

RAJYA SABHA

Saturday, 18th December 1954

This House met at eleven of the clock, MR. CHAIRMAN in the Chair.

MESSAGE FROM THE LOK SABHA

THE APPROPRIATION (NO. 4) BILL, 1954

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

"In accordance with the provisions of Rule 132 of the Rules of Procedure and Conduct of Business in the Lok Sabha, I am directed to enclose herewith a copy of the Appropriation (No. 4) Bill, 1954, as passed by the Lok Sabha at its sitting held on the 17th December, 1954.

The Speaker has certified that this Bill is a Money Bill within the meaning of Article 110 of the Constitution of India."

I lay the Bill on the Table.

THE PREVENTIVE DETENTION (AMENDMENT) BILL, 1954—*con- tinued.*

Shri H. N. KUNZRU (Uttar Pradesh): Mr. Chairman, when Sardar Vallabhbhai Patel introduced the Preventive Detention Bill in the Provisional Parliament, he called it an emergency legislation and explained the circumstances in which it had become necessary. Some of the High Courts had declared that the Provincial Security Acts were contrary to the Constitution. At least one High Court had declared some provisions of the Public Security Acts to be contrary to the Constitution. There was a case pending in the Calcutta High Court also in which 350 detenus were involved. Apart from this, serious difficulty had been created by the gap between the passing of the

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new Constitution and its coming into force. The old Constitution came to an end on the midnight of the 25th January 1950, but the President who was elected signed the order for the detention of certain persons only the next day at 10 o'clock. It was therefore feared that the detention of the persons concerned during the interval might be held to be illegal. Apart from this, everyone knew that there was a serious state of things prevailing in the country, and consequently the House agreed to arm the Government with special powers in order to deal with the situation that had arisen. Next year, Shri Rajagopalachariar asked the House to extend the life of the Act by a year. He too, while not committing the Government, while making no promise that the Act would come to an end by the 31st March 1952, used language which made the Members of the Provisional Parliament and the country feel that a time might come when the new legislation would be allowed to lapse. My hon. friend, Dr. Katju, used language the other day which seemed to indicate that the law that we are discussing would remain permanently on the Statute Book. He said in the course of his remarks that there was no use waiting for an emergency before enacting such a law. Parliament should only take care to see that it is not abused and is used sparingly. This is the last word on the subject. It is obvious that, though debates may take place—he promised annual debates in this House on the subject—the law will continue practically permanently in force. He has asked us to limit the life of the law to three years, but if what he has said expresses the view of the whole Government—and I have no reason to suppose that it does not express the view of the Government—this limitation of the period during which the law is to remain in force to three years is only a matter of form. When this law expires, we may be asked as a matter of course to extend the life of the law further. This is a most unsatisfactory state of

things. My hon. friend pointed out

[Shri H. N. Kunzru.] the other day certain features in the existing situation which caused anxiety to the Government and which also showed that the situation has not become normal. Is it expected that the situation in so vast a country as India will ever become normal in the opinion of the Government? Some kind or other of trouble may always be expected to be in one State or another, and if that is to be used as a ground for continuing the present law, then it only means that the Government thinks that it is justified in passing extraordinary laws merely on the ground that a situation may arise when they may have to be used. Sure'v, Sir, this is not sufficient Justification for keeping a law like the one we are discussing now on the Statute Book. What we have to see is what the situation was in 1950 and what it is now. Everyone who knows what was happening then in Hyderabad or in Andhra or even in Travancore-Co-chin will bear testimony to the fact that a vast improvement has taken place. Had the situation in 1950 been only what it is now, I make bold to say that Sardar Patel would never have come forward with a request for the passing of the Preventive Detention Act. I do not think that the examples that the Home Minister gave the other day to justify the extension of the Preventive Detention Act have therefore no practical force, and I venture to say that, if such things as the police strike in Bengal are going to be controlled, they can be controlled by means other than the use of the Preventive Detention Act. I cannot therefore agree with the Home Minister that the Act should be allowed to continue on the Statute Book and that Parliament should only take care to see that the powers given to the Government were not abused. Sir, another argument that was used by the Home Minister to justify the extension of the Act was the unanimous demand of the State Governments for the extension of its life. Sir, I have been taking some interest in public affairs for

a pretty long time and I think I can say without any fear of contradiction that at least since 1907, there has been no occasion when the State Governments have not been more insistent on being armed with special powers than the Central Government. In the old days it was our complaint that when the Central Government had its headquarters in Calcutta, that it was too much influenced by the affairs of one State. Even when its headquarters were shifted to Delhi, it was thought that it differed too much with the views of the State Governments. It may also be said that whenever the provisions of any repressive legislation were liberalised, they were liberalised at the instance of the Central Government. Had the matter been left to the State Governments, perhaps no measure of reform would have been passed. I remember that when Mr. Montague was in India and the question of the grant of a further instalment of constitutional power to the people of India was under consideration, there were some influential provinces—some of the larger provinces—which made proposals the effect of whose acceptance would have been to make the transfer of any real power from the bureaucracy to the people almost nominal. I am not therefore much impressed when the Home Minister says that the State Governments are unanimous in demanding that the Preventive Detention Act should continue to be in force. It is true that the States are primarily responsible for the maintenance of law and order but it is no less true that the overall responsibility for the whole country rests with the Government of India and that the passing of such a law as we are asked to agree to should depend on an estimate of the entire situation by the Government of India and not by the demand of the individual State Governments even though they may be unanimous. Now, Sir, let us look at the statistics supplied to us by the Home Ministry with regard to the persons detained under the Preventive Detention Act. The Home Ministry has been giving us

such information for 2 or 3 years and anyone who studies it will see that there are a number of States where there has been no trouble worth the name, where there has been hardly any occasion for the use of the extraordinary powers conferred on the Government by the Preventive Detention Act. But these States too want the Preventive Detention Act to be continued because they think that the Act has kept their provinces free from activities of the kind covered by it. Sir, if this argument is valid, if States which have no occasion to use the Act say that it should be continued in force so that in future no need for using the extraordinary powers conferred by the Act may arise, then there is no limit to the extent of extraordinary legislation, of legislation affecting the liberties of the people that may be passed. Sir, now the Bill that we are considering is not any kind of ordinary one. It is not a small thing to deprive the people of their liberty without trial and detain them for any period upto one year. There ought to be special justification for the continuance of this Act and I do not think—and I say this with a full sense of responsibility—that the Home Minister has made out any case for the demand made by him.

Another point made by the Home Minister was that the Act had been used with great care and that it had been sparingly used. Sir, at the end, the statistics to which I have already referred to tell us that the number of persons detained under the Preventive Detention Act on the 30th September 1954 amounted to 131. Of these four were foreigners. The total number of Indians detained under the Act was therefore only 127 under this Act. Now compare this number with the number that was in detention in 1951. Anyone who does this will see and will heave a sigh of relief and say that the troubles in this country had come to an end, that at last we could see that the situation was normal and that the ordinary law of the land would be sufficient to

deal with such crimes as administrators have to face from time to time. Let us look at the matter from another angle. From 1st October 1953 to 30th September 1954, about 280 persons were detained. This, I think, includes 3 persons against whom detention orders were passed before the 1st October 1953 but were served after 30th September. There were thus 280 new people detained in the course of the year referred to by me. All these cases had to be revised under the Preventive Detention Act, or rather they had to be considered by the Advisory Boards. The Boards recommended the release of 65 persons and their recommendations were accepted by the Government. The High Courts and the Supreme Court ordered the release of 14 persons. Therefore, 79 persons were thus released for one reason or other out of this number of 280 arrested by the authorities. This means virtually about 30 per cent, of the detenus had been arrested on grounds which were considered insufficient either by the High Courts and the Supreme Court, or by the Advisory Boards. Now, this is not a small ratio or proportion. About 30 per cent, of the detenus have been deprived of their liberties on grounds that were considered totally insufficient by the Advisory Boards in whom the Home Minister has repeatedly asked us to repose full confidence, and by the courts of law which are still regarded by the people as the palladium of justice. Can we look on the present state of things with equanimity?

Let us then take another matter—the number of people released by the Government *suo motu*. The number of such people comes to 166. We have to try to find out how many of these people were those who were detained before the 30th September 1954. In order to do so, I proceeded in this way. The total number of persons under detention during the year that I have referred to was 440. Of these 245 were released. Therefore, there remained 195 people. There should have remained, therefore, 195

[Shri H. N. Kunzru.] people in detention. But the actual number of the people under detention is only 131. It is clear, therefore, that 64 people were released after the expiry of 12 months from the date of their detention. The statistics before us also show that on the 1st October 1953, there were 154 people in detention on whom detention orders had been served earlier. There therefore, remained 90 people out of these who had been arrested in the previous year. I suppose that this total of 166 released persons includes this number of 90. If this is correct, then 76 persons were released by Government out of those arrested in the period from 1st October 1953 to 30 September 1954, which again amounts to a little over 25 per cent, of the total. I am prepared to give credit to the Government for releasing these people before the expiry of the full period of 12 months allowed by the law. But I fear that a good many people are detained for a week or two or for a few weeks or for a few days, because it is thought that a situation has arisen in which they should be put behind the bars. Their freedom is supposed to be a menace to the maintenance of law and order and the authorities, therefore, make use of the Preventive Detention Act as an easy means of putting an end to their anxieties. We know what use was made of the Preventive Detention Act some time ago in the metropolis of India, and knowing this, we cannot feel sure that these persons, that these 76 persons who were released were not arrested in the same manner as some people in Delhi were arrested some time ago and released, when what was regarded as an emergency by the Government came to an end. This too shows that the present state of things is highly unsatisfactory.

My hon. friend the Home Minister, towards the end of his speech asked us to support this benevolent and beneficent Act. Sir, the British Government used Acts that were no less

benevolent and beneficent against thousands of persons in this country, including my hon. friend the Home Minister himself. I wonder whether he thought those Acts as benevolent and beneficent as he regards the Preventive Detention Act now. Has the fact that he can no longer be proceeded against made such a change in his opinion as to make him claim that extraordinary powers affecting the liberties of the people should be given to the Government without any demur by the representatives of the people? Sir, there are many democratic governments in the world, governments which have had longer experience of democracy than the Government of India. But they have never considered it necessary to use such a law in order to bring even serious situations under control. It can always be said that the situation in India is different from the situation in other countries and this may rightly be granted but is the situation so different that even in normal times—and I would call the present times notwithstanding the troubles that may occur in some parts of the country from time to time normal—that such extraordinary legislation should be continued? Sir, England has recently been faced with serious trouble. The Dock strike was no small matter and yet it was settled without any recourse to a law of the kind that the Home Minister wants us to continue for three years more. The British Government can detain people for some time but not for twelve months. I think the Act which confers this, power on the British Government limits its exercise to thirty days. I think, Sir, considering all these things, that the Government having once tasted blood does not want to part with the powers that were conferred on them in 1950. I am, Sir, for the reasons that I have given, strongly against the continuance of this Act and there is not the slightest justification for continuing it in a large number of States where there is really no trouble of any kind at all. From the very beginning, that is since 1950, trouble has largely

existed in three States, Hyderabad, Bombay and West Bengal. There may have been one or two other States also in 1950 where the situation was abnormal but, particularly speaking, these are the three States whose situation should be an indication and tell us whether the powers conferred by the Preventive Detention Act are needed or not. Let anyone read the statistics furnished to us by the Government of India and I have no doubt that if he is not one of the confirmed supporters of the Home Minister, he will come to the conclusion that it is high time that the Preventive Detention Act were brought to an end.

SHRI H. P. SAKSENA (Uttar Pradesh): Mr. Chairman, I make no apology for stating that were it not for the fact that I am sitting on these benches, I would have opposed the present amendment to the Preventive Detention Act. The little journalist in me, the little publicist in me revolts against giving my approval to the Bill under discussion. I say, in all humility, that the present time can very appropriately be called a normal period of time because if we understand correctly the meaning of the word 'abnormality' or 'normality' we can come to only one conclusion and it is this that the present times are normal. Sir, I am a great supporter and upholder of democracy. Democracy, Sir, is a way of life which can best be learnt by following it. I can, however, tell the House that if I were asked to choose between whether democracy will be safe in the hands of the Home Minister Dr. Katju or in the hands of my hon. friend Mr. Bhupesh Gupta, I have no hesitation in saying that I would much rather prefer to have democracy safe in the hands of the present Home Minister. There is no gainsaying the fact that he can be regarded as the upholder and supporter of democracy rather than one of those whose avowed object and way of life is to continue to have disturbed state of things throughout the whole of the country, who are in love with creating chaotic conditions and exploiting

them to their ends, ends which are very doubtful because of the fact (*Interruption*) that their root does not lie in the soil of India but elsewhere. I will never yield, Sir, to any interruption whether it is whispered or whether it is loud. I stand on my own legs and shall continue to do so unless I am called upon by to yield. (*Interruption.*)

Sir, one does not ordinarily employ a watchman to keep watch over his house and his property when the theft has already taken place. Sensible persons, thoughtful persons engage a watchman beforehand so that the dacoits may not enter their house and property may not be looted. It is that object in view, I take it, that the Home Minister wants to have this weapon of Preventive Detention in his armoury so that in case of need, when there is very little time left to make necessary arrangements to have the proper authority, he may use this in case of actual and real emergency. That real and actual emergency may not be existing now but it can appear and it can come into existence without any warning or notice. In that case, Sir, I quite realise that our friends, whether they be on the right or on the left—I was including myself when I stated that I cannot support this measure—will not be of any use to the hon. Home Minister in whose care and charge the safety and security of the entire continental country of India is placed. It is only with that object in view that this Bill can be looked upon as a sort of necessary measure.

Sir, I would, with your permission, deal with the first speech delivered on this Bill yesterday or the day before, I forget which, and it was by my hon. friend Shri Sardar Singh. He made some concrete suggestions which are worthy of the consideration of the Home Minister. One was that the Bill be withdrawn. Now, this is a suggestion which the hon. Home Minister, consistently with his responsibility, can never agree to. The other was to reduce the period to one year. Now, Sir, when the hon.

[Shri H. P. Saksena.]

Minister promised to bring the matter before the House at the end of every twelve months and yet to enact its extension for full three years, I could not understand the consistency or the logic of it. When we agree to the extension of the Preventive Detention Act for the next three years, there is no sense in bringing the matter before the House after every twelve months, discussing it and yet leaving the age of the Act extended up to 1957. Mr. Sardar Singh also wanted an assurance to repeal the Act by December 1955. Now no assurance on that score, I am positive, can be given for the very simple reason that nobody can foresee what the state of affairs will be in December 1955. With these remarks, Sir, I dismiss the speech of my hon. friend Mr. Sardar Singh who for once made some concrete suggestions which may or may not be acceptable to the Home Minister because that is his concern.

I am yet to refer, without being accused of any partiality to the speeches of my two hon. friends both hailing from U.P., my friends Mr. Akhtar Husain and Mr. R. C. Gupta. Mr. Akhtar Husain delivered a very admirable speech and as a lawyer tried to support a weak case with very strong arguments, but when waxing eloquent over the beauties of the extension of the Preventive Detention Act he went to the length of saying that it is a matter of pride for any Government to pass a measure like this, I felt simply ashamed. I can say with all the sense of responsibility that no Government on earth can be proud of having in its armoury a measure like the Preventive Detention Act and I am not either ashamed at or surprised of my utterance because this Preventive Detention Act should only be an exception; it cannot be a matter of rule. It cannot be a matter of pride, much less can it be a matter of jubilation for those who, for reasons of expediency, have got to support a measure like this.

So far as the two very violent speeches of my hon. friends Mr. B. Gupta and Mr. Pattabiraman are concerned, I can safely say that the two cancel each other and need not be taken notice of.

My hon. friends on the right have begun thinking of the five principles, not for any other thing, not that they are in love with those five golden principles but simply because China has enunciated them and they have been approved and accepted by the hon. the Prime Minister of India and therefore they have become a part and parcel of their political philosophy and political doctrine. Now Mr. Bhupesh Gupta said -----

MR. CHAIRMAN: "Mr. Pattabiraman cancelled him!" you said.

SHRI H. P. SAKSENA: I am not referring actually; I wanted to make only a casual reference, Sir. Anyway I shall not say even that.

Then, Sir, I have, as you all know, very great admiration, respect and regard for the views of our oldest publicist, Dr. Kunzru, and it is always very painful for me to have to differ from him in any matter whatsoever. As my friends must have understood me we agree in a sense. He is also opposed to the extension of the life of the Preventive Detention Act as well as I, in all conscience, am but—there is a 'but' there, no doubt—when he dismisses the unanimous opinion of the State Governments in support of the extension of the life of the Preventive Detention Act very lightly, I think I must join issue with him in that respect because in spite of my best endeavours to bring myself in agreement with him on that point I could not. Now these State Governments to use the expression of some of my friends on the right, are not automatons. They are lively and functioning States, my State having dominion over about 6½ crores of people ____

SHRI R. U. AGNIBHOJ (Madhya Pradesh): Why, over the whole of India.

