let us prevent the offence. Let us prevent the spread of the tendency to commit offences so that there may not be any offence whatsoever.

The Preventive Detention Act has been argued as something against the Congress Government and hon. Members have said that the very people who argued against this measure in the days of the British are using it now. Yes, that is true and we do not make a secret of it. We did fight against this measure. We fought the British Empire for a number of years. But what was our purpose? It was a fight for the purpose of achieving the freedom of the country.

SHRI B. GUPTA: And to detain us?

SHRI P. T. LEUVA: It was a fight to bring liberty to the door of each and every person in this country and for this we waged war for nearly 60 long years against the British Empire. Many of our people sacrificed for that cause and many young men and women languished in jail for years and years and many lost their lives. We remember all that and we are proud of their sacrifice. Do you mean to

suggest that within seven short years of the achieving of our hard-won independence, we would forget the value of that liberty? Have we become so callous as to

SHRI B. GUPTA: Kindly put it in action.

SHRI P. T. LEUVA: Within that short time, do you mean to say we will forget that sacrifice which our countrymen made? We value liberty. We fought for it. Do you mean to suggest that the moment we got independence we will forget the value, of that liberty?

(*Interruption by Shri S. Mahanty.*)

If the hon. Member wants to say anything, he may stand up and speak out. I will yield, I have no objection to interruption.

SHRI S. MAHANTY: I say the whole country fought for this freedom.

SHRI P. T. LEUVA: My hon. friend has evidently misunderstood me. I am quite prepared to include each and everyone, whether he be rich or poor, high or low, if he had fought for the freedom of the country, he is entitled to the protection of the laws which have been framed in this country. The main purpose of putting this measure on the Statute Book is not for espousing the cause of any particular class of people. We want to extend the protection. We want a richer life for each and every one, whoever he might be. We do not believe in the theory of my hon. friend Shri Gupta who only believes in the protection of the proletariat. So far as this country is concerned, we want to give justice to all, without fear or favour, without any discrimination. We do not believe that one class of people only is entitled to the protection of the law. We are not people who would have only one party to rule over the country for all time to come, without having any respect for the views of others. (*Interruption*) I do not know why my hon. friends are becoming so impatient. I am not finding fault with any of their

[Shri P. T. Leuva.] ideologies. I am not passing any remarks, or questioning their motives. I admit that our idea of democracy might differ from theirs. We have no quarrel with that. We only say, let us have no quarrels at all. Let us live peacefully and let us live under conditions of peace and order so that this country can march forward on the way of building up its national economy.....

SHRI B. GUPTA: Yes with the Nizam on the one side and the Bank Award on the other.

SHRI P. T. LEUVA: The Bank Award, Sir, is another matter, and I do not want to refer to irrelevant matters which my hon. friend repeatedly does. It has become almost a part of his nature to be irrelevant always. But I do not wish to follow or emulate his example.

Before closing, Sir, I would like to relate one small story that I was reminded of when I was listening to my hon. friend Mr. Bhupesh Gupta. I was reminded of a story about lawyers. One of them a Senior Counsel and another a Junior Counsel.

SHRI B. GUPTA: How old?

SHRI P. T. LEUVA: Maybe older than you but still he was a junior. Sometimes lawyers end their lives as juniors.

SHRI B. GUPTA: That I now see on the other side of the House.

SHRI P. T. LEUVA: The Junior had argued the case and after that the Senior Counsel rose to reply and he addressed the Judge in these words, "My Lord, I have an idea to emulate the example of the learned Junior who has just given his talk to the Jury". Now, remember the word "talk" but then he said, "I would like to submit my case without any arguments". Sir, I had half a mind to follow that example and to submit my case to this House without arguments but I felt that he had created so much of misleading impressions

in this House that even though there was no argument I wanted to put certain points before this House.

Sir, with these words, I appeal to the House that this measure is necessary for the reason that I have stated above in my previous remarks. Now, Sir, there is another question. Why should we keep this law on the Statute Book for a period of three years. So far as this Parliament is concerned, everybody knows that a sovereign Parliament can repeal any statute at any time. So far as Parliament is concerned, no law is permanent and no law is temporary. A temporary law can be renewed from time to time, from year to year and a permanent statute may be repealed in one day.

SHRI B. GUPTA: I have ventured on another amendment. Will you consider it? "For three years or for the period during which the Congress lives, whichever is greater".

MR. DEPUTY CHAIRMAN: Order, order.

SHRI P. T. LEUVA: Sir, the life of the Congress does not depend upon the sweet will of Mr. Bhupesh Gupta.

MR. DEPUTY CHAIRMAN: You must close now, Mr. Leuva.

SHRI P. T. LEUVA: Yes, Sir. So I say that if the Government comes to the conclusion that the activities of those gentlemen who are disturbing the peace of the country are brought under control and if a measure of this character is not necessary, Government is not debarred from coming to this House and asking for its repeal even though this has been passed for a period of three years.

SHRI S. MAHANTY: Mr. Deputy Chairman, it is really difficult to follow after the sermon of my esteemed colleague, Mr. Leuva. However, I may make an attempt in presenting my case for whatever it is worth. I thought of beginning with my profoundest apologies to the hon. Home Minister. Sir, I feel that most of the Opposition criticisms were aimed against him personally. I venture to think, Sir,

he is just an instrument of Government in carrying certain decisions and policies of that Government. Therefore, if any person was to be blamed, if any person was to be attacked with all the vehemence for this atrocious measure it should. I think, be the leader of that Government. It is the leader of the Cabinet and not the innocent Dr. Kailash Nath Katju. Sir, once again I wanted to offer my heartfelt thanks to the hon. Home Minister but I do not find him here. Anyway, I hope it will be conveyed to him by his Deputy. I wanted to thank him, Sir, because he has helped me in my re-education of the Indian Constitution. Sir, it is from him I have learnt that it is also our fundamental right in India to be kept under preventive detention. Sir, this is a new knowledge which has dawned on me and I cannot but thank the hon. Home Minister for this. When the hon. Home Minister was speaking yesterday and was pointing our attention to article 22 of the Indian Constitution. I wanted to ask him, "Is there any right which is negative"? He said he was doing nothing new or extraordinary but that the Indian Constitution, under article 22, contemplates preventive detention and therefore he said, "In introducing this measure I am simply following the Indian Constitution". Sir, I want to know whether any right can be a negative right. Do you mean to say that to die is the right of man? Do you even mean to say that to be unemployed is the right of man? No; all rights are positive. To live is the right of man, to be gainfully employed is the right of man. Article 22 of the Indian Constitution in respect of preventive detention was in its essence, a transitory provision. That will be apparent from a speech of the late Sardar Patel in the Indian Parliament while he was piloting this particular Bill in the year 1950. Sir, this was what he said on 25th February 1950: "The hon. Members are aware that the old Constitution in certain respects

died on the 26th January midnight when the Indian Constitution was born and the order of the President in this respect was signed at 10 o'clock on the next day. So, there was an interregnum which the Lawyers cannot excuse and, therefore, to cover up this lacuna, it has become a necessity. "Besides," he went on to say, "certain detenus were in the prison. They were serving a varied period of detention." Therefore, to 'regularise all these things, this proviso to article 22 of the Indian Constitution was inserted. In its essence, it was a transitory provision. It was never contemplated that this would be made a permanent feature of the law of the land.

That brings me to another question. It would have been honest on the part of the Government to have come to this House with a Bill to make this a permanent feature of the law of the land. It would have been still more honest on their part if they would have included this in the Criminal Law Amendment Bill which is now before the Parliament instead of coming here from time to time and trotting out the same exploded arguments of peace, tranquillity and law and order to get this Bill passed. I venture to think, Sir, that this is not honest.

Sir, the background of this measure has been under our consideration. I just now quoted what Sardar Patel said in the year 1950 in justification of this measure. One year after, another great Home Minister Shri Rajagopalachari came and he said on this preventive detention, "After examination we have come to the conclusion that it is necessary to extend its life, I would say, at least for a period of one year". "At least for a period of one year"—that is what he said and then he went on to say, "All that we desire is the Security against groups that work in secrecy and against what may be called

[Shri S. Mahanty.] which futile and foolishly these people believe they can seize etc. powers".] So, the first point that I want to urge before this House is that instead of coming here with a measure to make it a permanent feature you are coming with this piecemeal legislation. That is number one. Point number two is that the whole deliberations over this Bill have been confused by bringing in the policy and programme of the Communist Party of India. You know my attitude towards the Communists but none the less I venture to tell you, violence is not always a sin. In 1942 a British journalist asked Gandhiji, "You say, 'quit India' We will quit India but what after the British quite India? When the Japanese come what will you do?" He said, Sir, "leave India to bloodshed; leave India to anarchy but please do go. Leave India in the hands of God or in the hands of Anarchy". That is what he said. When you talk of peace, do you mean to say that it is the peace of the graveyard. When you talk of order do you mean the order of the prisons? Certainly not. It is the inherent right of a man, of a citizen, to change the Government by Constitutional, by peaceful means and, failing that, certainly by violent actions. Why not? Look at all the revolutions in human history. The French Revolution gave us three noble ideas, equality, fraternity and liberty.