SHRI H. P. SAKSENA: I know. I have already said that there was an unanimity of opinion and all the people of these States have recommended the continuance of the Act. This is an index of the desirability of the Act by the people of those States whose opinion has been sent to the Central Government. Now this is not a small matter and it is worthy of the consideration of those who are for one reason or other going to support this measure. I simply say this to strengthen the hands of my hon. friend the Home Minister and his able and distinguished deputy, Mr. Datar.

SHRI R. U. AGNIBHOJ: YOU are supporting this by hand, foot or head?

SHRI H. P. SAKSENA: I must now refer very briefly to the remarks....

MR. CHAIRMAN: by the lady friend.

SHRI H. P. SAKSENA: of my very learned, able and delightful friend the hon. Shrimati Parvathi Krishnan whom I look upon as my own daughter and I am proud of the fact that she is so able and so distinguished though somehow or other, accidentally perhaps, she has fallen in bad society. Now, Sir, it was a cruel pleasure to hear from her that we of the Congress brand are "self-appointed messiahs of democracy", a very fine phrase, Sir. Now this is the time of Christmas. She said that we are the messiahs of democracy. A messiah is a messenger of peace, goodwill, accord concord, friendship, amity, good relations, fine and beautiful neighbourliness and all that. Now if I were to be a messiah of democracy, whether self-appointed or otherwise, I would simply congratulate myself. If need be, Sir, I assure this House through you that I will much rather like to be crucified like Christ, the Messiah, for upholding democracy to which my party and my humble self are wedded.

I want to clear this obsession on the part of my hon. friends on the right,

if I can possibly do so, by telling them that this Act is not directed—I emphasise the word not—is not in any way directed against any political party. It is not an instrument to crush those who do not see eye to eye with them in political matters. This is a secular democracy. There is the Constitution which guarantees free expression of thought, free expression of everything, your views, your principles, etc. And therefore there is no question of crushing any political party. That friend so sparkling, so young and so delightful, as I said, went to the length of quoting the detention of comrades Jai Bahadur Singh and Ishtiaq Abid of Mau for a very simple and ordinary thing, that is, regarding their agitation with regard to the ejection of peasants. How nicely put! But then there were so many things connected with the agitation about the ejection of peasants which were very conveniently withheld. She did not inform the House about any of those hundreds of details with which that part of Uttar Pradesh was at that time seething.

SHRI S. N. MAZUMDAR (West Bengal): But then it is _____

SHRI H. P. SAKSENA: This is with regard to the speech of Mrs. Parvathi Krishnan. She is not here now but she has not appointed my friend Mr. Mazumdar as her attorney and therefore he is out of court so far as this question is concerned.

MR. CHAIRMAN: Mr. Saksena is very free in all his criticisms.

SHRI H. P. SAKSENA: Just a few words about the Advisory Board. It was said that our late illustrious leader of India, Pandit Motilal Nehru, said that even if the Advisory Board consisted of three angles, it may not be a substitute for the right of defence to be given to a detenu in order to establish his innocence. That is all right, but it is just possible that our distinguished Home Minister in his wisdom would have caught hold of three persons, three living beings who, though not angels, are even more efficient and

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 more qualified than the three angels and the cases of these detenus would be safe in their hands and these three gentlemen of the Advisory Board will see that no kind of injustice is done to the detenus whose cases they are required to review. That is not a small satisfaction for those who are detained. I, Sir, did not get even that satisfaction of getting my case reviewed by any Board of Advisers and I had to remain in jail for years and years together simply because I was accused of things of which, I assure you, I was not at all guilty. But then we were not to enter any plea in defence and we remained as we were asked to remain. Here, a point still remains that no lawyers are permitted to appear before the Board and that its decisions are final. Lawyers are not permitted to appear before the Board, no doubt, but the accused himself, if he is a capable man like my hon. friend Mr. Bhupesh Gupta, can certainly plead his case much better than any ordinary lawyer can do.

Now, we all know that this detention is brought into play simply for those three very vital reasons and they are security of India, our relations with foreign countries and the maintenance of tranquillity and peace. I would not use that hated expression maintenance of law and order. Law and order crossed the seas along with the British and therefore we do not talk of law and order. Of course, we do talk of the maintenance of peace and tranquillity which we all so very much desire.

Statistics have been very aptly quoted by my learned friend Dr. Kunzru and by many other friends and therefore I would not waste any time in repeating them. So far as the question of the conditions prevailing in the country is concerned, I hope that by the end of the year 1955 when we would be reviewing this Preventive Detention Act which we are now passing for three years, the hon. the Home Minister who has just entered the hall will himself come forward

and say that he wants to repeal the Preventive Detention Act, 1954 beyond the period for which it had already been in force.

SHRI K. B. LALL (Bihar): May I speak a few words. Sir?

MR. CHAIRMAN: Later. Mr. Kishen Chand.

SHRI KISHEN CHAND (Hyderabad): I submit, Sir, that for nearly three days I have heard very able speeches by hon. Members on the Congress Benches trying to defend a law which cannot be defended on any ground at all. Mrs. Parvathi Krishnan in her concluding remarks quoted extracts from the speech of Diwan Chaman Lall delivered in 1929 in the Legislative Council of those days.

[MR. DEPUTY CHAIRMAN in the Chair.]

Sir, I admit that the Government have got to maintain law and order; it is very essential. The Government can with its overwhelming majority pass any law through the legislature and the moment the Bill becomes a law, the courts will carry out that law and then it is all constitutional. But we must consider and see the history of the last fifty years during which our great leaders were carrying on the struggle for freedom against the British Government. We should see what was the situation in those days when similar laws were promulgated. Sir, the Bengal Safety Act came in 1905 with the partition of Bengal but in the rest of India there was no Public Safety Act similar to this Preventive Detention Bill. Only during the war period' between the years 1914 to 1918 there was the Defence of Realm Act which was replaced by the Rowlatt Act in 1918 and when the Rowlatt Act came we know the conditions of our country. Under the able leadership of Mahatma Gandhi freedom struggle was going on and ^aH laws were being broken. On a mass scale, on a national scale, breaking of laws was being adopted and it was

at that time that the British Government brought in these special regulations and special laws. Again in 1929 the Public Safety Act was brought in which was very strongly opposed by all leaders of India who were at that time members of the legislature. I submit, Sir, that the conditions prevailing in our country at the present moment are much more peaceful than they were in those days. Think of the massacre of Jallianwala Bagh; think of all those disturbances that took place in those times and when the British Government introduced this law with some sort of justification. hon. Members opposed it. Now, when they have come into power, they have adopted a worse policy. The British Government introduced these laws to curb the freedom struggle; similarly the Congress Government is bringing in these laws to curb the Opposition. I am going very soon to submit facts and figures to prove that this law is not against the so-called *goondas* and the so-called dacoits. It is entirely brought forward with the sole object of killing all opposition to Government.

SHRI AKBAR ALI KHAN (Hyderabad) : Question.

SHRI KISHEN CHAND: Sir, we know these able lawyers. So far the hon. Members who have taken part have spoken mostly like lawyers who have been given a brief and without conviction and without faith in the truth of the Bill that they are supporting, they have just trotted out the usual arguments. Of course, 12 No. 12 lawyers can defend both sides and they just defend whichever side pays them a higher fee. In the same way, only twenty-six years back Diwan Chaman Lal spoke very eloquently against the Public Safety Act. Today probably he will come forward and try to defend this thing, giving some sort of reasons or explanations that things have changed. In 1950 one could have said that conditions in India were not normal, but today they are absolutely

normal. What do we mean by having special laws, when the ordinary law can cope with the situation that may arise in our country? Hon. Members know that in the Penal Code there are several sections to deal with all anti-social elements. Do you think, Sir, that we want special laws for really controlling the dacoits whose number under detention is probably forty-three as stated by an hon. Member from Uttar Pradesh?

SHRI GOVINDA REDDY (Mysore): Political dacoits are far more dangerous,

SHRI KISHEN CHAND: I do wish the hon. Home Minister had given us the numbers of these political dacoits and had told us that as their number is so large he wanted special powers. I wish to draw attention to the fact, that for ordinary dacoits, ordinary *goondas*, for all such unsocial elements in society, there are the normal laws of the country. If you think that our country is unique, our country has got such a large number of dacoits that the ordinary law cannot cope with them, it is a condemnation of our own Government. I do not think that any hon. Member sitting on those benches would like to condemn the Government on that score. Therefore, one is bound to be driven to the conclusion that the ordinary laws are quite sufficient for coping with the unsocial elements in our society like the dacoits, blackmarketeers, profiteers, etc., etc. It is only in the case of an emergency, when there is a civil commotion in the whole country, when you find that the number of people who have got to be hauled up runs into thousands and lakhs, when the law courts are not sufficient to take up the case of every such person—only in such circumstances you should have special laws.

Several hon. Members have said that these laws are to be on the Statute Book for an emergency. It is possible some such emergency may arise. For an emergency we have the powers vested in the President to issue

[Shri Kishen Chand.] Ordinances, to declare an emergency, to cope with the situation that may arise at that time. But in normal times to anticipate these emergencies and to promulgate special laws is a most unfair thing. It is something like the case of a man who thinks that there are so many diseases in the world, so he should take injections for all the diseases. The result will be that the number of injections will be so large that the person will die. Similarly, if in normal times you arm the Government with too much powers, democracy will die and that is what is happening in our country. There are certain fundamental things which no Government should really change in normal times. The Government in every democracy has got a majority and, with the help of that majority, they can pass any law. Should not the majority think that on certain points it will never give power to the executive? Those things are special powers like the Preventive Detention Bill—and I should like to go a step further, the power to use fire arms by the Police against innocent crowds, innocent processionists which is being done every day by our Government. Nowadays, even small processions of students of women of workers, are stopped by the Police and even if they sit down, fire is opened on them. Do you think that such a thing is possible in any other democracy, except in our country—that country which is proud of Mahatma Gandhi, that country which is proud of passive resistance? And yet that country is using fire arms at every moment for petty things, for small things.

SHRI AKBAR ALI KHAN: We are not dealing with fire arms. We are dealing with the Bill now.

SHRI KISHEN CHAND: I am stressing the point that special powers are being given to the executive, the Preventive Detention Bill is one of those powers. I will try to show that this Government is trying to take extraordinary powers not to curb the

unsocial elements—but simply to kill the opposition. The whole Bill has been timed in " very subtle way by the Government, xhey were normally satisfied with one year extension. Now, they know that the elections are coming in 1957. If they had come for an extension of timp, when the elections, were near possibly the attention of hon. Members would have been drawn to it. Therefore, in anticipation of it. they want three years' extension, so that at the time of the next elections, both in the States and in the Centre, the executive may exercise its authority and crush all opposition

Sir, power is a very corrupting thing. The possession of power creates a desire for more power. The result is that the executive through its bureaucracy, through its officials directly and indirectly, tries to keep itself in power and kill all opposition. I am afraid the economic programme of the Congress is very defective. They have no appeal to the peasants; they have no appeal to the workers; therefore, they find themselves in a very difficult position. On *economic* grounds they cannot win the elections. On the economic programme they find that there is a growing opposition amongst the masses against the Government. Therefore they come forward with such powers so that when there are no leaders of opposition, how can members standing on Congress tickets be defeated? Sir, the Government have promised that they will reconstitute the Boards. Well, I can tell you, Sir, only about the Hyderabad State, from where I come, that there,, innocent P.S.P. workers have been put in preventive detention in the Karim-Nagar District

SHRI AKBAR ALI KHAN: Could the hon. Member give their names and number?

SHRI KISHEN CHAND: If necessary, that will also be supplied. Let the hon. Minister ask for it, and I will supply that also.

SHRI S. N. MAZUMDAR: You are not the Home Minister.

SHRI KISHEN CHAND: After all, the Government had promised that the Advisory Boards will be reconstituted, but I have to point out, Sir, that the old Advisory Boards still continue. The hon. Minister promised that the members of the Advisory Board will be of the status of High Court Judges, or ex-High Court Judges, but old members continue, who have a lower standard of judicial experience behind them than that of a High Court Judge, and I think, this matter requires urgent attention of the Home Minister. Further, Sir, it is a matter of common knowledge in Hyderabad that when these detentions have got to be reported to the Home Secretary, and his permission has to be obtained, the Home Secretary never looks into these matters, and in the routine course, the Deputy Secretaries and the Assistant Secretaries pass their orders on these things. I am giving all these examples *to* point out that the Government is not genuine in its professions, and that all these things are being brought up not for curbing the anti-social elements in any future situation of emergency, but for killing all opposition. Further, Sir, hon. Members have already pointed out that we have got to see what steps are taken by older democracies of the world in such situations. Pandit Hri-day Nath Kunzru has pointed out that in England there is no such law. Only during the war they had emergency powers, but immediately the war was over, the emergency powers also lapsed. In the U.S.A. there is no such law. You cannot say, Sir, that the number of dacoits in our country is much larger than their number in any other democracy, or there is less of law and order in our country than in other countries. And therefore I do not see why the special emergency power of preventive detention is taken by our Government to be used against these dacoits. The number given is 43. Do you think that 43 dacoits, about 25 profiteers and blackmarketeers and about 50 or 60 political detenus are such a menace for our country? Hon. Members have pointed

out that our population is nearly 330 millions. Now, in a population of 380 millions, if there are only 123 people—and those 123 people not spread all over the country but most of them located in only two or three States out of so many States—who come under it, I cannot see what justification the Home Minister can produce for this Bill. Sir, when we suggested that the number is so small, and that there is no need for this Bill, the hon. Members come forward with a curious argument that this number is small on account of this Bill. I am surprised at this argument. They think that because there is this Preventive Detention Act, it has improved the situation in our country. They think that the Communist menace in Telengana was curbed on account of this Preventive Detention Act. I beg to submit, Sir, that it is absolutely wrong. Slowly and gradually the ideal of democracy is being realised by our people, and they are beginning to realise that there is a constitutional method for getting their grievances redressed. And when they are being trained up in democracy, we want to kill that democracy by bringing in this type of legislation. There is absolutely no emergency, and there is no need and no justification for this Bill. I therefore strongly oppose this Bill.

MR. DEPUTY CHAIRMAN: Mr. Kaushal, before you begin, I have to inform hon. Members that we have to close the discussion on this Bill at 3-40 P.M. We have already taken six hours and twenty minutes. Including one hour extended by the Chairman, we are left with four hours and forty minutes for all stages of the Bill. The hon. Members will please confine themselves to 15 to 20 minutes each.

SHRI AKBAR ALI KHAN: If there are more Members to speak, may I request the Chair *to* fix up the time.....

MR. DEPUTY CHAIRMAN: That is what I am saying.....

SHRI S. N. MAZUMDAR: It is better if you leave it to the Members.....

MR. DEPUTY CHAIRMAN: I not want to ring the bell. I hope I will have no occasion to ring the bell. Let the hon. Members confine themselves to 15 to 20 minutes. We can adjust it.

SHRI K. B. LALL: How many minutes are you going to allow normally?

MR. DEPUTY CHAIRMAN: 15 minutes.

SHRI J. N. KAUSHAL (Pepsu): Mr. Deputy Chairman, after hearing the arguments advanced on both sides, I feel that most of the time is taken on matters which are strictly not relevant to the point at issue. The very short point before the House is whether the life of the Preventive Detention Act, which is already there on the Statute Book, should be extended, or it should be allowed to lapse. So far as the principle of the Bill is concerned, however much we may dislike it, yet the present Parliament stands committed to that principle. Therefore, as I said the one point which should engage our attention most is whether the need for extension is there or not. Well, the one basic argument which has been given on behalf of the Government for the need is that all the State Governments unanimously are of opinion that time has not yet come when this measure should be allowed to lapse. Well, my submission is that this, by itself, professes a great justification for the Government of India¹ to bring forward this Bill. It is the administrators alone who are administering the country, who know whether the time has come when this measure should be abolished or whether the measure should be continued. We all know that the Governments which are running the administration of the country are the Governments which are manned by the representatives of the people, and if they all feel that this measure is necessary, then the Government of India, I would say, has no other course open to it except to place this Bill before the House. The ultimate

responsibility, of course, is of Parliament, whether to sanction the extension of the Bill or not, but the point that I want to make to the House is this. Why should the Members on the opposite benches try to see something which is not there in the Bill? The Government of India has very plainly stated that since the unanimous demand of the States is that this Act should continue, it is therefore bringing forward this measure for the consideration of the House. Well, the only one test which the House can apply is whether the Governments have abused their powers in the past, or whether the Governments are going to abuse their powers in future. So far as the abuse of powers in the past is concerned, I am constrained to say that the Opposition has failed to bring to our notice the specific cases where the powers have been abused. Except to say that the Government wants to use this power to kill the opposition, the Members of the Opposition have no other argument to bring forward. This is a question which can be decided by facts, not by arguments alone. If the facts are such that they prove that the State Governments or the Government of India have misused those powers of course this Parliament will not be justified in giving those powers to the Government in future.