When Louis XIV was as adamant, was as undemocratic, was as callous as the Government of the day which we experience, and the people tried to change it by peaceful means, but they failed and they took recourse to violent means.

DIWAN CHAMAN LAL (Punjab): What do you recommend?

SHRI S. MAHANTY: I recommend non-violence by all means. If not possible, if in Parliament violence of party majority is going to crush, if by the brute majority of a party you are going to drown all legitimate aspirations of the people then certainly

by violent means. Why not? Because after all Gandhi ji's non-violence was the worst form of psychic violence.

DIWAN CHAMAN LAL: Not keeping good company.

SHRI S. MAHANTY: My esteemed colleague knows better; "good" and "bad" are all relative concepts. Whatever may be good company for him, may be bad company for me. Again we are going into relative grounds. That is not the question. The question here is. Why don't you extricate the discussion, the debate, the deliberations over this measure from this Communist-phobia? After all this measure is not meant, for the Communists. After all you will find that there are so many people belonging to so many parties, so many groups and categories and even Congressmen, have been detained under this. I am aware what the Communists are doing. In the other House I was really amazed that the hon. the Home Minister instead of presenting some kind of a plausible case, cited a resolution which was passed three years ago by the Communist Party somewhere in South India. They forget what is known as dialectical materialism according to which every thesis develops an antithesis. They always forget that between that thesis and the antithesis that particular Resolution has been given a decent burial and a new kind of approach has been taken up by the Communist Party of India. It baffles the imagination of any discriminating or any discerning intelligence to find why this Communist phobia is being brought in. This morning we were discussing the Constitution Amendment Bill and most of the speeches of the Congress Members that came from the other side raised the Communist bogey, that in Communist countries their democracy is the dictatorship of the proletariat and therefore the Bill for eliciting public opinion for providing referendum should be thrown out. I ask in all seriousness: Is that an argument that we expect from the Government side? No. Therefore my only appeal to the Government side

and the Government spokesmen is to extricate the discussion on this Bill from this Communist-phobia and try to convince us if there is a case at all (1) for this Preventive Detention Act and (2) for its continued extension.

After having said that now I will come to this document which has been circulated to us. From this document by citing figures I will try to convince the hon. the Home Minister and the House that there is no justification for the extension of this kind of Act. Now from 1-10-1953 to 30-9-1954, in all 440 persons were detained under the Preventive Detention Act. I am now giving the breakup. With a view to prevent persons from acting in a manner prejudicial to the defence of India, the relations of India with foreign powers, or the security of India, only 6 persons were arrested. Only six persons were arrested under clause 3(1) (a) (i). Then for working in a manner prejudicial to the security of the State or the maintenance of public order 410 persons were arrested. This is the major group, 410 persons were arrested whose activities were considered prejudicial to the security of the State or the maintenance of public order. Then with a view to preventing persons from acting in any manner prejudicial to the maintenance of supplies and services essential to the Community 17 persons were arrested. Then for regulating a foreigner's continued presence in India or with a view to making arrangements for his expulsion from India only 7 persons were detained. Therefore we have to consider only the second one, the major one in which 410 persons were detained, and their crime was that their activities were considered prejudicial to the security of the State or the maintenance of public order. Now if we analyse those 410 persons what do we find? We find, Sir, 7 persons were arrested for preaching violence, 3 for *goondaism* and then you will also again find, Sir, 2 persons were arrested for violent activities. I ask the hon. Home Minister, Sir, if

93 R.S.D.

this statement has been prepared with any kind of accuracy, with any kind of seriousness, what is the difference between violent activities and *goondaism*? *Goondaism* is not an English word; it is an Indian word except the "ism" of it. *Goondaism* I do understand.

DIWAN CHAMAN LALL: My hon. friend is to read his own breakup and not to pass it over. There are violent crimes, *goondaism*, terrorism, suspected espionage, bad characters, harbouring of dacoits. The total number comes to very much more than that, about 150 for this particular purpose.

SHRI S. MAHANTY: I was referring to the figure of 410 in Statement III. My hon. friend Diwan Chaman Lall seems to be just now reading that Statement on page 4. I have read it a week ago. From that you will find. I have computed the figures with all care, with all seriousness.....

DIWAN CHAMAN LALL: I have read the statement too very carefully and I have read it also long ago. What I am asking my hon. friend is not to slur over the figures. He says he is going to give the House a breakup. Let us have an honest breakup. Read the breakup and let us know how the people are accounted for.

SHRI S. MAHANTY: It is my misfortune that while I was giving the breakup my esteemed friend was unmindful. I have already given the breakup. Now I am discussing a few and tries only of the second group of 411 persons who had been arrested, who have been kept in detention with a view to preventing them from acting in any manner prejudicial to the security of the State or the maintenance of public order.

DIWAN CHAMAN LALL: May I again with your permission interrupt my hon. friend? What I am asking him to do is to do the honest thing

[Diwan Chaman Lall.] and read to the House the breakup which he himself said he was going to give the House. He has said that two on))' were convicted for violent activities.

SHRI S. MAHANTY: NO, no.

DIWAN CHAMAN LALL: He conveniently forgets column 6, the figure 122.

SHRI S. MAHANTY: Why my hon. friend thought it to be dishonest, I do not know.

DIWAN CHAMAN LALL: I did not mean like that. Let us be honest with the House. Read the breakup.

SHRI S. MAHANTY: Why my hon. friend thought that I am dishonest.

MR. DEPUTY CHAIRMAN: He wants you to read it.

SHRI S. MAHANTY: I am reading it. You must give me some tiir<; to read it

DIWAN CHAMAN LALL: It is not 2; it is 122.

SHRI S. MAHANTY: What I was trying to point out, what I was asking the hon. the Home Minister was this. If this document has been prepared with any kind of accuracy, with any kind of seriousness, I am asking it to be explained to me what is the difference between *goondaism* and violent activities. As an example I was citing that from this column 5 you will find it for yourself that 3 persons have been arrested for *goondaism* and then again 2 persons have been arrested for violent activities in Saurashtra. This is just an illustration I am giving, Two persons have been arrested for violent activities in Bhopal. I was asking what difference is there between *goondaism* and violence.

DIWAN CHAMAN LALL: Read the breakup to the House.

SHM S. MAHANTY: I am reading. I am concerned with the meaning.

SHRI M. GOVINDA REDDY (Mysore) : Don't you see any difference between a violent act and *goondaism*?

SHRI S. MAHANTY: I am trying to point out before this House in my own humble way.....

SHRI B. GUPTA: We will be helped with Diwan Chaman Lail's breaking the debate!

DIWAN CHAMAN LALL: You misuse the English language. It is no; to break. What do you mean?

SHRI S. MAHANTY: I am trying to bring to the notice of the House in my own humble way that this kind of document has been prepared probably by some police officers who have most whimsically put in some grounds, whichever came in handy. My friend says 'No'. My friend says so many things.

MR. DEPUTY CHAIRMAN: Please be brief. Shrimati Parvathi Krishnan wants to go away tonight. Only twenty minutes are left.

SHRI S. MAHANTY: I cannot finish within ten minutes.

MR. DEPUTY CHAIRMAN: Yuu hive already taken eighteen minutes. You began at 4-12.

SHRI S. MAHANTY: Sir. I want an other twelve minutes. Again you will And from this break-up at page 4, Statement III, that one person has been arrested in Bombay for bad character. I ask in all seriousness is there no law in the Indian Penal Code. whereby you can detain a person for bad character. I am not a lawyer. I thank myself I have never been a lawyer, because I always define a lawyer as a middleman between man and justice who get all the middle man's profit. I do not sell my con science, I do not sell my education and knowledge. I am a common man.....

THE MINISTER FOR HOME AFFAIRS AND STATES (DR. K. N. KATJU) : These are very relevant remarks, that my hon. friend is not a lawyer! I congratulate him.

SHRI S. MAHANTY: Sir, I am sorry if I have wounded the sentiments of anyone. That is my attitude towards the legal profession.

SHRI H. P. SAKSENA (Uttar Pradesh) : It is a wrong attitude.

DIWAN CHAMAN LALL: It is a silly attitude.

SHRI S. MAHANTY: It may be silly..... (interruption.)

MR. DEPUTY CHAIRMAN: Order, order. Please go on.

SHRI S. MAHANTY: Sir, when I am interrupted you don't say "order, order", but when I reply you say "order, order".

MR. DEPUTY CHAIRMAN: The "order, order" was meant for them. I ask you, do not misunderstand me also.

SHRI S. MAHANTY: My earlier remark was not meant to belittle the importance of the lawyer, because we are living today at their mercy. All that I am saying is that I am not a lawyer
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MR. DEPUTY CHAIRMAN: Leave alone the lawyers.