SHRI H. C. MATHUR (Rajasthan): I will give you specific facts.

SHRI J. N. KAUSHAL: When my hon. friend gives those instances, the Government benches will certainly try to meet them. Although we have been debating this for three days now, that chance has not come. The one main argument which has been employed again and again by practically every Member of the Opposition is that, if this Bill was bad when the British were here, how can this Bill become good when our own Government is ruling the country? Well, not much argument is needed to discover the fallacy. The fallacy is obvious. The foreign rulers who wanted this power in their armoury wanted it for the

purpose of crushing all patriotic sentiment, for the purpose of crushing the liberation movement, but can we say for a moment that today, when the country is being ruled by those very patriots who fought for the freedom of the country, they are utilising these powers for suppressing the national aspirations of the people?

SHRI S. BANERJEE (West Bengal): The former patriots have become the present day oppressors.

SHRI J. N. KAUSHAL: The mere shouting of a slogan does not carry the point further. As I started by saying you should have come forward with specific instances of abuse of power. If you cannot do that, it does not fit in your mouth to say that this power is being very oppressively used. The main question is whether this power is being utilised for the purpose of crushing the Opposition as my friends over there want the House to believe and since they cannot come forward with specific instances of abuse of power, I should say that they only want to utilise the forum of this House for propaganda purposes and not for the purpose for which we are meeting here as responsible legislators. My submission to the House is that the idea of democracy which is being so much trumpeted, I make bold to say, must be found within the four corners of our Constitution. We have a Constitution which has granted fundamental rights to the people of this vast country, and if there is any democracy which is not to be found within the four corners of this Constitution, then that democracy is foreign to us. This is a Constitution which has been framed by the people of India themselves and the House would see that, whenever the Constitution has granted fundamental rights, the framers of the Constitution have also tried to adopt that golden mean, that golden principle, that individual liberty of course is precious but the collective security of the people is more precious. There is some such thing as the security of the State, the security of the country, and the main-

tenance of peace and tranquillity in the country.

SHRI S. BANERJEE: You are doing this for the security of the Government and not of the State.

SHRI J. N. KAUSHAL: If my friends suggest that the Constitution should have granted absolute freedom to them, then my submission is that no country, no Government, can ever grant absolute freedom for abusing others, absolute freedom for committing anti-social acts, because individual liberty is not more precious than the collective security of the society. Each fundamental right, when it is given by the Constitution, is hedged in by the important proviso that the Government will always have the right to curtail that freedom if it is necessary in the national interests of the country. Similarly, article 21 says,—

"No person shall be deprived of his life or personal liberty except according to procedure established by law."

It is not the fundamental right of anybody to say that he will do whatever he likes since article 19 has given full freedom to him to give full expression to his ideas and to do whatever he likes. Because the other fundamental right which has been granted is that no person shall be deprived of his liberty except according to procedure established by law, and article 22 further says that no person shall be detained in custody unless the grounds are made known to him and unless he is given an opportunity to be defended by a lawyer and unless he is produced before a court of law. As my friend, Mr. Saksena, said, this law is not a matter of pride for anybody, this law is not a law which should always remain on the Statute Book; we can only permit this, if the necessity for it is there. If necessity demands that this law should be there, then we, as responsible persons who are charged with the governance of the country, must give that law to the

[Shri J. N. Kaushal.]

Government if the Government feels that it is needed by them. Unless the charge of misuse is established against the Government, this law must remain in their armoury, because nobody can say with equanimity that the anti-social elements in the country have completely vanished. The anti-social elements—we are ashamed to admit—still exist there. My friends are very much enamoured of the democracy which is prevailing in England, but can we say that we have come to that stature as a disciplined nation when we can be governed by mere conventions? England has not even a written Constitution. England has not felt the necessity for drawing up a Constitution. They are such a disciplined nation that they can continue to govern by mere conventions. Have we come to that stage? Or is this infant Republic very much in need of some protection from the enemies of the nation, from these persons who want to see that there is always some disturbance in the country? I can quote the instance of my own State, PEPSU. Everyone knows that the life and liberty of every person had become insecure in that part of the country at the hands of dacoits, at the hands of law-breakers. Can anybody say that we should not have used the Preventive Detention Act for restoring normal life in that State? I for one am very clear in my mind that this law was made the best use of in my part of the country. Those of us who have experience of law courts know how difficult it is to establish anything against a dacoit, against any person who is a menace to the rest of the people, because he has the protection of his relations, he has the protection of anti-social elements. It is an open secret that in PEPSU within one year all the gangs of dacoits were liquidated because the persons who sheltered them were all detained under the Preventive Detention Act. The normal law was insufficient to check the menace of dacoity. Similarly, when in other parts of the country also this law was made use of, things became normal. And then my friends

say, "Things are completely normal and we are satisfied that these antisocial elements will not come back to life again." Well, I say that we are not final judges of the matter. The Government knows the actual state of things, and they know whether this law is needed or not. I would only finish by quoting some words from the judgment of the Supreme Court, where they say that of course this law is not good, this law should not have been given any constitutional status but that since the law is necessary for the maintenance of this infant Republic, this law ought to be there. I will read just one quotation from the judgment of Justice Patanjali Sastri in Mr Gopalan's famous case.

MR. DEPUTY CHAIRMAN: Only one sentence, otherwise you pass it on to Mr. Agnibhoj.

SHRI J. N. KAUSHAL: I am just finishing. This is what the hon. judge said:

"The outstanding fact to be borne in mind in this connexion is that preventive detention has been given a Constitutional status. The sinister looking feature strongly out of place in a democratic constitution which invests personal liberty with the sacrosanctity of a fundamental right and so incompatible with the promises of its preamble is doubtlessly designed to prevent an abuse of freedom by antisocial and subversive elements which might imperil the national welfare of the Infant Republic."

So it is with these objects that this law is brought forward in order to nurture democracy and not to kill democracy as my friends on the opposite are trying to make out.

SHRI TRILOCHAN DUTTA (Jammu and Kashmir): Mr. Deputy Chairman, there is an amendment tabled by Messrs. S. N. Dwivedy and B. C. Ghose to the effect that at page 1.....

MR. DEPUTY CHAIRMAN: We will come to the amendments later. Speak on the general discussion.

SHRI TRILOCHAN DUTTA: I am speaking on the general discussion, Sir. They say that an exception should not be made in the case of Jammu and Kashmir State, seeking to make this Act to apply to Jammu and Kashmir State as well. Sir, reference to Jammu and Kashmir State has been made to this effect by two speakers, Messrs. Rajah and Dwivedy. It is unfortunate that on a question of such national and international importance, our legislators who are supposed to know better and who are entrusted with the destiny of the nation should betray such colossal misunderstanding or I should say, lack of information.

SHRI S. N. DWIVEDY: Information does not come out. It is all gagged.

SHRI TRILOCHAN DUTTA: That is not correct, Sir. Let me take Mr. Rajah's speech first. He referred to his talk with Mr. Datar and said that he was "not completely convinced as to why Parliament should give up its right which was explicitly provided in the previous Detention Act." He continued and said:

"Our soldiers, our boys, are standing on the frontier. We are guarding the frontiers on the Western side. Is it proper that this important provision, 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 in 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?"

Mr. Rajah does not know that the Constitution (Application to Jammu and Kashmir) Order, 1954 expressly provides for the application of article 352 of the Indian Constitution to Jammu and Kashmir State. Article 352 of the Indian Constitution reads as follows:—

"If the President is satisfied that a grave emergency exists whereby the security of India or of any part of the territory thereof is threatened whether by war or external aggression or internal disturbance he may, by Proclamation, make a declaration to that effect."

In the Presidential Order I have referred to, it is said:

"That the following new clause shall be added, namely:—

'(4) No Proclamation of Emergency made on grounds only of internal disturbance or imminent danger thereof shall have effect in relation to the State of Jammu and Kashmir (except as respects article 354) unless it is made at the request or with the concurrence of the Government of that State.'"

So far as Mr. Rajah's objection is concerned, I think that the position is quite clear. If our country, India is threatened with a grave emergency by any aggression from outside, any attack on India, the President has the authority to make a declaration to that effect even in respect of Jammu and Kashmir State.

As far as my friend Mr. Dwivedy is concerned, although he appeared slightly reasonable, in keeping with his temperament, the argument that he advanced. I am sorry to say I could not understand. Probably it was that since the Party he belongs to had taken a certain stand in regard to the Jammu and Kashmir State and a member of his Party had said something in the other House which was very unfortunate—he sought to reiterate his Party's point of view by an indirect method on the question of Jammu and Kashmir State. Mr. Dwivedy while referring to the passing of this Act, in the late lamented Sardar Patel's time, agreed that at that time conditions did exist which could be said, not to militate against the necessity of the passing of this Act. He said the Bill was expeditiously passed in Sardar Patel's

[Shri Trilochan Dutta.] time because there was uncertainty in the country. May I ask him if he has studied or if he has borne in mind the whole history of Kashmir from 1947 onwards and the situation that obtains in Kashmir today? Can he afford to forget that Kashmir was made the target of attack, a large scale devastation wrought by the raiders, and the whole economy of the State disturbed? Today shooting does not exist in the State but a state of war continues. There was a cease-fire but the armies are still poised against us across the cease-fire line and you can imagine what the state of that part of the country can be. An air of uncertainty is bound to subsist. Shri Dwivedy said that the Bill was passed in Sardar Patel's time because there was uncertainty in the country. I ask whether more uncertainty is not bound to exist in a State

SHRI S. N. DWIVEDY: So extend this Act instead of having a different Act.

SHRI TRILOCHAN DUTTA: I am coming to that. So far as his argument concerning uncertainty is concerned, he will have to agree that a state of uncertainty does exist in that State—not because of the people but because of the external conditions, because of the war, because of the state of war that was imposed on us and he cannot afford to forget that although the people of Jammu and Kashmir have cast their lot with India and they avow that they are an irrevocable part of India, yet that uncertainty is revived by unintelligent references to Kashmir, by bringing in Kashmir now and then in the international press, by the threats of Pakistan sometimes of war and other times of carrying this matter to the U.N. and by other factors. I would not like to dilate much on this point. I would only say that so far as the Jammu and Kashmir Preventive Detention Act is concerned, though Dr. Dwivedy did not directly refer to it,

another member of his Party had said in the other House that it is a more "obnoxious" measure and that it should be repealed and replaced by the Preventive Detention Act of India. That was his point. He had said that the Bill was more obnoxious because it had certain clauses which made it even more stringent than the Bill that is under discussion here. I may, Sir, agree with him that probably, that Act is a little more stringent than the Bill under discussion now. But I would ask him and also ask the House whether that Act is really more stringent in relation to the situation as it exists to day in Jammu and Kashmir. Sir, we all know that nothing can be properly understood unless it is placed against the proper perspective, unless we bear in mind the past history, the background of it. I may say here—and probably Mr. Dwivedy does not know about it—that in the recent past, when the present Preventive Detention Act of Jammu and Kashmir State came into existence, there were two Acts in force in that State—the Jammu and Kashmir Defence Rules and the Jammu and Kashmir Public Security Act. The former were modelled on the lines of the Defence of India Rules which were in force here during the war and for some time more, and under those rules any person could be detained for an indefinite period. No ground had to be provided and there was no provision for any Advisory Board etc. But in the new Act recently enacted on the lines of the Preventive Detention Act of India, we have also provided there for the Advisory Boards. We have, Sir, provided also for the supplying of the grounds of detention to the detenus. Under the present law, the Government are required to furnish the detenu with the grounds of his detention and the case of the detenus have to be reviewed by a Board which consists of persons who are qualified to be judges of the High Court, and further more even those persons who were detained prior to

the enactment of the present Pre-

ventive Detention Act, have the right to go before that Board and represent their cases.

(Time bell rings.)

It is clear, Sir, that the Preventive Detention Act of Jammu and Kashmir is a measure which is in accord with the spirit of the times and the existing circumstances in that State. It is iramed keeping in view the fact that while the necessary provisions are made in the interests of the security of the State and the maintenance of public order and safety, the essential civil liberties, the civil rights of the people are interfered with to the least possible extent. I may inform Mr. Dwivedy and his friends, Sir, that the Fundamental Rights as provided in the Indian Constitution apply to the State of Jammu and Kashmir also, except in the matter of the acquisition of land without compensation in the direction of land reforms. It has been admitted even by our leader Pandit Nehru that so far as that part is concerned, he would have liked the rest of India to have followed the same course.

SHRI S. N. DWIVEDY: Then let us extend it here also. Amend the article in the Constitution accordingly.

SHRI TRILOCHAN DUTTA: That is your concern here. So far as the State of Jammu and Kashmir is concerned, they have distributed land to the peasan's without compensation.

One appeal I would like to make, in all humility, to the House and it is this. This question of Kashmir is a national question, an all-party question and I would therefore, request the hon. Members of this House and also all the parties who are represented here that they should see that Kashmir is not bandied about in the debates and arguments for scoring points against one party or the other.

SHRI S. MAHANTY (Orissa): Why not?
95 R.S.D.

SHRI TRILOCHAN DUTTA: It is a very delicate question. It is a question which today is of the utmost importance to India, to the secular and the progressive character of India

SHRI S. N. DWIVEDY: It is not taken up as an all-party question, it is handled, by one man and that is why this muddle.

SHRI TRILOCHAN DUTTA: I may inform my hon. friend that when we were fighting our struggle against autocracy, all parties in India, the progressive and nationalist parties supported us and gave us a helping hand; and we will never forget that Panditji has throughout been our guide, friend and philosopher. So far as the other parties are concerned, barring the communal parties, they too did help us. They did consider that Kashmir was an all-party question. Sir, I would beg of the Members of this House here and the representatives of the different parties that they should continue that approach so far as Kashmir is concerned. Patriotism, progress and larger interest of the country demand this.

SHRI S. N. DWIVEDY: Direct your appeal to the Prime Minister, Jawaharlal Nehru.

MR. DEPUTY CHAIRMAN: Order, order.

SHRI TRILOCHAN DUTTA: Kashmir today is bristling with great complications. Therefore any superficiality or lack of deep thought about it is likely to make the person concerned tread on a very dangerous ground.

MR. DEPUTY CHAIRMAN: It is time, Mr. Dutta.

SHRI TRILOCHAN DUTTA: Sir, one minute more and I will close. I would request all the opposition parties here, that they should give proof of the same sense of responsibility towards this Kashmir question as is

[Shri Trilochan Dutta.] given by opposition parties in other independent countries where questions of national importance are considered. They should not utilise it to gain points against the government in power. I do hope that my hon. friend Shri Dwivedy will not mind if I have referred to his name.....

SHRI S. N. DWIVEDY: Not at all.

SHRI TRILOCHAN DUTTA: I have great respect and regard for him, as I have for other members of his party. But we, in Kashmir, were surprised and felt injured when without going thoroughly into the situation, without considering the implication they gambled in a manner which was likely to do damage both to the Kashmir State and to India.

SHRI S. N. DWIVEDY: I contest this statement. He has raised controversial matters in this debate. The whole question of Kashmir is being brought forward.

MR. DEPUTY CHAIRMAN: He is appealing to you in all humility. You may or you may not hear.

SHRI TRILOCHAN DUTTA: I hope, Sir, that whenever any Bill is under discussion, any matter is under discussion, concerning Kashmir, all the Members of the House will make an approach, with all the consideration that the matter deserves, an approach which is helpful to the situation because, as I said in the beginning, an atmosphere of uncertainty is sought to be created by interested and powerful quarters. Kashmir today is an arena of international intrigue and, therefore, it becomes the duty of all responsible persons in India, all intelligent people in India to see that all these intrigues are defeated, that the era of uncertainty is not created and the wish of the Kashmir people to remain part of India for all times to come is respected and reinforced.

SHRI H. C. MATHUR: Mr. Deputy Chairman, twice before we have dis-

cussed on the floor of this House threadbare the principles underlying this Bill as well as the provisions of this Bill and I have no manner, of doubt that the hon. Home Minister is fully aware of these principles and that he is fully aware of our views. Mr. Deputy Chairman, in spite of all these, in spite of the fact that he knows that all parties in the Opposition are united—not only the Opposition parties but even Independent Members who could take an absolutely dispassionate view, Independent Members who could take an absolutely detached view—in full opposition to this measure. This opposition is based not only on a matter of principle but on their examination of the factual situation in the country. In spite of these facts if the hon. Home Minister comes forward asking for an extension of this measure for another three years, there must be very special reasons. I have no doubt that he feels sincerely about it; otherwise, there is no reason why he should come and incur all the odium and face all the criticism and even unpleasant behaviour of certain Members. He has come with vengeance and he has come with impunity. He does not want extension of the life of this Act for one year or for two years but for three years and if we were to understand the implications of his speech, there will little doubt be left in our minds that he wants this measure as a permanent one to be on the Statute Book for all times. That is the only indication of his speech and we cannot give any other meaning to his speech.