SHRI S. MAHANTY: Coming to preventive detention under the Indian Penal Code, there is a proviso, I think it is section 110 or whatever it may be, for detaining persons of bad character.

MR. DEPUTY CHAIRMAN: You cannot get on without lawyers!

SHRI S. MAHANTY: That is how a lay man reads law. According to the lay man, it is all relative. Let us not go to the other aspects.

SHRI RAJAGOPAL NAIDU (Madras) : The Criminal Procedure Code deals with procedure and not the punishment.

SHRI S. MAHANTY: He knows criminal laws much better than I do.

MR. DEPUTY CHAIRMAN: You forget the interruptions. Please go on, do not get disturbed.

SHRI S. MAHANTY: What I am asking is: Is there no provision in the ordinary law of the land to detain a man of bad character? After all, what do you mean by bad character?

MR. DEPUTY CHAIRMAN: You must ask a lawyer, again.

SHRI S. MAHANTY: Sir, I find that the Home Ministry treads the grounds of relative ethics, and, I think, those outmoded, seventeenth century ideas of Smiles on "Character" are still guiding the conduct of the Home Ministry. One person has been arrested for bad character. And then, you will find, again, that so many persons have been arrested for violent activities. All these things lead me to think that this has been prepared in a kind of most irresponsible manner if I may be permitted to say so. After all the total number is 410. Among these 410 persons you will find all kinds of persons, students, bad characters, *goondas* dacoits, etc. The Government ask us to believe that 410 persons are going to undermine this great Republic of India having a population of 360 million and with an army over which we spend fiftytwo per cent, of our nation's revenue. I venture to think that this kind of document is never convincing, because it has not tried to convince us. It has at least tried to rationalise the things without giving any reason.

Then, I come to another aspect of this document. You will see Statement No. XIII at the last page. Out of twenty-six States which have been enumerated in this statement, only ten States have taken recourse to this

[Shri S. Mahanty.] measure. And out of these ten States, again, States like Assam, Punjab and Tripura have not been able to put in more than two detenus in prison under this Act. I am not taking into account those States which have not placed more than five detenus under the provisions of this Preventive Detention Act. If you delete those States, we find that really six States only have taken some kind of advantage of this Act. So, I ask you: why are you imposing this on the re-claiming twenty States? The hon. Home Minister pointed out in the beginning of his speech that maintenance of law and order is in the Concurrent List; but maintenance of law and order is also in the States' List. Therefore, why don't you leave the remaining twenty States to frame their own laws, to pass their own laws in their Legislatures? And why are you framing a uniform law and imposing this on the remaining States?—where there is no need for it, as for example in Orissa. I am very happy about it certainly and I give my unqualified compliments to the Orissa Government that there is not a single detenu in Orissa, under this Preventive Detention Act.

DrwAN CHAMAN LALL: No bad characters either.

SHRI H. P. SAKSENA: How could there be bad characters in Orissa? The Orissa Government is a Congress Government.

MR. DEPUTY CHAIRMAN: Once at least the Orissa Government gets a compliment!

SHRI S. MAHANTY: Sir, when I give compliments, it is a trouble; when I do not give compliments, it is another trouble. It is like the hon. Home Minister's dilemma. He said: 'When I say the figures are low, the people pounce on me; when the figures are high, they say you have misused the Act'.

MR. DEPUTY CHAIRMAN: I can allow you only three minutes more.

SHRI S. MAHANTY: I want to be enlightened on these aspects: why the States are not allowed, according to the States' List of the Constitution, to frame their own legislation for the maintenance of law and order; and why you have come here with this Central Act? The circumstances in 1950 or 1951 were extenuating. We can understand the circumstances under which detenus in hundreds and thousands were put behind the prison bars in 1950 and 1951. Now, the number has gone down much less. I am very happy to And that today only 131 persons are serving preventive detention, if the statement is correct. Therefore, from these figures which have been supplied to us two redeeming facts are worth noticing: (i) those extenuating circumstances do not exist any more; and (ii) that out of twenty-six Parts 'A', 'B' and 'C' States only six States have taken advantage of this and the remaining twenty States have practically no use for it. On these two counts the hon. Home Minister's case fails when he says that there are violent activities going on in the country and that every State Government wants it. He said that every State Government has recommended to him that this Act should continue. In fairness to the House I would have liked the Home Minister to present to the House, in the shape of a white Paper, the opinions of the State Governments received thereon. I ask, did he receive any opinion from the Travancore-Cochin Government?

MR. DEPUTY CHAIRMAN: It is time.

SHRI S. MAHANTY: Sir, I am winding up within five minutes. So, we do not know what are the opinions of the State Governments which have been expressed thereon. ^ I imagine the Travancore Cochin Government, which is a Praja Socialist Government, and which waxes eloquent over civil liberty, would never have recommended the continuance of this Act. The remaining twenty States of India do not want this Act. There are only 131 persons today in detention and cer-

tainly we are not going to legislate for these 131 persons. Therefore the Government's plea for extension of time of the Act is wholly unwarranted.

MR. DEPUTY CHAIRMAN: Shrimati Parvathi Krishnan.

SHRIMATI PARVATHI KRISHNAN (Madras): Mr. Deputy Chairman, I have listened very carefully to the speech of the hon. Home Minister and to all those self-appointed Massiahs of democracy on the other side of the House, but I have failed to find any argument for the extension of the Preventive Detention Act. The hon. Home Minister tried in his usual manner to cloak a very big Act with very trivial words. He said that it was a very small measure. He tried to give an appearance of terrific reasonableness when he was speaking, but we know how he is a past master in that art and equally we refuse to be swayed by such trivialities and by such conjuring tricks that he loves to indulge in. Why should this Act, atrocious Act, be extended?

"What is the necessity?" I would like to ask the hon. Home Minister and all those who support the extension of it. Is there today a situation in this country that demands such an extension? I humbly think that there is no such urgency and no case has been made out for such an Act. All that has been said is, "Let it be there, in case it is necessary". That is why I take the liberty of quoting the words of a great leader, Lala Lajpat Rai. Speaking in the year 1928 on the Public Safety Bill, he said: "I oppose it because I do not consider it to be an honest measure. But I do charge the Government of India as a whole with dishonesty of purpose in sanctioning the introduction of the Bill in the way they have done. No justification whatever has been made out for the introduction of this measure". Continuing, opposing the principle of the Bill, he said: "It is an absolutely vicious Bill; it is a Bill that has not been drawn up with any care for pub-

lic opinion, with any care for fairness or decency". Sir, I would like to re- • mind the hon. Home Minister and those others who have spoken from that side of the House that they were brought up on traditions and principles which were held to be great by their great leader. Let them not forget today those principles, the message of democracy that was upheld by him in those days. 1954 is a great number of years away from 1928. The world has advanced; civilization has advanced, and as the Congress Government, the Congress Ministers and members of the Congress are so proud of saying, India has also advanced. Surely the conditions that existed in 1928 do not exist today. It is not a British Government now. It is a Congress Government and, therefore, I repeat these words and would remind you that a Government that brings forward a measure like this is surely a Government that has to be charged with dishonesty of purpose in sanctioning a measure of this kind. I would like also to emphasise the point that this measure is surely directed against and for crushing political opponents. Members on the other side of the House have made out their case far better than I ever could. The hon. Member, Mr. Pattabiraman, from Tamilnad went on ranting about secret meetings of so called people's organisations, etc., etc. I would like to remind this so called upholder of democracy that there are many charge sheets today on the files which prove indubitably that this measure is being used for nothing else than crushing political opponents.

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

Sir, the charges are so absurd. I would like to take a few minutes of the House by reading one or two extracts from the charge sheets. Here, Sir, I have before me a charge sheet against a citizen of West Bengal. Sir, the primary charge is as follows:—

"You were originally a member of the Jugantar Party, terrorist orga-

[Shrimati Parvathi Krishnan.] nisation of Rajshahi, and joined the Communist Group of Dhirender Ganguli of Calcutta."

Sir, how can this be a ground for detention? Is this the way in which the Preventive Detention Act is to be used? Sir, you can imagine why we are apprehensive. We are saying that it is going to be directed against a political Party. Again, Sir, this Act is used against trade union and peasant leaders. I have before me a charge sheet against Ramen Banerjee, and one of the grounds of detention is as follows:—

"You, a prominent member of the Communist Party of India, have been organising a march of workers, peasants, students and women, and other middle classes on 28th September 1953 to the Writers Buildings in Calcutta."