Now, Sir, let us examine why the hon. Minister feels like that. I am not going to repeat those democratic principles on the basis of which hon. Members here have made speeches, forcible speeches and speeches with feeling and have made out an indefensible case that this Bill cannot be defended in times of normalcy. I admire the tenacity of purpose; I admire the tenacity in a Government

because it is a great quality in administration but when that tenacity degenerates into idiotic obstinacy, it does greater harm to the administration itself and it subjects the people of the country to great suffering and I venture to submit that we are here in this matter face to face with such idiotic obstinacy.

MR. DEPUTY CHAIRMAN: Is that word parliamentary, Mr. Mathur?

SHRI H. C. MATHUR: Well, Sir, if that is your ruling.....

MR. DEPUTY CHAIRMAN: Better not use that word.

SHRI H. C. MATHUR: I am using it as a sort of an adjective, not against any person in particular.

SHRI B. GUPTA (West Bengal): On a point of order, Sir. Since you have said that he should not say that, I only want to point out that it is only an adjective from that he has used.

MR. DEPUTY CHAIRMAN: Idiotic obstinacy on the part of the Government.

SHRI B. GUPTA: Nobody has been called idiotic.

MR. DEPUTY CHAIRMAN: Responsible Parliament Members like you should not use such words. You should use milder words,

SHRI B. GUPTA: A Parliament may come which will hold preventive detention as an unparliamentary phraseology. The question is.....

MR. DEPUTY CHAIRMAN: I do not want the hon. Member to use such words.

SHRI H. C. MATHUR: I am not very much.....

MR. DEPUTY CHAIRMAN: I do not think you will relish such words from the Government.

SHRI H. C. MATHUR: I do not relish these things but I must say that.....

MR. DEPUTY CHAIRMAN: If you do not relish then you should not use such words against them. Please withdraw that word.

SHRI H. C. MATHUR: Why all this, Sir? Criticism, as I said.....

SHRI H. C. DASAPPA (Mysore): I take it that he has obeyed the direction of the Chair.

MR. DEPUTY CHAIRMAN: I hope you have withdrawn that word.

SHRI H. C. MATHUR: I will not withdraw that word unless and until you hold it as unparliamentary.

MR. DEPUTY CHAIRMAN: I hold that it is unparliamentary.

SHRI H. C. MATHUR: If you ask me to withdraw it is all right but if you rule it out that is another matter.

MR. DEPUTY CHAIRMAN: That is what I requested you "Please withdraw". If you persist in not withdrawing it, I rule it as unparliamentary.

SHRI S. N. DWIVEDI: I do not think it is correct.

MR. DEPUTY CHAIRMAN: If you do not withdraw.....

(Interruption.)

Order, order.

SHRI B. GUPTA: I make a submission, Sir. Sometimes you ask us to withdraw and we do so without asking for a ruling on that matter but here a phraseology has been used which does not relate to any individual. He only said, 'idiotic obstinacy'.

MR. DEPUTY CHAIRMAN: It has now come to my notice that even 'ungentlemanly' has been held to be unparliamentary. I am concerned

[Mr. Deputy Chairman.] with Mr. Mathur. Are you withdrawing that word, Mr. Mathur?

M B. C. GHOSE (West Bengal): you are entitled to ask any Member to withdraw any word but when you say that it is unparliamentary then the question arises whether it is so in other Parliaments. In other Parliaments, never has the word 'idiotic' been considered as unparliamentary, as far as my knowledge goes.

MR. DEPUTY CHAIRMAN: We must set our own standards, Mr. Ghose.

SHRI B. C. GHOSE: It would become very difficult while soeaking as to what adjective will be allowed ar.d what not. 'Idiotic' and 'foolish' are not very unparliamentary words, as far as my knowledge goes. I am net asking you certainly to witndraw what you have said, but I am just trying to place certain facts for your consideration and that is for you to judge Moreover, he did not say 'idiotic Minister' or anything. He only said 'idiotic obstinacy'. It is an adjectival quality.

DIWAN CH AMAN LALL (Pur.iab): Whose?

SHRI B. C. GHOSE: Of somebody, obstinacy of the Governmen, not of any.individual. Idiotic obstinacy of the Government.

SHRI H. C. MATHUR: I did not mean any individual.

MR. DEPUTY CHAIRMAN- Government is represented by the Minister.

SHRI B. GUPTA: No. That way we cannot say so many things that we say. On a point of order, Sir. when we say, 'insane Government' you do not rule it out.

MR. DEPUTY CHAIRMAN: Government is not an abstract thing; it is composed of men.

SHRI S. MAHANTY: It has n> body and it has no soul. It is a corporate body. You cannot call it an individual.

SHRI H. C. DASAPPA: May I rise on a point of order, Sir? In any case, the Chair has been pleased to give a ruling and the question is, are we now discussing the ruling?

SHRI B. C. GHOSE: No, he has not given a ruling and we are not discussing that. Sir, he is misleading the House.

(*Shri H. C. Dasappa rose to interrupt.*)

SHRI B. GUPTA: You can look after yourself, Sir. Why should he come in?

SHRI H. C. DASAPPA: He has requested you to withdraw that word.

SHRI B. C. GHOSE: If you declare that word as unparliamentary then certainly he will withdraw it. That is not the point.

MR. DEPUTY CHAIRMAN: I do not want to declare it unparliamentary if he withdraws it. If he does net withdraw, I will have to declare it unparliamentary.

I hold that it is unparliamentary.

SHRI H. C. MATHUR: Mr. Deputy Chairman, if I were being given a threat of this word being ruled as unparliamentary, I would not like to withdraw; but if it is an appeal to me without that threat, I would withdraw it and as I told you at the beginning, I have no intention to hurt anybody's feeling.

MR. DEPUTY CHAIRMAN: I have given the ruling. It comes too late.

SHRI H. C. MATHUR: Are we dispersing, now, Sir?

MR. DEPUTY CHAIRMAN: No, otherwise we cannot complete this. Please continue.

SHRI S. N. DWIVEDY: Let us disperse for lunch, Sir.

MR. DEPUTY CHAIRMAN: We cannot finish.

SHRI B. GUPTA: We have got to have some time, Sir, and then we can sit till 5.

MR. DEPUTY CHAIRMAN: It was agreed the other day that for Government business we would sit through lunch hour.

SHRI B. GUPTA: You also have to have your lunch. Let us break, Sir. How long will we continue like this?

MR. DEPUTY CHAIRMAN: "Till we catch up with the Government business". That is what the Chairman said and the House agreed. Let us continue.

SHRI B. GUPTA: We can always catch up with Government business.

SHRI S. N. MAZUMDAR: There may be some adjustment, Sir.

MR. DEPUTY CHAIRMAN: There are 12 more speakers and if little time is taken, I have no objection. There should not be any complaint later on.

SHRI B. GUPTA: Let us not introduce the time limit, Sir. All that we say is.....

MR. DEPUTY CHAIRMAN: If you confine yourself to five or ten minutes, we can manage. After all UM same arguments are being repeated.

SHRI B. GUPTA: But the Act itself is being repeated.

1 P.M.

SHRI H. C. MATHUR: Now, Sir, as I was submitting, the hon. Ministers and the Government have been asking us to take recourse to constitutional measures. When all representations are unheeded, when even the united voice of the Opposition goes absolute-

ly unheard and when I am talking of the opposition I am not talking of the Communist Party or the Socialist Party or our Party, but I am talking of each and every Member sitting outside the Congress Benches and even Members sitting on the Congress Benches, if everybody feels so strongly about this Bill and if they oppose this Bill and call this Bill lepugnant and atrocious, I should like the hon. the Home Minister to advance certain weighty reasons and convince us. Otherwise, Sir, I should like to know what is the sense of democracy. What is the meaning of democracy which is understood by the Indian party. Is this the sense of democracy, Sir, that year in and year out, on all the occasions, when every Member of the Opposition, Members of the Opposition like Shri Kunzru who is considered a liberal is opposed to (his measure, absolutely no weight is attached to it? And what happens is that the hon. the Home Minister not only disregards them but comes with vengeance and comes with impunity asking the period to be extended not by one year, not by two years but by three years. When we were living in absolutely difficult times, when the country was in the throes of trouble and violence, when we had controls, when we had blackmarketeers, when we had food difficulty, even in those circumstances the hon. Sardar Patel came and asked for only one year's extension, wanted this Act to be there only for about one year. Then he was followed by Rajaji who begged an extension by one year. But, Sir, now when we see we are living in almost normal times, when we have been able to get rid of the food scarcity, when we have been able to lift the controls and when we are living in normal times, the hon. Home Minister wants this Act to be extended by three years. And, as a matter of fact, Sir, I was hurt when the hon. Minister mentioned that here in this country the situation was very different. He was drawing comparisons with the citizens of England and told us that democracy had

[Shri H. C. Mathur.] settled down there but that here in India we have got no sense of democracy, we have no sense of discipline and it is only through the Preventive Detention Act that we could be ruled.

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

I wish, Sir, the hon. Minister to realise that we are essentially, by tradition and by nature peaceful people and the general election in this country gives an absolute and unmistakable demonstration of our trait of character as peaceful and disciplined citizens. If untoward situations are created in this country, let us analyse the cause for them. You just go and throw out the Bank Tribunal's Award. You just drive out a good Minister from the Cabinet and you just create a situation which starts a general strike and then you want to go about making use of this Act and arresting people. You create a situation and then you come and ask us for the justification of this Act. And even then, Sir, have we a case for the retention of this statute for another three years? I beg to submit, Sir, that the Constitution vests the power to make laws in respect of only foreign affairs, defence and security of the State in Parliament. So far as Parliament was concerned exclusively these are the only three subjects and no *prima facie* case has been made out that it is for these three subjects that we want this Preventive Detention Act. It is Parliament and no States can help it, Parliament would of necessity have to take recourse to preventive detention if it is in respect of these three subjects. But if it is not these three subjects, if it is for the maintenance of law and order or peace and tranquillity as my friends would like to call it, it is a subject which is concurrent, for the Centre as well as for the States. Now, Sir, the Centre will come in if the All-India situation demands it, if the situation is such throughout the country that we must have an All-

India legislation, but if the situation is only such in one or two or three States, it certainly is the purpose of this Constitution, it certainly would be evident from the article in the Constitution that it should be left to the States. I do not know what is the situation in that State or States. I do not know whether it is warranted even in that State, but even if it is warranted, it is warranted only in particular two or three States and in such a case it should be only left to those three or four States. If it was for those three subjects, certainly it is the duty of the Parliament and if it is a necessity for all over the country, certainly there would be necessity for the Parliament to do it. But from the statistics which have been supplied to us and as we know the situation all over the country, we are not sure and definite that there is absolutely no *prima facie* case. Therefore I oppose this Bill. It is repugnant and it cannot be justified on any account; there is absolutely no justification. The situation in which we live does not warrant it. It is a slur on the national character of our people that we cannot be ruled except through preventive detention. I ask the hon. Home Minister in the name of this nation he should not defame this nation, he should not bring disrepute to the people. that we are a people who cannot be governed except through this Preventive Detention Act. There may be a situation here and there and it is for the State Government to tackle it. In such a vast country, when we are living in such peaceful conditions which is evident from these statistics, there is absolutely no case for this enactment to remain on the Statute Book. Sir, the hon. the Home Minister has advanced very funny arguments. He tells us that this Act has been used most sparingly, that it is the restraining influence of this Act which is of essence and which is of value, and, Sir, it is only against what he calls the restraining influence, that our objection primarily lies. What he calls restraining influence, if properly

understood, is gagging influence, muzzling influence and it is precisely for this reason that we are opposed to this Act, because it casts a shadow on the peaceful life of this country. I would appeal to the hon. the Home Minister to save this country and to spare us from such an Act. (*Time bell rings.*) I will just finish in five minutes, Sir.

A great point has been made of the fact that this Act has never been used for oppressing the Opposition or for breaking the Opposition Parties and I stand here to convince every Member of this House that this Act has been used as a very strong weapon only to gag the Opposition and to break the Opposition and to demoralise democracy. When I say this I speak with a full sense of responsibility. I know the affairs of Rajasthan a bit intimately and I will submit to you that at one time the position in Rajasthan was that the Congress had about 81 seats and the Opposition had 79. The Opposition threatened to overthrow the Congress Government but then comes the insidious operation of this Act. Members of the Legislative Assembly of Rajasthan are put under detention under this Preventive Detention Act and then the very persons who were already detained under this Act for violence, for harbouring dacoits, they just walk into the Congress side and today they are the effective Members of the Congress Legislative Party. They just come into the Congress Party in a strong batch of 25 and these are the very people who were the harbourers of dacoits and who were put under the Preventive Detention Act for inciting violence and all that. In this way they have broken the Opposition. It was just the easiest thing for them to do. Why not become good and, effective Members of the Congress rather than be condemned as harbourers of dacoits? Let the hon. Minister say that it is not a fact, that the people who were detained under the Preventive Detention Act as harbourers of dacoits and for

inciting violence were not responsible for breaking the Opposition there, because the Opposition threatened to overthrow the Congress Government in Rajasthan. Have not those people who were detained under this Act walked into the Congress Party and become Members in a strong batch of 25 persons?

Sir, the tendency to grab exceptional powers for the executive arm of the Government insidiously will only lead not to a welfare State but a servile State. Do not forget that the eyes of the entire world are focussed on India and on our experiment with democracy and I appeal to the hon. the Home Minister not to sabotage that democracy.

THE VICE-CHAIRMAN (SHRI V. K. DHAGE): Diwan Chaman Lall.

DIWAN CHAMAN LALL: I am grateful to you for calling on me to speak on this measure. I really had no intention to speak on it because all that I had to say in regard to this measure had been said on the last occasion and I should have thought that my very intimate friends of the Opposition would have understood the implications of the arguments that I placed before them on the last occasion. The only reason for calling on me to speak now appears to be the tenor of one or two speeches that have been made, some yesterday and some today. One of the speeches was made by Mrs. Parvathi Krishnan and you will permit me, Sir, to congratulate her on the eloquence and the great sincerity with which she spoke on this particular issue. I cannot say the same thing about many of the other speeches made by Members of the Opposition who apparently taking their cue as the last speaker might have taken—my very dear friend Mr. Mathur—from the general opposition to the restriction of democratic liberties, have opposed this measure. I cannot, as I said, congratulate other hon. Members than my very dear

[Diwan Chaman Lall.]
 colleague Mrs. Krishnan who re-
 presents the Communist Party in this House.
 She seems at any rate to have studied the
 question. She not only seems to have studied
 the question; she seems to have delved into
 the debates that took place in the year 1929,
 when the Public Safety Bill was presented to
 the Central Legislature under the
 Presidentship of Mr. Vithalbhai Patel. Now,
 the misfortune of my hon. friends who have
 referred to that particular debate happens to
 be that they do not seem to have read the
 proceedings of that time either in the volume
 dealing with the year 1928 or with the Anal
 volume dealing with the year 1929.

As I came into the Chamber a little
 late, I was told that my friend Mr.
 Kishen Chand had been making a
 reference to that particular debate
 and suggesting that lawyers are really
 paid to do their job and, therefore,
 they gave one opinion in one case
 and another opinion in another case.
 And when I asked him—he will for
 give me—whether he had read the
 debates, he was frank enough to tell
 me that he had not read the debates
 and all that he went by was the
 reference made by Mrs. Krishnan to the
 debates of 1929.

Now, Sir, the same applies to my friend,
 Mr. Mathur. Mr. Mathur has just now—two
 minutes ago—waxed exceedingly eloquent
 about the wickedness of the Congress in
 getting hold of Members of Parliament,
 putting them under the Detention Act and
 then taking them to their bosom as their dear
 colleagues in the legislature. That, I take it, is
 the gravamen of his charge.

SHRI H. C. DASAPPA: Not Parliament.

DIWAN CHAMAN LALL: Of the local
 legislature, of the local Parliament, if I may
 use the expression. Now, Sir, there is a
 reference here in this pamphlet, "Statistical
 information

Regarding the Working of the Preventive
 Detention Act, 1950, during the period 30th
 September 1953 to 30th September 1954"
 and I notice that there are about nine
 members of the local legislatures who
 apparently had been dealt with under the
 provisions of this measure, but not one single
 one from Rajasthan. I do not know.

SHRI H. C. MATHUR: I know that.

DIWAN CHAMAN LALL: I hope my
 learned friend will refer to page * 8 and he
 will see that there was one M.L.A., who was
 detained from one to three days, in Madhya
 Pradesh.

SHRI H. C. MATHUR: I am talking of
 Rajasthan.

DIWAN CHAMAN LALL: I am com-
 ing to Rajasthan. There were eight
 MLAs, in West Bengal, (one de-
 tained for 8 days; one for 10 days;
 one for 11 days; one for 14 days; one
 for 15 days; one for 19 days; one for
 29 days; one for one month and 10
 days). There was one in PEPSU,
 who was detained for twelve months;
 one in Bhopal who was detained for
 two months —

SHRI H. C. MATHUR: It is not during this
 period....