Sir, in this country, where this much debated, much mooted and much drum-peted democracy is now holding sway, women, students, kisans and workers haven't got the right to march on the streets in order to make their wishes, in order to make their demands, known to the public. Sir, I would ask: What kind of democracy is this that rules with the Preventive Detention Act? You talk about swords and you talk about violence, and yet you do not uphold that right which is given in the Constitution. Why cannot women, students, kisans and workers express what their demands are, express what their difficulties are, and express what it is that the Government has got to take up immediately in order to ameliorate the conditions under which they are living today? Sir, there is yet another charge sheet wherein this Preventive Detention Act was brought into force in the United Provinces. It was brought into force against Jai Bahadur Singh of Azamgarh and against Ishtaq Abdi of Mau. And for what reason? Because they organised peasants in anti-ejectment campaign. Here, Sir, you have a \

i Government representing the great, national movement which guaranteed

I to the peasants of our land peace, pros.

I perity and happiness, and when the peasants are about to be ejected from their lands, when their bread is to be taken away from the mouths of their children, and when, Sir, they protest, they are brought under the Preventive Detention Act, and they are arrested,

I and detention orders have to be serv-

! ed upon them. Sir, any number of these charge sheets are before me. I can quote one after the other and prove beyond all doubt that this Act is being used against the people, to suppress their just aspirations. But, Sir, the time before me is very limited, and therefore, I will confine myself to these very few telling examples that I have already placed before the House, because I find that they speak for themselves, and there is no need for me to go into them any more. This is why. Sir, the Home Minister has failed to carry any conviction, not only to us on this side of the House, but to the people at large outside the House also. This is why, Sir, those who have spoken in favour of the extension of this Act have also failed to carry any conviction.

And finally, Sir, I would like to point out that the hon. Home Minister, if I may humbly say so, is making use of certain provisions in the Constitution in order to defend his position in regard to the extension that he demands for the Preventive Detention Act. He talks about how it is necessary for another three years. He argues the point as to why it is wanted for three years instead of two, because he will be very busy electioneering in the third year, and there will not be the possibility of extending it for one year after those two years, I am asking, Sir: Why is that necessary? Sir, the Prime Minister, time and again, from public platforms and from wherever he speaks, again and again is saying to the people, and trying to convince them, that the advance that has been made by India in the last seven years compares favourably with the advance of other countries, that

the Five-Year Plan is a plan that has brought greater prosperity than ever envisaged earlier, when it was first drawn up, and that it has brought great benefit. If that is the position, then, Sir, where is the emergency? What is it that the Congress Government fears of that they have to bring such an extension of this Act? Sir, if there are certain individuals who are guilty of anti-social activities, then indeed there are enough weapons in your armoury for taking action against them. Even the Report that we have before us of the working of the Preventive Detention Act is a very misleading one. It is true that it gives a very small figure and it shows that a very small number of people have been taken into custody under the provisions of the Act. But, Sir, side by side with this, we must also see how there is a consistent campaign of trying to strangle all the movements of the people for their fundamental rights. We must see, Sir, that the Government which is today in power is using not only the Preventive Detention Act, but is using also all other means of law at its command in order to strangle the people's movement. Today, against three thousand kisan workers in the Sunderbans there are criminal cases that are outstanding. Sir, on the one hand, this goes to prove how the peasants, when they ask for their just Rights are being suppressed, and, on the other hand, it also proves this point, Sir, that the Preventive Detention Act is not necessary, and is totally unnecessary, in today's conditions. I say, Sir, that there is enough in the armoury of the Congress Government to deal with the opposition which they feel might throw them out of power. Sir, why is it that the Government is asking for this power, the power to punish, when the courts will not give them power?

Sir, there has been talk of Advisory Boards. It sounds very reasonable and it sounds very democratic so to speak "on the surface of it", and we are told that learned Judges will be sitting on these Advisory Boards. Sir, once again, let me take the liberty of

quoting to the hon. Members the word? of another great leader of the Indian National Congress, who spoke in 1929 on the Public Safety Bill in regard to similar Advisory Boards. This is what he said:

"He (Mr. Keane) said, three experienced Judges, and what more do you want?"

This is Pandit Motilal Nehru speaking—

"This man is to be brought up before three experienced Judges? I say that if this man were to be brought up before three angels, they would not be able to do anything for him. And why? Simply because, though the Judges are there, they are crippled, they cannot exercise their function. Because the evidence is one-sided, because they are told not to lay the whole of the evidence or the facts before the accused."

Sir, I maintain that the composition of the Advisory Boards under this present Preventive Detention Act is no different from the composition that existed in those days.

Again, Sir, I would take the liberty of quoting from Pandit Motilal Nehru's speech on the same measure in 1929.

DR. K. N. KATJU: When?

DIWAN CHAMAN LALL: In 1928 the Bill started. It went on till 1929.

It was the Public Safety Bill. Discussions went on till 1929.