DIWAN CHAMAN LALL: I am talk-
 ing about this particular period and
 my learned friend says "it is not
 during this period". But the argu-
 ment that he raised was that you
 must not extend this measure be-
 cause during this period this action
 had been taken.....

SHRI H. C. MATHUR: I have not said so.

DIWAN CHAMAN LALL: That is what the
 House understood my learned friend to say.
 Otherwise the argument has no significance,
 no meaning. It is misleading the House into a
 different belief, to the belief that my learned
 friend wants to establish. I suggest that my
 learned friend should have read this particular
 pamphlet and he would have come to

the conclusion that there was no one detained.....

SHRI H. C. MATHUR: Sir, I said it was under the Preventive Detention Act. I never said, 'during this period'. You are taking my words out of the context.....

DIWAN CH AM AN LALL: My learned friend will only injure his hand if he thumps it on this hard base of the table, but may I suggest that he may not harden his brain to understand the argument that I am advancing, that is, we are not discussing the past history of the Preventive Detention Act....

SHRI S. N. MAZUMDAR: Why not?

DIWAN CH AM AN LALL: We are discussing the prolongation of this Act and we are discussing what action the Government has taken during this particular period.....

SHRI S. MAHANTY: No, Sir.

DIWAN CHAMAN LALL:.....in order to convince the House that the action that has been taken during this period is justified and that we are justified in prolonging this measure. That is what we are discussing and my learned friend very conveniently forgot that during this particular period.....

SHRI B. GUPTA: The hon. Member might certainly discuss whatever he likes, but we thought that he would be discussing the Act and how it had been used and not merely relating to a particular period.....

DIWAN CHAMAN LALL: I have not the slightest doubt that Mr. Bhupesh Gupta, who cannot control himself in regard to these matters and whose eloquence is well-known, knows perfectly well that he is completely out of court as far as this is concerned. The only thing relevant at the present moment is not what was done ten years ago or twenty years ago.....

SHRI H. C. MATHUR: No, it is only very recently, and the detention has been finished; only about four months back the process started.....

DIWAN CHAMAN LALL: May I draw my friend's attention to the number of members of Legislatures detained during 1st October 1953 to 30th September 1954. I hope that will convince him, whatever argument that he had established or was trying to establish in regard to action being taken by the Congress Legislatures, as far as his own particular State is concerned, he need have no fear whatsoever, no fear in regard to any of his friends whom, I hope, he does not claim to be the harbourers of dacoits or indulgers in violent activities.

Now, Sir, I have dealt with my friend Mr. Mathur. I have already dealt with my friend Mr. Kishen Chand who has taken upon himself the duty to pontificate about this measure on the floor of the House without having read the debates. But I have congratulated my friend Mrs. Krishnan. She was quite right. It is one of the saddest things that any man's liberty should be restricted without trial by due process of law. I am quite sure that there is as much sorrow in the heart of my hon. friend, the Home Minister, that he should be compelled and that his Government should be compelled to take such action under this Act, as any one else in the country. It is not a pleasure for him.

SHRI H. C. MATHUR: He said it is a benevolence.

DIWAN CHAMAN LALL: I wish my learned friend would try to understand the decencies of debate in this House. If my hon. friend wishes to interrupt, he can ask me to give way, but I do dislike this urge to speech by anybody sitting, disregarding the rules of procedure in regard to the debates governing this House and continuing to interrupt in this particular

[Diwan Chaman Lall.]
manner. This is not the right way and my hon. friend ought to know that. I am prepared to give way if he wishes to interrupt me any time.....

SHRI H. C. MATHUR: May I say a word, Sir? I wish the hon. Member who is speaking had read in the speech of the Hon. Home Minister, the "benevolence" which he has given to us—not that he is sorry for it, he wants it as a permanent measure.

DIWAN CHAMAN LALL: My learned friend is so completely excited about this measure that he has made two statements both of which are incorrect. One is this. I listened to my hon. friend's speech, I was present when he spoke and I am quite sure that he tried to put as much sense and logic into his speech for the benefit of my hon. friend as any other lawyer like him would have done. But unfortunately all his eloquence, all his logic, all his arguments had been completely lost on my hon. friend sitting to my right. Secondly, he is also wrong in regard to the other part of his interruption, namely, that my hon. friend wishes it to be a permanent measure. He said nothing of the kind. What he has said is this, that he is demanding the vote of the House for the extension of this measure for a period of three years. Is that correct?

HON. MEMBERS: Yes.

DIWAN CHAMAN LALL: My hon. friend after having made a wrong statement, for which he does not -apologise to you, Mr. Vice-Chairman, to the House—not to us—in spite of that he indulges in—may I say with all humility—unpardonable laughter, unpardonable ridicule.

SHRI H. C. MATHUR: I am afraid you are not in proper temper to understand.....

DIWAN CHAMAN LALL: This is the last refuge of a man who does not understand a thing, a man who does

not really wish to pay his attention to the real provisions of this measure. I say again and I repeat again that my hon. friend, the Home Minister, has done everything to try and convince the Members of the Opposition in regard to the logic, the propriety, the reasonableness and the desirability of a measure of this nature. That he has done with great sorrow. I know it is not right in a democracy that there should be any such powers vesting in the Government to take away the liberty of an individual without the due process of law. But may I ask, before I go on to deal with the debate of 1929, what has this particular measure been dealing with?

THE VICE-CHAIRMAN (SHRI V.K. DHAGE) : I would like to draw the attention of Diwan Chaman Lall that the time fixed is fifteen minutes for every speaker now. That is the decision of the Deputy Chairman. It is already fifteen minutes, but I do not wish to stop him. I only wish to warn him that the time fixed is already over. However, he can take a little more time.

DIWAN CHAMAN LALL: I am most grateful to you, Sir. I am quite sure that my learned friend, the Home Minister, will agree that he will try to cut down his own reply by the amount of time that you will be kind enough to grant me in building my argument. I shall not take up too much time.

SHRI H. C. DASAPPA: Sir, he has hardly had any time to make his speech. There were many interruptions.

THE VICE-CHAIRMAN (SHRI V.K. DHAGE) : If there be no more interruptions, he will finish his speech quickly.

SHRI K. B. LALL: Sir, would you be kind enough to tell me, after going through the list, as to where is my name and when I am likely to be called up to speak?

THE VICE-CHAIRMAN (SHRI V.K. DHAGE) : I am conscious of your presence in this House, because before you came in I was enquiring about you.

SHRI K. B. LALL: Sir, I want to know where my name is and whether I will be able to speak or not.

THE VICE-CHAIRMAN (SHRI V.K. DHAGE): That I do not think I will be able to say, but that you will be called to speak is certain.

SHRI K. B. LALL: Is it after two names or more?

DIWAN CHAMAN LALL: Sir, I entirely agree with the appeal made by my hon. friends on the Communist benches. I want them to read the debates of 1929. They will find that in that debate I made a long speech and in the course of that speech I tried to point out to the Government that this measure was really directed against the Communists as such and that, we, as a party, were against the utilisation of this measure against Communists. I pointed out another significant fact that as far as the subversion of the Government was concerned, which was the charge being levelled against the Communists at that time, there was not a single provision in that particular measure which dealt with violence as the base for the subversion of the Government. I said that in an autocracy of the type under which we lived, it was the right—inalienable right—of the people to subvert the Government of the day. With your permission, Sir, I will read that particular passage:

"or seeks to foment or utilise industrial or agrarian disputes or other disputes of a like nature with the direct object of subverting organised government in British India."

This was the provision in the Public Safety Bill.

" Now, Sir, I suggest that one of the objects of the Swaraj Party and the Congress Party is to subvert organised government in British India.....

AN HON. MEMBER: By force?

DIWAN CHAMAN LALL: The word 'force' is not mentioned in sub-clause (b), if my learned friend will only read it. Let my learned friend read the Bill first.

SIR VICTOR SASSOON: I have; have you?

DIWAN CHAMAN LALL: Read it again:

'Seeks to foment or utilise industrial or agrarian disputes or other disputes of a like nature with the direct object of subverting organised government in British India.'

Where is the word 'force'? That is the object of the Swaraj Party and the Congress Party—to subvert organised British Government in India.

SIR VICTOR SASSOON: By fomenting industrial disputes?

DIWAN CHAMAN LALL: By any means legitimate within their power, apart from violence.

SIR VICTOR SASSOON: What means?

DIWAN CHAMAN LALL: What means? The Honourable Member will know when the day arrives. (*Cheers.*)"

I want you, Mr. Vice-Chairman, to remember the words "apart from violence". Now, Sir, look at this particular statement that we have got in our hands. I want my hon. friend, Mr. Mathur, to forget the polemics of this measure, and to forget that he is sitting in the Opposition on the front benches, holding a very responsible position in the Opposition, but try to look at it from the point of view of the safety of the State, which is the only consideration that is before us today. Now, look at this particular measure, and let us see how that question of violence vitiates the argument that has been used by those who have quoted the debates of 1929. We were

[Diwan Chaman Lall.] dead against violence of any kind; we are dead against violence of any kind today, and if any such measures are propounded on the basis of violence ' being the motive power of action, by those in the Opposition, then naturally we say, we are sorry, we regret it, and we think such measures should be utilised but as lightly as possible. But there is a necessity that arises when a Government is faced with the question of law and order in this country. Who are the people who can help the Government to do away with this particular measure? Not the hon. Members sitting over there, but the hon. Members sitting here. It is their duty to help the authorities to avoid any use of violence or violent activity, and put an end to goondaism. Those are the things that agitate those who propound this measure, those who utilise this measure, those who act upon the provisions of this measure. And I am quite sure that my hon. friends here, having taken their oath in honour of this Constitution, in support of this Constitution, will agree that goondaism, violent activity or violence, are the things that have got to be put down by whatever means are available to the Government. Not only that, Sir, but I want you to cast your eye from the sea of Japan to the sea of Marmara and see how many countries can boast today of that great stability in the matter of law and order that India can boast of. And India boasts of it because India will not permit the misguided 131 men who are today under detention to take advantage of methods of violence or to indulge in violent activities, or to associate themselves with goondaism, in order to try and subvert this Government. By all means subvert this Government. You have got the free vote. Every man and every woman in this country has got the free vote. But do not indulge in conspiracies of a violent character. Do not advocate violence. It is alien to our entire culture—this use of violence. Never in the long history, as we are reminded only today by Marshal

Tito, the great head of a great State, never in our annals, has the sword of India been used to subjugate other people. It has always been used in our defence. We do not believe in violence, and yet the culture of India spread from the shores of the Bay of Bengal right up to the sea of Japan, and conquered those countries culturally, so that the effects of that culture last and exist even today to* the marvel of all mankind. Now, Sir, what sort of action has been taken? I will wind up my speech in just a few minutes, Mr. Vice-Chairman.

THE VICE-CHAIRMAN (SHRI V. K. DHAGE) : Diwan Chaman Lall has taken ten minutes more than the time allotted. But if it is the wish of this House, I will allow him to take some more time to finish his speech.

SHRI H. P. SAKSENA: Yes, yes. We all desire it.

THE VICE-CHAIRMAN (SHRI V. K. DHAGE) : He is replying to the various points that were raised during the debate, and I think, it will be proper if we allow some more time to him.

SHRI B. GUPTA: We always like an able foe. Therefore we would like to have this time allowed.

DIWAN CHAMAN LALL: Sir, I am grateful to you, and I am grateful to the House, for this indulgence that has been shown to me, and in all humility I just want to say what the point of view is of a humane person like myself, who hates tyranny of any kind whatsoever, or the lack of the legal process in dealing with human beings. Here, Sir, we have the list, which, on page four, shows 410 people as having been detained. There are 10 people for preaching violence, 20 for students agitation, 1 for espionage and anti-State activities, 2 for anti-State activities. 1 for communal activities and 122 for violent activities. My hon. friend Mr. Mahanty

SHRI S. MAHANTY: May I ask: one question with his permission?

THE VICE-CHAIRMAN (SHRI V. K. DHAGE) : With my permission, Mr. Mahanty.

SHRI S. MAHANTY: Yes, Sir, there are three kinds of entries, for violent activities, for goondaism and for preaching violence. Sir, I would very much like to know from him the difference between goondaism and violent activities. If he means that goondas are not violent, of course, I have nothing to say, but if he means that.....

DIWAN CHAMAN LALL: I am quite sure that my hon. friend, Mr. Mahanty, who has pleaded so vociferously for these goondas and these men indulging in violent activities, does not associate himself with them, because if he were to associate himself with goondas, he would know what a goonda is, and would know the distinction between these types of people. Now I suggest that it would be wrong for my hon. friend, if he were—considering this matter in a responsible manner—to advocate no action being taken against goondas, or advocate no action being taken against those indulging in violent activities. Mr. Vice-Chairman, it is not my general habit to interrupt any hon. Member, but on this occasion, I have no doubt that my friend, Mr. Mahanty, would forgive me, if I interrupted him and requested him repeatedly to read out the break-up of the figures given in this pamphlet, from which it would be apparent that there are 122 persons under detention for violent activities, 37 for harbouring of dacoits. I want my learned friend, Mr. Mathur, who comes from Rajasthan, to remember that there are 50 for goondaism—awful—27 for communal activities. 14 for violent activities and 132 preaching violence, out of which 81 belong to West Bengal— 28 for goondaism, two for students agitation and 9 for harbouring dacoits. This is the break-up, meaning generally that either it is violent activity or it is preaching violence or harbouring or associating with goondas, or

indulging in goondaism. Does my hon. friend, Mr. Mahanty, want any explanation as to what 'goondaism' means?

SHRI S. MAHANTY: Goondaism and preaching violence differ from each other.....

DIWAN CHAMAN LALL: You must make an appointment with my hon. friend, Mr. Datar, the Deputy Home Minister, and he will give you the finest explanation as to the distinction between a goonda and one indulging in violent activities. I hope he will visit the Home Ministry and find out the distinction, and if by chance he can recognise any friends there, well, I shall be very sorry.

SHRI S. MAHANTY: They are on that side.

DIWAN CHAMAN LALL: According to him probably that is quite true; they are of course arresting their own men. Then why should my hon. friend worry at all, if the Congress Government is arresting its own men? Anyhow, Sir, the question boils down to merely this that we are very sorry indeed that such action is taken. Remember, Sir, there is a vital difference between what happened in 1929 and what happens now, and for this purpose, let me refer to Pandit Motilal Nehru's speech. Remember, Sir, that I had said at that time that one of the objects of the Swaraj Party was to subvert the British Government. This is what Pandit Motilal Nehru said*

"He has appealed to me as the official representative of the Congress, which honour has been conferred upon me by my countrymen, to tell him what is the creed of the Congress; and he took it upon himself to say that as far as he was able to understand, the creed of the Congress was to foment agrarian disturbances _____

MR. M. KEANE: If I may explain, Sir, I understood Diwan Chaman Lall to say so: that is not my view of the Congress creed.

[Diwan Chaman Lall.] PANDIT MOTILAL NEHRU: That is, as far as he was able to understand my friend, Diwan Chaman Lall, the creed of the Congress was to foment agrarian disturbances. Now, Diwan Chaman Lall is here and I am perfectly certain that no member on this side of the House understood his remarks in that sense. It is impossible for Diwan Chaman Lall to have said anything so atrocious as that. But what Diwan Chaman Lall said was, from the point of view of the Treasury Benches, a much stronger thing. It was that the creed of the Congress is to subvert this Government, I mean the present system of Government. And as the President of the Congress, with all the responsibility attaching to that position, I now in this House openly and publicly declare that that is the creed of the Congress." "No question of violence arose. That is the fundamental and final difference between what happened in 1929 and now. As my hon. friends may know—they were not even born at that time perhaps; some of them might not have even heard of the Communist Party then—that it was only we who defended them at that time. It was we who raised the banner of revolt against action against the Communist Party in this country in this very debate, but we also made it clear that if action was to be taken on the basis of no violence being evidenced against those against whom action was taken, then we were against * the proposition mooted by the Government, and you will remember that the Meerut Conspiracy Case intervened, and the great President, Mr. Vithalbai Patel, of the Legislative Assembly then would not permit the Government of India to proceed with the Public Safety measure because, he said, that the matters that would come in in connection with the measure before the Legislature were matters which were *sub judice* in the Meerut Conspiracy trial, and a great constitutional battle was held to the great glory of that great leader, Vithalbai,

Patel. Now. I beg of my hon. friends over there to join hands with my friend. Mr. Datar. and to give up> these violent activities, and I am quite sure that Mr. Datar would be the first person willingly to accept the abrogation of this measure, for this measure is enacted only for the preservation of law and order, it is directed only against violent activities and the preaching of violence, it is only directed against the goondas whe* come and go away so quickly that my friend, Mr. Mahanty, can neither find them nor discover what they stand for. In the serious situation that faces the world now, that certainly faces India and the whole of Asia, I request them to co-operate in working on a constitutional basis in their effort against the Government, to achieve whatever ends they have, and give up all violent activities and the preaching of violence so that measures of this kind may no longer be necessary in the armoury of the Government.

SHRI S. N. MAZUMDAR: Mr. Deputy Chairman, it *its* my chance now to speak after the able advocacy of this piece of legislation by my hon. friend, Diwan Chaman Lall. Sir, he has quoted some of his speeches in 1929 and he has put much emphasis on the word 'violence', but before dealing with this question, I should like to point out to him how the same word was being used by the British in 1929. Victor Sassoon then talked of industrial disputes. To him it was violence. People talked of agraian unrest. That was violence to them. The same arguments which they used that day are being used against political opponents by the Congress today. It is true that the situation has changed. The British are no longer in power, but the same kind of speeches are made, the same arguments, the same excuses to suppress political movements are being used by the Congress Government today. The accusation of violence levelled against political opponents is not anything new. It is all in the old British orthodox tradition. I began my political career as a revolutionary of Bengal. The whole

country respected us but we were called terrorists by the British. It is true that Mr. Chaman Lall defended us very ably on the floor of the Assembly at that time, but what was the stand of the British Government? They used to call all of us—revolutionary youths, Communists, Congressmen, Socialists—goondas. Even as late as 1942, the British Government called these very people goondas. This term was used very loosely entirely distorting the meaning of the word.

Now, coming to the question of violence, the hon. Dr. Katju has not argued that there is going to be an armed insurrection for subverting the Government of the country. What he means by violence, let us examine it. What he means by law and order, let us go into it. The workers agitate for some legitimate demands of theirs, to which they are entitled according to the law. The demands are referred to some conciliation proceedings. The conciliation proceedings are disobeyed or the awards of the tribunals are disobeyed by the employers. The workers come out and demonstrate on the streets. Dr. Katju and his counterparts in the States put up their hands and say that law and order is endangered. They say it is violence. The workers working in the suburbs of Calcutta demonstrate in Calcutta, and they say it is violence, that public order is being subverted, and so arrest them under the Preventive Detention Act, whereas the tax-dodgers who have cheated the national exchequer of crores and crores of rupees are not treated as traitors, are not treated as people subverting public order, are not treated as the enemies of law and order or of the security of the State, but are welcomed as prodigal sons. Concessions are given to them. They are given inducements to forego part of their concealed income. They are welcomed into the Congress-fold. But the workers demonstrating for their legitimate demands are called people indulging in violence. People agitate for the formation of

linguistic provinces. They say it is violence. In Bombay, some people were arrested for endangering the security of the State of Bombay. What was that? They asked for an Akhand Karnatak province and the redistribution of State and demarcation of boundaries on a linguistic basis. So, the security of the State of Bombay is threatened. They must be detained under this beneficial legislation. Where was violence in that? Where was the question of endangering the security of the State? The hon. the Deputy Minister for Home Affairs who is sitting here belongs to Maharashtra, I think.

SHRI GOVINDA REDDY (Mysore): He belongs to Karnataka.

SHRI S. N. MAZUMDAR: Then his moral sympathies must be with those people, who are supposed to be endangering the security of the State of Bombay. Sir, we know that the people of Andhra after a lot of agitation succeeded in getting a linguistic State. This agitation is going on everywhere, but we were astonished to find that these apostles of nonviolence, these apostles of law and order, these upholders of public security said very unblushingly that those were subverting the security of the State, that the security of the Bombay State was threatened by their activities.

I don't know what is the meaning of violence. The British Government used the term 'violence', stretched the meaning of that term beyond the limits to which it could stand and the present Government is going to do the same today. My hon. friend Mr. Chaman Lall was very vehement against Mr. Mathur because he quoted some instances from 1952..

SHRI H. C. MATHUR: It was 1953.

SHRI S. N. MAZUMDAR: Accepting his assumption that he was quoting some past instances, he argued that we are now discussing the present report of the last one year or 2 years-and so why go into the past? He says

[Shri S. N. Mazumdar.] why go into the past, those oft repeated arguments against the Intelligence Department and all these things. When similar arguments are bandied about here by members of his own party on the floor of the House, the sense of constitutional propriety or sense of logic of my eminent friend Diwan 'Chaman Lall remains unhurt but whenever any argument of that nature is put forward by a Member of the Opposition, with due humility, I may say, the hon. Diwan Chaman Lall, the defender of constitutional proprieties and the defender of the logic and reason gets up as if in shining armour with lance in hand in defence of that damsel in distress—logic, or reason, and constitutional propriety. But when Members of his own Party do the same thing he remains silent. The damsel is safe in the honourable hands of the Members of his Party. Sir, I don't like to go into this. I shall come to another point. The hon. Members who have spoken from that side have tried to prove that this Act has not been used to suppress the Opposition. Sir, I don't know what they mean by 'suppressing the Opposition'. The hon. Home Minister said, "We have not used this against this or that Party." But our main contention is that the provisions of this Act have been used against the legitimate movements of the people and against those people who have advocated the cause of the people. Even where members of the I.N.T.U.C. have organized or taken part in such movements, they have not spared them. Even if they were Congressmen who had organized the movement for Akhand Karnatak or Samyukht Maharashtra, then they are also not spared from the provisions of this Act. That is, anyone who takes up his stand in support of the legitimate demands of the people and goes against the wishes of the authority, is not free from the operation of this Act. I shall point out to you how in a subtle manner the movement of the people is being crushed or sought to be crushed and suppressed by this. It is not the case that there have been so

many detenus as in 1952. It is not the case that there have been indiscriminate arrests of thousands and thousands, overcrowding the jails but they are taking the power in their hands, and how are they using it? In Calcutta in 1953 there was a movement among jute workers for bonus agitation. It was directed against the British Jute bosses. What was the form of movement? Meetings, demonstrations, agitations, people coming to Calcutta to place their demands before the bosses of the Jute Mill Association or before the Government. Dr. K. N. Katju argued last year—I remember in winter when we discussed the Resolution for extension—he said how the Preventive Detention Act was used—for preventing people's temper from running high. "They are going to come out on the streets, there may be breach of peace and violence and so put them in jail for one month and let the temper be cooled and then we shall let them out." Very benevolent stand he has taken. Benevolent despotism, I may say. But actually how it worked? The workers were agitating for their demands which were quite legitimate, demands which were also conceded by the Industrial Tribunal but the British bosses refused to concede them. The Government does not lift its little finger against the employers. Section 33 of the Industrial Disputes Act empowers the Government to take steps against any recalcitrant employer who, during the pendency of the tribunal violates the *status quo* but that has never been used in a single instance in India but when the workers come to demonstrate, what does the Government do? They select the leaders, arrest them, keep them in detention for two months and crush the movement of the labourers. That was not a movement for capturing power, not a movement to subvert the Government, not a movement to subvert the Government by violence. There were workers also who followed I.N.T.U.C. and there was no question of subverting the Government and no question of even casting votes against the Government—it was a question of bonus and when they

come forward, the Government detain their leaders—not only the big leaders, even the cadres from every union and the cadres from every mill are put under detention and after two months they are released. What is it? Does it not amount to oppression and suppression of the movements? Peasants undertake to march and their leaders and organizers are put under detention. Even recently in regard to the Port Trust strike in Calcutta what happened? The strike arose from the fact that some demands which were conceded as long as 1948 were not being implemented by the Port authorities. Then again after some dispute had arisen, the matter was on the point of being settled but was not settled and it was going on. The Government is supposed to be neutral but then, what happened. The leader of the Port Trust strike was arrested under the Preventive Detention Act. He was released only after the matter was settled and one of the conditions was that he will be released immediately otherwise he would have had to go through the process of Advisory Board on this subject.

Coming to charge-sheets, the hon. Home Minister said that "we provide them with charge-sheets so that they can answer them." Sir, I have been in detention in 1932 under the British Government, I have passed the major part of my life in conviction in Andamans, I have been in detention during the war, immediately after the term of my conviction was over, under the Defence of India Act and I have been in detention under the Congress Government. I have seen the charge-sheets. There has not been any radical change in the nature of charge-sheets. Charge-sheets are given and some grounds are offered. What are they? Some grounds were read out by Mrs. Parvathi Krishnan yesterday and it will do some good to Diwan Chaman Lall to look into them if he wants to advise his Government. The charge-sheets which were produced before us or against us in those times are even now continued. They are "You are a Member of the Anushi or

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, Jugantar Party". Mrs. Parvathi Krishnan read out 'that you are a Member of the Jugantar Party'. That is supposed to be the background. These are not charges at present but these are supposed to provide the background. If membership of the Jugantar Party is supposed to be the background for detention, then Mr. Arun Chandra Guha instead of adorning the Ministerial Benches should be put under detention. He comes from that party. The charge-sheet begins from the same charges—copied out by the same Intelligence Branch staff—the same bureaucracy copies it out from the files and adds something new under the Congress dispensation and what are these charges also? Some charges were read out—they are "that

I you are in such and such party—that you addressed a public meeting and you asked the workers to take part in the bonus agitation, you incited them to be violent, that it was a violent speech, etc. So Preventive Detention Act is applied." If it was a 'violent speech why not prosecutions were launched against them if they had delivered violent speeches. They were delivered in public meetings.

Sir, much is said about the Communists. My friend Mr. Pattabiraman made some allegations on the floor of the House.

(Time bell rings.)

I shall finish in two minutes.

THE VICE-CHAIRMAN (SHRI V. K. DHAGE) : You have taken 5 minutes extra.

SHRI S. N. MAZUMDAR: Only two minutes and I shall finish. My friend Mr. Pattabiraman made some allegations. I don't know whether these allegations against the Communist Party are being manufactured in the files of the Central Intelligence Branch and if so, then the question arises whether the hon. Minister for Home Affairs has allowed Mr. 2 P.M. —"Pattabiraman an access into these files. If not, let him tell us on the floor of the House what is his source of information.

[Shri S. N. Mazumdar.] Unsubstantiated charges are brought forward here sometime by the Government spokesmen and sometimes it is left to back benchers but when challenged to substantiate these charges, they fail to do so. Some such charges against the Communist Party are fabricated by some organisations like the Democratic Research Society or some such organisations which are branches of anti-Communist organisations guided by Imperialistic powers. The Government would do well to look into other quarters and see if there are such subversive activities or not. We have the experiences of Iran and of Indonesia before us. We have seen how the imperialist powers tried to bring about the fall of the party in power in Indonesia, of the Indonesian Government. These are not mere figments of the imagination and the Government would do well to look to other quarters to find out these things.

The main point of the charge made here is that there is secret conspiracy. But in public meeting, held on such and such date and at such and such place, the workers are asked to take part in an effort to get bonus, to demonstrate; is that a proof of conspiracy. Similarly, I was given a charge-sheet in 1952 that in Darjeeling I was organising an armed uprising and within brackets it was put down in that statement "further details cannot be given on grounds of public security". Then how could I answer such a fantastic charge? I was thus denied an opportunity of answering that fantastic charge. The hon. Home Minister comes forward to say, "We give them sufficient grounds for their defence." But I know how they are treated. And it was only after a great deal of agitation that the Government gave us some concession. They may say that the Government is not using this power in an extensive manner, not as extensively as in the year 1952. But that is because there is no situation now and the Government cannot show any necessity for it. And if they did even the Members

of the governing party would revolt against the Government. But we see the portent of events and we can also see how this authority is being used. Diwan Chaman Lall argued that Dr. Katju has not come forward asking for a permanent legislation. That is because, if he had asked this measure to be enacted up to 1980 or 1990, he knows that the whole country, including even the followers of the party in power, would not accept it. Therefore the Home Minister has come with doses. That is also a sort of treatment—like shock therapy—accustoming the patient to shocks by small instalments, first for 2 months, then for 6 months, then for 1 year and then 2 years and now for 3 years and after that he will come forward for so many years. That is the way. I do not have the time to go into further details about these things. I have dealt with some of the main points to show how this power is being used and how the mind of the Government is working. This is a portent of things and so I oppose this Bill tooth and nail.

THE VICE-CHAIRMAN (SHRI V. K. DHAGE): Mr. K. B. Lall. I may inform the hon. Member that there has been exchange of compliments here and I could also see exchanges of smiles between Mr. Bhupesh Gupta and Diwan Chaman Lall. I wish the hon. Member keeps up that atmosphere.

SHRI K. B. LALL: Sir. I was not fortunate enough to be here when the exchanges took place. Anyway, I must thank you. Sir. for having honoured me on the same lines in which the Deputy Chairman is pleased to honour me.

Sir, I had no mind to speak on this Bill when I came here.

SHRI H. C. MATHUR: But the hon. Member had given his name already.

SHRI K. B. LALL: No. it is not a fact that I gave my name before hand. But after hearing the speech of my hon. friend Mr. H. P. Saksena. whether

his speech was a compound, complex or simple one. I do not know, I could not understand that—I failed to understand why this small Bill of two clauses should have taken so much time. I also felt it was no use discussing so much over this Bill.

Sir, points were elaborated in a most funny manner. The way in which Mr. Saksena elaborated certain points made me think of speaking on this Bill. He often said that the spirit was revolting or something like that—I don't remember the exact words—that he did not know why such a legislation is being passed by us now. Of course, we know this is the trend in which the Opposition is accustomed to speak and just as once Dr. Ambedkar cried out in agony and said "It is a twist of the mind. It is not my fault, it is not your fault, but it is a twist of the mind that you have developed," similarly, I would say that it is all a twist of the mind here. So they have developed a twist of the mind who are accustomed to speak in that language, a language which was used against the British Government in those days. They use the same language now. But I cannot understand how a man like Mr. Saksena, one from our own party, could not understand the thing. This is a thing which should not take much time for us to understand. I do not take the trouble of reading such voluminous books or reports. I am not in the habit of doing it.

SHRI H. P. SAKSENA: That is very good.

SHRI K. B. LALL: But I read certain faces, I read the faces of people on this side and those on that side. I cannot really understand why such innocent things, such harmless things as this one, should raise so much feeling and why there should be a storm in the tea cup

SHRI S. N. MAZUMDAR: No tea cup.

SHRI B. GUPTA: Loose tongue and loose morals.

SHRI K. B. LALL: I am only just half deaf as you are.

SHRI B. GUPTA: I say it does not look nice, it is bad morals.

SHRI H. P. SAKSENA: Beautiful morals.

THE VICE-CHAIRMAN (SHRI V. K. DHAGE): It is good for you both.

SHRI K. B. LALL: Yes it is good for both of us. But, Sir, if I am collecting arms in my house, why should an innocent man passing on the road be afraid of that? Why should he trouble himself about that? If the Government is keeping some arms in its armoury, why should you be afraid of that? It is only a person of suspected character who is afraid and is careful to see who is getting arms in his possession so that he may be « careful lest he should enter that house. That is what I would say for the wisdom of Mr. Saksena, that people should be only afraid of somebody collecting arms in his possession if they are of a suspected character.

SHRI H. P. SAKSENA: The hon. Member is making so many overtures to me that I must say they make me blush and blush.

SHRI K. B. LALL: But it was my hon. friend's speech which provoked me to speak now, otherwise I would not have spoken at all on this Bill.

Anyway, for the sake of my friends who oppose this Bill, I would say that they should try to read things in the face of the people and in their own faces. If they want an explanation for this measure they should see the Calcutta incidents. Can you think of any country being able to maintain its normal functions under such conditions? Look at the Manipur Satyagraha. I can tell you, and you can also understand it from the index of your own heart, how

[Shri K. B. Lall.] people carry on affairs in this country. There is no objection to your forming parties or to your running parties. Of course, the strength of the country lies in its well-established and able opposition. The opposition should be on healthy lines. But the common concern of all the parties should be: how to keep up the honour and strength of our country in the world. But that is not your concern, not the concern of the Opposition here. Their only concern seems to be how to gain power and come and sit on these benches, on this side. If that be the consideration, then you can rake up all trouble in this country. But if you aim at healthy real opposition in the country the opposition which would contribute to keeping the Government on the correct path, you will see that the Government does not go wrong. The only concern seems to be—how to dislodge the Government and sit on the other side? If that is the function of the Opposition, then I think that the Government should take action against such persons lest the ill-feeling should spread. Let that ill-feeling be confined to those people only.

If you have that ambition of wanting to capture the seats on these benches, that is not so bad but then the methods should not be harmful. You should not rouse people to such passions. You should not speak things as were spoken of the other day, an hon. Member the other day said, "We are getting Rs. 400 whereas millions of India are suffering" or something like that. Are these the things to be talked in season and out of season as if they are for the good of the country? Even during the time of the Minister's Salaries Bill these things were said and at that time I thought that these are not the things that come out of a good heart, and from a sincere heart but that they came out of a heart which wanted to capture power into their own hands. That is not the function of the Opposition; the function of the

Opposition is to keep a vigilant on sound principles of the Government function. If you have such a spirit you will surely gain this position in course of time if you really like the country but if it is only in the purpose of capturing power, if it is a question of creating disorder in the country for any purpose and then come here and say that that thing happened because of the Preventive Detention Act, you will never come to these seats. I think you should help the Government. After all, this is an innocent measure and by this you are detained or prevented but how?