DR. K. N. KATJU: When was the speech made?

DIWAN CHAMAN LALL: The Speech was made in 1929; immediately after my speech.

SHRI B. GUPTA: When Bhagat Singh threw his bomb?

DIWAN CHAMAN LALL: No, no. That was before.

SHRIMATI PARVATHI KRISHNAN: Sir, [frontiers, but the war is against political opponents, the war is against the majority in this country, and the war i is being conducted in order to sup-j press democracy in this country, and j not in order to uohold and maintain | democracy.

"My submission is that the principle of the Bill is a very simple one. and it comes to this: 'Where the courts will not convict, give us power to punish.' "

Sir, it is indeed strange that the Congress Government which is so proud of its traditions of fighting against the British Imperialism, and which is so proud of the tradition of fighting for the liberty of the individual in this country, should continue this worst aspect of the legacy of British Imperialism, the aspect of trying to suppress political opposition, and of de-manding the right to punish the people without giving them an open and fair trial. Sir, I do not need to remind the hon. Minister that this opposition, the opposition that was put forward by Pandit Motilal Nehru, by Lala Lajpat Rai, and as the hon. Diwan Chaman Lall has reminded me, by himself also, was based on the abhorrence of all the Acts that went contrary to civilised notions of law and justice. Therefore. Sir. bearing that in mind, let him remember the traditions, and let him have the grace today to withdraw from this battle, to withdraw gracefully, and declare before the people, and declare before Parliament, that this Act will remain a dead letter, and that extension will not be demanded.

Sir, I am really unable, within the short time at my disposal, to answer the polemics indulged in by the hon. Member, Mr. Pattabiraman. But I would only just like to point out to him one thing that the Chief Justice of the Supreme Court said, while giving his judgment in regard to the Preventive Detention Act. He said that no country in the world had a law like this, which keeps people confined without trial, in times of peace Sir, is there a war going on that it is necessary today for the Government to bring forward a measure like this? If there is a war, Sir, it is clear that the war is not against any foreign power, the war is not in defence of our

It is true that there are provisions in the Constitution, and, Sir, it is we Communists who were always reminded that we had no faith in the Constitution, and we did not respect f.he Constitution. And, Sir, it is true that we do say that the Constitution vet needs to be remedied to become really a people's Constitution. At the same time, we will fight tooth and nail any one who wishes to misuse the Constitution. And, Sir, it is true that oppose this Bill. We oppose the extension of this Act and we demand that the Act should be scrapped.

Finally. Sir. I would only like to remind the hon. Diwan Chaman Lall, who is now keeping his powder dry and waiting to shoot his cannon against us. about what he said then. I would like to ciuote back to him his own words, when he spoke in the year of grace, 1929, not in 1954, Sir. This is what he said to the British Government. And today. Sir, it would gladden the hearts of the people throughout our country, if he would repeat those words with that same fire and with that same fervour against his own Government, and rouse the conscience of his Government. What did he say to that British Government Sir? This is what he said, when he was concluding his speech. And it is indeed a fit conclusion that I can draw for my speech also today; this is what he said:

"What right, Sir, has any man today, in the year 1929, to demand that he should be given powers to punish a man without trial?"

Remove the words "Diwan Chirman Lall", Sir, and add the words "Parvathi Krishnan", and remove the year "1929", Sir, and add the figures "1954". And this is what I would like

to say to the hon. the Home Minister, j and to all those on that side of the House.

"What right has any Party today in the year of grace, 1954, to demand that it should be given powers to j punish a man without trial?"

Sir, in view of the time being very limited, I would like to conclude once again with an appeal that the Home Minister should withdraw this demand for extending this Act; and I am quite confident, Sir, that Diwan Chaman Lall will also add his powerful voice, and with the wisdom of the years that have grown upon him, will join us in demanding that this measure should not remain on the Statute Book. And I would like once again, Sir, to end with those words, because, as usual, youth will bow before age, and I snow

that he has the wisdom of the same university behind him, and I also know that he has the wisdom of years also bshind him. This measure, Sir. in his words, if it is placed upon the Statute Book, will make the Government of India the laughing stock of the world.

THE VICE-CHAIRMAN (SHRI V. K. DHAGE) : You are withdrawing from the battle field tomorrow.

It is 5 o'clock now, which is the scheduled time for the House to adjourn, and I think, it is the wish of the House to adjourn the House. So. the House stands adjourned till 11 A.M. tomorrow.

The House then adjourned at five of the clock till eleven of the clock on Saturdaj the 18th December 1954.