The only reasonable thing can be what Mr. Mazumdar said and it is about abuse of the power. That is the only thing with which you can face the Government. You can say that the Government has misused the powers and that is where you can catch hold of the Government. I also feel that they should not misuse and that they should go about with the minutest care because.....

(Time bell rings.) Have I

finished the time, Sir?

THE VICE-CHAIRMAN (SHRI V. K., DHAGE) : You have three minutes-more.

SHRI K. B. LALL: The question of Kashmir was brought in; of course, that thing is managed on higher levels of diplomacy and we should not put our hand there on what our leaders are doing because they are in the know of things and they know how to deal with Kashmir. The Member from Kashmir was quite right when he pulled you up that you should put your hand very cautiously in such ticklish questions. Kashmir is surely our concern and it is as much the concern of the Kashmir Government. That is the thing to which attention was drawn by an hon. Member but that is a thing which should be left fully in the

hanas of those who are carrying out the Kashmir Affairs and you should jiot put your hands.

So far as the question of normalcy is concerned, I may say that in normal or abnormal conditions, this Act is innocent, harmless and it can only be harmless so far as those who are concerned do not indulge in violence. Those with a non-violent programme have nothing to fear about this Act and they can go about with their non-violent programme but if you indulge in violence and if you believe in the creed of violence and at the same time ask Government to sit quiet so that you are allowed to carry on your programme, you are allowed to make people throw stones on the windows of workshops and shops in the streets, then naturally this will apply. That is not an attitude which is reasonable and that is not for the cause of helping the country to which you as well as we belong.

THE MINISTER -IR HOME AFFAIRS (DR. K. N. KATJU): Mr. Vice-Chairman, the debate has been very useful but so far as the Opposition is concerned, it has proceeded on very familiar lines. We have been having this debate after the general elections now for three years. In 1952, when I brought a Bill, the number of detenus was large; in the old Parliament when Rajaji brought his Bill, it was very large, and I believe when Sardar Patel brought it for the first time in 1950, it was about 10,000 but the argument has remained exactly the same. It may differ and they may say, "Well, look at this tyrannical Government. It has locked up so many people without trial". When it comes down to a trickle of 131 then the argument is reversed. "It is normal times, peaceful times. There are the three sections of the Criminal Procedure Code. The Law may be trusted to have its course. Go to the Criminal Procedure Code, the Indian Penal Code and all that. Why have this?" So, it is all familiar.

Last year, in pursuance of an assurance which I gave, I brought in a resolution. The number of detenus at that time was, I think, about 150, 150 when the year closed but we discussed the matter two months later and I remember very well that I gave the figure as 170 at the end of October 1953. I do say with confidence that whatever restoration of normalcy we have is partly due to this Act and that is the reason why the State Governments unanimously want it. You say normal times have returned; I wish they had but there are groups and there are parties who are most anxious to take advantage of the slightest deviation from normalcy. Now, this morning, I may just read a Press Note which has been issued by a responsible Government, the Government of West Bengal.

SHRI B. GUPTA: I know what you are reading. It is entirely a false statement.

DR. K. N. KATJU: Just consider this, Sir. Look at the propriety of this. I have heard of two words which are, "guilty conscience" and this is clear proof of the guilty conscience of my hon. friend. My hon. friend knew as to what I was going to read.

SHRI B. GUPTA: Don't I know you? I know you by this time very well.

THE VICE-CHAIRMAN (SHRI V. K. DHAGE): Let the hon. Minister continue.

DR. K. N. KATJU: Now, it was a pretty serious matter. The House has been concerned over it, the hunger strike of a large number of policemen. Of course, your anxiety, Parliament's anxiety on such developments is understandable.

Now, this Press Note—I am just reading half a paragraph, four lines—as published in the newspapers. "The Government in a Press Note in

Lur. K. N. Katju.J the afternoon (yesterday) said, it had information that some Members of the police force are in touch with the Communists who are attempting to create a situation in which law and order may become disrupted". I do not blame them; it is the function of the Opposition to act in Parliament because you are in Parliament and to e<^ outside because you are in Opposition.

SHRI B. GUPTA: You also act outside.

DR. K. N. KATJU: There is a very serious situation in Bengal; hundreds and thousands of policemen are going on a hunger strike, the military has taken over guard duties and about tu_u policemen have been arrested and here comes this news yesterday. That ib what I want to bring to your notice.

SHRI B. GUPTA: Ask them, ask your Minister there not to indulge in forgeries.

DR. K. N. KATJU: What is all this? My hon. friend is very much accustomed to the Maidan and the Ocht-orloney Monument but this is a House of Parliament.

SHRI B. GUPTA: I know but why are you reading what has happened outside? Have you verified it? May I ask him whether he has verified it? Has he examined it? Has he found it to be true? He shows this as an example for defending his case which •is absolutely indefensible. That is what I say.

THE VICE-CHAIRMAN (SHRI V. K. DHAGE) : The atmosphere seems to be changing. Mr. Gupta will please not interrupt when the gentleman does not give way. Let him finish his speech and Mr. Gupta will have a chance in the third reading.

SHRI B. GUPTA: I know I will kave a cha*ce but the point is E

statement has bsen cited here and the statement has been made by a Government. It has appeared in the press today and we have our views on the statement. But may I not ask him through you, Sir, whether he had verified that statement. It is we who brought to your notice that the police strike had taken place and we should discuss this matter; they remained silent in the matter. Because they are now in a tight corner they want to make a scapegoat of them and they have issued a press note which is cited unashamedly on the floor of this House in defence of his case. Nothing is more shocking than this.

THE VICE-CHAIRMAN (SHRI V. K. DHAGE) : You may ask as to whether there is the verification made of it or not, but interrupting him in a manner by saying that it is false or , passing such remarks is not fair.

SHRI B. GUPTA: I would say, Sir, 'false' is a very parliamentary word. I would say A to Z of that statement is a gross falsehood.

SHRI AKHTAR HUSAIN (Uttar Pradesh): It is entirely correct.

THE VICE-CHAIRMAN (SHRI V. IC DHAGE) : I will suggest to Mr. Gupta that he will have a full opportunity to say what he thinks is proper and to reply to the speech that is being ! made by any Member in this House. Nevertheless, the debate must proceed and must proceed in a particular manner, must proceed smoothly because by the interruptions I find that the matter really gets in a different way altogether. I will suggest to Mr. Gupta that he should not, as far as possible, interrupt the speaker when hs is on his legs. You will be able to interrupt only when the speaker gives way.

SHRr B. GUPTA: Thank you very much. I note your word "as far as possible".

DR. K. N. KATJU: Now I was suggesting that there were several features which had not attracted sufficient attention. My hon. friend Mr. Mathur and some other hon. friends said that I was most anxious to have a permanent measure. Now as to what I wanted the Bill indicates it, and please remember also the assurance which I gave in 1952 and the assurance that I gave here that Government will examine the situation most carefully every twelve months as to whether the Act should remain in operation or not and it is not only that the Government takes the matter into consideration and either decide in an official file or issues a press note that, having examined the situation, the Government had decided to keep the Act going for another twelve months, in future Government will come in Parliament, introduce a Resolution, consult Parliament, take parliamentary opinion and then take a decision. And it is for three years. What more do you want. But I do submit once again that so far as the Constitution-framers were concerned, they proceeded upon the assumption that it is going to be something side by side. On the one hand you have this Fundamental Right, the general right given; on the other side, there in that very place, side by side they contemplate that for three or four specific purposes—it is very important—specific purposes relating to the defence of India, the security of India or of any State of India, maintenance of public order and foreign affairs, relation with foreign powers for these five matters Government will have to take special powers, rather Parliament should confer those powers upon the Government. That is the structure of the Act. We talk lightly sometimes, I notice that even Judges talk lightly of emergencies. There can never be emergency No. 1, emergency No. 2, emergency No. 3 or emergency of the type.....

SHRI B. GUPTA: On a point of submission, Sir. We referred to cer-

tain Judges and referred to Judges of the Supreme Court. We mentioned the names of the Judges. After this thing the hon. Minister is saying, "Even Judges make remarks lightly." I think, Sir, it would be considered to be a contempt of the Supreme Court, of the Judges of the High Court and the Supreme Court. He should not make such a statement here in this manner.

DR. K. N. KATJU: Now what I was saying was: Either there is an emergency or there is no emergency. Now so far as the Constitution-framers are concerned, they did talk of an emergency and they provided for an emergency and you find that, I believe, in article 352 where a specific provision is made for emergency and it says emergency which may be caused by foreign invasion, which may be caused by internal disturbances or some such other matter and the President intervenes, issues a Proclamation, takes power unto himself and the result is that all Fundamental Rights are suspended, all powers of having recourse to law courts are suspended, it is something with which we are familiar, namely, suspending the *habeas corpus*, which is the fundamental method there, and that emergency shows that that having been done the Executive Government becomes armed with full powers; it may do whatever it likes; it may shut all law courts; for that real emergency full provision has been made. But I do not know that the Constitution-framers thought of any lesser emergency.

[MR. DEPUTY CHAIRMAN in the Chair.]

The argument is made times out of number by every single hon. Member. "Here is an emergency provision. This Preventive Detention Act is now being brought forward, now being sought to be enacted. There is no emergency. There is nothing". Preventive measure means to prevent. You cannot anticipate difficulties. It is something of a nature so that trou-

[Dr. K. N. Katju.]
 ble may not arise. If no law exists then incalculable consequences may ensue; incalculable harm may be done. My hon. friends have not ad-jessed themselves to that aspect of the matter nor to another aspect of the matter, namely that so far as public order is concerned, so far as acts which are prejudicial to the maintenance of public order are con-cerned, the State Governments have also got power and I submit that either you enact a law in order to ensure uniformity here in the Union Parliament or you leave it to the State Governments. I cannot possi-bly say to the State Governments: "Well, I won't pass the law and I will not allow you to pass the law." It is all very good for hon. Members opposite, whether they belong to po-litical parties or whether they belong to independent groups to talk in terms of liberty and democracy, whe-ther infant or whether grown-up de-mocracy, and indulge in all sorts of theoretical arguments, but the ques-tion is Government here in the Cen-tre and the Governments in the States have enormous responsibilities upon them of maintaining law and order, preventing violence of all sorts and descriptions, preventing people dabbling in violence, fishing in trou-bled waters. Wherever there is the slightest opportunity somebody will go and do something, whether it is \he *girav*, whether it is the organi-sed attempt made on the part of the masses, citizens, workers, students to gether to enter forcibly into Legis-latures. Take for instance the Cal cutta Assembly, Sir, I used to live very closeby. Permanently there I think is section 144 preventing people going and surrounding the legis-lature. I think several times in the course of a session there would be attempts made to have forcible entry into the Legislature, the Legislative Chamber, so that work may be in-terrupted —

SHRI B. GUPTA: Not at all.

DR. K. N. KATJU:.... so that there will be forcible attempts made to prevent Members from going to the Legislature and discharging their duties as Members, prevent them from coming out. What is all this non-sense?

That is what the Act is intended for to prevent such things. My hon. friend Dr. Kunzru made a very fine speech. He said: "look at it; only 123 cases are upheld by the Advisory Board". That shows what I said that if instead of 123 even if 23 cases had been upheld by the Advisory Boards, that would have been an argument, a positive argument that there was need for such an Act. If you are a peace-loving citizen, there is no harm done.

SHRI B. C. GHOSE: It should be permanent then.

DR. K. N. KATJU: Then an argument has been made. Long extracts were read from the statement of grounds for detention. One lady Member—she is not here—read one or two. The grounds for detention are usually four, five, six or seven. She read just only one or two. The first ground is generally by way of intro-duction. The second, third and fourth were not read out. Now, I will read out to you to show what is the ground for detention. Ground No. 1 says you are so and so. Ground No. 2: that at the time of a public meeting held at such and such a village at 10.30 of the clock at night you, so and so—it gives the names of four or five people—advised the audience that violence should be used to achieve your aim and that law and order should be disregarded and broken down to reach your goal. Ground No. 3: that on the 21st June you, so and so at such and such place told the audience that in order to get the leased out lands back you must weaken the officers of the sugarcane company by cutting their hands and legs. People must be prepared to go to jail without any fear of Government orders. You further advised the audience that

terror must be created by arson and beating. Government servants should be beaten if they interfere. Then a name is given—so and so should be removed from your way by cutting his legs. You threaten the audience that if they did not co-operate with you in this they would be in trouble. Next ground: On such and such day at a meeting held in so and so place—then the names follow—you told the persons attending the meeting that they must take back the leased out lands by weakening the company's officers by beating and terror must be created by beating and arson. You threatened the public that they would be brought to trouble if they did not give co-operation. Then came another meeting. You said that you would compel the factory to accept your demand or you would resort to burning the sugarcane; if the company's officers intervene they would also be injured and their hands and legs would be cut and so on and so forth. So the grounds for detention are contained in a long document and there are five, six or seven grounds. My hon. friends just read out one or two out of them and they omitted the rest. Then comes.....

SHRI B. GUPTA: We did not refer to that document at all—either to part of it or to the whole of it. We do not know what it is.

DR. K. N. KATJU: My friends read out only one. I read out another to show what exactly it means. Then some hon. Members said that unless the right of cross-examination is there, there may be very great difficulty in finding out the truth from falsehood. But please remember— and this is a very material fact—that the grounds for detention are coupled with all the materials in the possession of the Government. Speeches are generally reported, reported in shorthand and those shorthand notes of speeches are put before the Advisory Board.

SHRI B. GUPTA: May I ask, Sir,...

DR. K. N. KATJU: What is the good of interrupting me? For 70 minutes the hon. Member spoke and I never interrupted him. This is really intolerable.

MR. DEPUTY CHAIRMAN: Yes, Mr. Gupta, nobody interrupted you.

SHRI B. GUPTA: I am only asking him a question.

DR. K. N. KATJU: So my submission to the House is that in these cases the grounds for detention and the material to be placed before the Advisory Board contain mostly transcript? of speeches taken down in shorthand where there can be little difficulty in recognising what is true and what is not true. So far as cross-examination is concerned, it is not ordinary evidence. Witnesses come forward saying this has happened or that has happened. The witnesses may be true or false. The material we place is all written material—their policies, their resolutions—what the Communist Party has decided what the Congress Party has decided, what the Praja-Socialist Party has decided, etc. That does not require cross-examination. Apart from this, I submit, Sir, that they cannot have it both ways. If the number of cases is large, they say the Act is being misused or abused, but if the number is small, then they say normalcy has returned and therefore it ought to be withdrawn. I say the very fact that it has become normal, that the number has come down, is proof positive that the Act is not being abused, and I can really tell you, Sir, that it is being used most cautiously. I personally think that in order to avoid trouble, in order to avoid riots and communal disturbances, disturbances, caused by students and by workers, it ought to be more freely used because we are here thinking in terms of people's lives.

SHRI B. GUPTA: Sir, he is provoking the States to use it more frequently.

DR. K. N. KATJU: Whether I am provoking the States or not I seem to have provoked you. Therefore I say that all these arguments based upon the paucity of members are really misplaced arguments.

SHRI B. C. GHOSE: Do you visualise any time when it will be withdrawn?

SHRI S. N. DWIVEDY (Orissa): Not during his Home Ministership.

DR. K. N. KATJU: Lastly, I should like to say just one word. Extracts from Pandit Motilal Nehru's speeches have been profusely quoted and the debate of the year 1929 has also been referred to. But I always think that those were days when a foreign power was in power. We have formed a Republic and four years later we passed by Constitution. All these speeches were fresh in everybody's minds. Those people who had achieved this independence, who had fought and suffered under the British rule, who had fought and struggled in the name of democracy, when they come to frame the Constitution and when they put in such a clause permitting preventive detention, what is the meaning? The whole context is changed. What was permissible when we were ruled by foreigners is not permissible now and whatever was in those years 1923, 1925, 1926, by Pandit Madan Mohan Malaviya and other leaders must be read in the context of those days. Now, when we have got our own elected Parliament, we have adult franchise, we have our Republic, the first duty of every citizen, as I said, is not to weaken the hands of the law by anything that he says or by anything that he does whether in Parliament or outside Parliament. The first and foremost duty is that peace and tranquillity should be maintained and that no one should be taught or should be told or should be advised that laws can be broken and that in so breaking the laws violence can be

used and that everything is permissible. I say that is the greatest danger—Times are not very normal in the ordinary way. Could you have conceived of what has happened in Bengal during the last three days as normal? Something must be wrong somewhere; some people must be egging them on otherwise thousands of people do not go and disobey the law in this fashion. There seems to be some master mind behind it.

SHRI B. GUPTA: That is entirely your own creation.

SHRI BASAPPA SHETTY (Mysore): Guilty conscience.

DR. K. N. KATJU: That is all I wish to say; so far as this question of three years or four years is concerned, I have got a complaint to make. My hon. friends have not referred as to why I have made it three years. I am anxious to make progress in a really progressive manner. I made it three years, because in the second year we will all be busy in our election campaigns and I thought that instead of having unhealthy excitements we had better have this for three years and leave it to the new Parliament to decide as to how they would prefer to act in this matter. Sir, I move.

MR. DEPUTY CHAIRMAN: The question is:

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

(*After a count*) Ayes—43, Noes—12.

The motion was adopted.

MR. DEPUTY CHAIRMAN: We now take up clause by clause (naid-deration. Clause 2; there are -itd-ments.

SHRI S. N. DWIVEDY: Sir, I move:

3. "That at page 1, lines 9-10, the words 'except the State of Jammu and Kashmir' be deleted."

6. "That at page 1, lines 11 and 12 be deleted."

SHRI B. GUPTA: Sir, I move:

4. "That at page 1, after line 10, the following proviso be added, namely:—

'Provided that the Act shall not come into force in any State unless and until both Houses of Parliament have passed a resolution in this behalf and also a notification thereunder has been published in the Official Gazette.'

7. "That at page 1, line 12 for the figure '1957' the figure "1955" be substituted."

SHRI S. N. MAZUMDAR: Sir, I move:

'5. "That at page 1, after line 10, the following proviso be added, namely:—

'Provided that the Act shall not be used with respect to cases arising out of the movements of the people for the redress of their grievances in order to improve their standard of living!'

SHRI N. C. SEKHAR (Travancore-Cochin): Sir, I move:

8. "That at page 1, at the end of line 12, the following be added, namely:—

'and the following proviso shall be added to the sub-section, namely:—

Provided that every year within the period of the continuance of the Act a motion approving the continuance of the Act shall be passed by Parliament."

MR. DEPUTY CHAIRMAN: The Clause and the amendments are open for discussion.

SHRI S. N. DWIVEDY: Sir, in regard to my amendment I have nothing much to say but for the intervention of my hon. friend from Kashmir. Sir, let me make it clear that my intention in moving this amendment relating to Jammu and Kashmir is not in a spirit of hostility but with a view to seeing that the people of Kashmir feel that they are really a part of India and that they get as much right as any other citizen of this country. They should not be under any disadvantage. We want to make it clear, if the Kashmir Prime Minister is true to this declaration, that the people of Kashmir are as much a part of India as any other citizen and we feel that they should not be under any great disadvantages. Therefore although there may be a need for an Act there on account of the peculiar situation which is prevailing, I think the present Act if it is extended would be sufficient to cope with the situation there. Unfortunately my friend has brought forward arguments which have no relevance to the present discussion. He has raised points regarding our party's attitude towards Kashmir. That is very well known. We did not form any party in Kashmir for so many years because although the question of Kashmir was dealt by the Prime Minister Nehru alone, we knew that the question has national and international implications. Therefore, Sir, we do have our responsibilities but when we found that the entire question is still before the United Nations and we may have to face a plebiscite—it has been hanging fire for so many years—and when we found that there was a feeling amongst the people of Kashmir that although they have acceded to India still they are not being given these citizenship rights, even ordinary civil rights, when even a person who goes there for any purpose, political purpose, when even a person of the

[Shri S. N. Dwivedy.] eminence of Ashok Mehta is manhandled, then we felt that perhaps our cause, the cause of Kashmir and the cause of the people of Kashmir would be lost, if attempts are not made to democratise the atmosphere. If we do not give guarantee to the people of Kashmir, that they have as much right, and they can expect the same rights and privileges as we enjoy here and may also form political parties, we are likely to lose their sympathy. Sir, I have sought through this amendment to extend this Bill and I appeal to the Home Minister—if the President's declaration comes in the way—to approach the Prime Minister of Kashmir to agree to the extension of this Act. It is with thi[^] purpose alone that I have moved my amendment. Therefore, I feel that the House should agree to . accept this amendment.

As regards the other amendments, my hon. friends will speak. I have only to refer to one thing and that is relating to the deletion of lines 11 and 12 at page 1, of the Bill. My purpose is very simple and I think Dr. Katju will agree to it. While moving for consideration of this Bill, lie said: "You do not know, although the situation is not an emergent *one at present, what woiiild happen within twentyfour hours." I tell him, if that is so, that within twentyfour hours such a situation emerges, then he will be perfectly justified in coming to this House—and,if the House is not in session, he has the constitutional rights given to him. He can issue an Ordinance and go ahead with such preventive measures as he thinks necessary for dealing with the situation. Therefore, I feel that this House should not agree to accept the amendment proposed in lines 11 and 12 of the Preventive Detention Bill.

SHRI N. C. SEKHAR: Sir, I have moved my amendments Nos. 4, 5, 7 and 8,

Sir, we move the amendments because we want to provide that Parliament may review the situation from year to year before extending this Bill for any further year. By the draft Bill under consideration, the Home Minister thinks of investing arbitrary powers in the hands of the executive in order to suppress a particular political party. But in actual practice, we have seen from our experience that this preventive detention measure is being used even against the movements of the people, against the workers, against the peasants and even against the students. The Home Minister has suggested that a situation of emergency may arise out of the need for a general election. He wants this weapon to be used against certain political parties and against certain movements of the people for the redress of their grievances in order to improve their standard of living. We suggest, Sir, the situation should be reviewed from time to time, particularly after a period of one year. That is why we request that the measures proposed in our amendments No. 5 and No. 8 should be accepted by this House. And with these few words, I request the Government to accept these amendments.

DR. P. V. KANE (Nominated): Mr. Deputy Chairman, I rise to support the amendment seeking to give only cne year's extension. And my reasons are these. First of all, last year, the Home Minister came here with a proposal for extending it. Now he wants to extend it for three years. I am asking what are the circumstances to show that beyond the next year, *i.e.* 1955, there are going to be some subversive and other activities so-called by him. There is absolutely no proof for that. Simply because they have got a weapon in their hands and they want to keep that weapon in their hands for another three years, I don't see any justification for that. There is absolutely nothing to show that in 1956 or in 1957 the same

circumstances that exist today will exist. There is also nothing to show that it will, in any way, inconvenience the elections. Elections will take place. Let the elections take place in 1957. Why do you want this power for three more years? There is absolutely no justification for that. Let it be extended for one year now, and then we can review the situation after that period. • There is no guarantee that the same circumstances that exist today will continue for another three years. Therefore I am in favour of the amendment that only one year's extension, at the most, may be granted. And I am surprised to see that the Opposition has been very moderate. I find the amendment standing in the names of people like Shri B. Gupta, Shrimati Parvathi Krishnan and Shri S. N. Mazumdar, who are generally opposed to a Government measure. I belong to no Party, neither this side, nor that side. But we must satisfy the man in the street. What he demands from Parliament is a measure which is absolutely necessary. The Preventive Detention Act is not absolutely necessary. It is an extraordinary measure. This Act has been there for four years. You have been adding three years further. Then I ask, why not incorporate it in the Constitution itself? The only reason given for this extension by three years is about the elections. Let the new House do it. There is no objection to that. But the same thing can come next year. In December 1955, you come before the House. Who knows that the circumstances might not have changed for the better or for the worse. At that time, the House will apply its mind and decide whether two years' or one year's extension should be given. The elections are yet far ahead.

Then, Sir, the next thing is that generally it has been noticed that once you get some power, you are unwilling to give it back. You think it must be there to frighten the people later on. Sir, this is really going

too far. The learned Home Minister said just now that at any time an emergency may arise. But I say that just now, at the most in 1955, the same things might continue. So far that reason, I would request the mover of the original Bill to accept this very modest amendment about one year's extension. It is generally said that power makes a man corrupt. Mere than two thousand years ago, Kautilya said the same thing, namely when a man gets an *adhikar*, his mind becomes affected. And that is what people will attribute to this Government if they insist on having this power for three years more, a measure which they themselves described as a measure of an extraordinary character.

Now let us look at the pamphlet that has been given to us, namely, about the statistical information. 'Public order' is a very wide term. I do not know how they will distinguish between public tranquillity and peace and public order. I have not been able to find any definition anywhere as regards 'public order'. You will find it somewhere in this pamphlet that some people are charged with subversive activities about 'Public order'. Well, they can be dealt with under section 107 of the Criminal Procedure Code. If you look at page 1, Statement I, you will find it mentioned against Madhya Bharat "For delivering speeches and indulging in activities subversive of law and order." Again on page 2 you find against West Bengal that 19 people were hauled up *or indulging in activities subversive of law and order. Why could they not have been proceeded against under section 107 instead of under this drastic measure, which savours more of the British rule than of our own democratic rule? Sir, Dr. Katju said that several people were ultimately not allowed by the Advisory Boards to be let off." On page 7, in the Statement No. VI you find that 65 people were ordered to be released by the Advisory Board. I use it in the other" way. Why these 65 innocent people arrested and put to all the trouble?'

[Dr. P. V. Kane.] The very fact that these 65 poor people were let off by the Advisory Board speaks rather against the Government, not in favour of the Government. Similarly there are 123 people in whose cases detention orders were upheld by the Advisory Boards. That comes to about 188 in all. So more than one-third of the persons were let off by the Advisory Boards.

DR. K. N. KATJU: May I just interrupt my hon. friend? There is a slight mistake. In the case of 154 who were under detention the Advisory Boards had nothing to do. The Advisory Boards had only to do with about 250 people who were arrested—new man.

DR. P. V. KANE: That is immaterial for me. 65 have been let off. What is the compensation to be given to them by the Government for all this unnecessary trouble and detention? Then you look at the next column. You find that 11 were let off by the High Court and 3 by the Supreme Court. :So at least 14 must be added to this list. That comes to about 80 people. So what I am submitting here is that these 80 people were unnecessarily put to trouble, expense and suspense. Therefore, particularly when you are charging them simply with subversive activities as to public order only, why not proceed against them under section 107? That is my argument. Therefore I say that there is no good case for three years at all. I am therefore suggesting—I do not think the Government will accept it—that the hon. mover should accept this amendment.

He has of course behind him 3 P.M. the support of his party and therefore this is all a cry in the wilderness, but we, persons who are independents, who have no attachment with any particular party, think it our duty to protest against such a law which makes more or less a travesty of saying that this is a free ^democratic republic in which every-one is free to express his opinions, so

long as it does not involve any violence. Therefore I strongly oppose it. As regards the question of expenses, what about the expenses of the man.....

MR. DEPUTY CHAIRMAN: We are only on the amendments. All these points have already been brought forward.

DR. P. V. KANE: Those points will help in accepting the amendment.

MR. DEPUTY CHAIRMAN: All these points had been thrashed out in the general discussion.

DR. P. V. KANE: However, if the Chair thinks so, I have nothing more to add.

SHRI S. N. MAZUMDAR: Mr. Deputy Chairman, I would like to appeal to Dr. Katju to accept this amendment. It is not my appeal only. Dr. Kane who is a very respected person, an independent, not attached to any party, who has sufficient experience behind him, a respected and a very eminent scholar, has also made an appeal to him. Let us take it on a give and take basis. He has had his victory. The Bill has been taken into consideration by an overwhelming majority of votes. It will be passed also. Let him have his victory, but let him accept some of the amendments. He wants power. All right, let him have that power, but then let him accept the amendments. Then it will show that this power will not be mis-used. Secondly, I want to draw his attention to the spirit in which the other side accepted the victory. They took it in a cheerless mood. They passed it with an overwhelming majority of votes, but there were no cheers. That shows that, if they had been given the freedom of voting, there would have been many votes from that side cast on our side.

SHRI H. C. DASAPPA: Nonsense.

SHRI S. N. MAZUMDAR: Nonsense may come from people who have no idea of sense.

SHRI H. C. DASAPPA: I rise on a point of order.....

SHRI S. N. MAZUMDAR: I am not yielding. I hope my friend, Mr. Chaman Lall, will rise on a point of constitutional propriety to defend me.

DIWAN CHAMAN LALL: If you don't yield, you are quite right, but it is better to yield.

SHRI S. N. MAZUMDAR: My point is that some gentlemen who may hope to adorn not only ministerial benches but ministerial posts, may not relish the idea, but that is a different matter. Let me come to the point. The first amendment is No. 4. What does it say? It says: Let it be on the Statute Book but it shall not come into force in any State unless and until both Houses of Parliament have passed a resolution in this behalf and also a notification thereunder has been published in the Official Gazette. Why is this necessary? We know that in the States there are party governments. The ruling party in a particular State may think that, whenever there is a legitimate agitation, public order is threatened, public security is threatened, law and order is threatened. When the Karnataka people agitate for a united Karnataka, naturally that will mean the redistribution of the boundaries of the present Bombay State, but it is fantastic to take it as a ground for detaining them under this Act on the plea that the security of the State is threatened. It is absurd; it is dishonest. That is why I say that even though the ruling party in a particular State may think that public security is threatened, it is the Parliament in its wisdom which should give the verdict. I am including the members on the other side also. They may sit in judgment whether there is any legitimate case or not. The very people who have passed this Bill will be sitting in judgment and they will judge whether the situation warrants it or not.

Then, coming to amendment No. 5, I do not like to dwell upon it because I have already spoken on it. If, according to his own words, the hon. the Home Minister does not intend to suppress the legitimate movement of the people. I do not see what objection he can have to accepting this amendment.

Then, as regards amendment No. 7, Dr. Kane has already spoken about it. So, I do not like to dwell upon it.

Then, coming to amendment No. 8, it says:

"Provided that every year within the period of the continuance of the Act a motion approving the continuance of the Act shall be passed by Parliament."

I was anticipating the argument that Dr. Katju might put forward to this that it will mean wasting a lot of time, but then that argument is self-contradictory, because he has promised that after one year, a resolution will be brought forward before Parliament and that he will submit a report showing the working of the Act and¹ then it will be open to Parliament to sit in judgment. If that is the case, what objection can he have to accepting this amendment, I fail to understand. With these few words, I commend these amendments for the acceptance of the House-

SHRI B. GUPTA: Sir, I support the amendments moved in our names, and I am very glad that one of our amendments at least has obtained support from that side of the House. The gentleman who supported it, even though he supported it from that side, does not belong to the wrong side, and that has been given me the greatest satisfaction. As an independent member, he has made out a case which is irresistible, and I think that if Dr. Katju would still see his way to accepting this amendment, it will be all to the good in an otherwise very, very bad case.

My first amendment is No. 4. We want to see that the Act does not

[Shri B. Gupta.] come into force in any State unless and until both the Houses of Parliament pass a resolution in this behalf and also a notification to that effect has been published in the Official Gazette. I will explain. Here is the Bill, and if you pass it, the moment it gets the assent of the President, it becomes the law of the land and comes into force at once. We say that, if you must have it—we do not like it, but if you are determined to have it despite public opinion against it—have it but then leave it to the Parliament to decide as to where and when it should come into force. Now, the hon. Minister may say, "How can you anticipate what things are going to happen where?" But then you are trying to foresee things during the next three years. In that case, Parliament can surely foresee things for the next six months or so. We are meeting rather frequently and we will say in what State it should come into operation and when. This is a very important thing. Firstly, we do not trust the State Governments. Let us make it quite clear here. It will be the responsibility of the State Governments to operate this law, and the State Governments, as you know, have all desired that this measure should be put on the Statute Book for another three years at least, if not more. Why they have done it is quite well-known. At least in my State, which is not an unimportant part of India—West Bengal—the Government there desires it not for the protection of the State, not for the security of the State, not for maintaining law and order, but for the maintenance of their own positions for their own security. Their security is undoubtedly endangered not because certain political parties put out certain threats to them, but because as a result of the policies that they have been following, even the police, that dearest possession in their administration, has revolved against the administration. Dr. Katju with a great amount of gusto got up to refer to a press note issued by the Government of West Bengal. As a matter of fact.

when I saw the morning's papers I knew that Dr. Katju would come forth with that argument. We are very familiar with his arguments just as he is familiar with our arguments. He said 'Calcutta Policemen are on strike'. The Government Press Note said, "Some policemen have got some connections with the Communists". There was a statement made in the press

MR. DEPUTY CHAIRMAN: You are on the amendment. You have said enough of West Bengal. We have no time. Be brief.

SHRI H. C. MATHUR: The Minister mentioned it.

SHRI B. GUPTA: I say that the Parliament should retain the power of actually enforcing it and I will tell you and I will try to make you see my points as best as I can with all the qualities or disqualifications "that I have got here in my armoury at the moment. But please try to see the points I have got to make. We say that the States should not be given the power to decide as to when it should come into force. We say 'let us retain this power in the hands of the Parliament'. Why? Because, we have strong reasons' to believe and these reasons are absolutely justifiable reasons as I am going to prove that the State will use it even when it is, according to them, even according to Dr. Katju, it may not be necessary to use. Therefore I say that we want to retain this power. My argument flows from that. Sir, you were not here—I wish when you are not there, you sit with us so that you can listen to some of the arguments. He said about the press note and he made out the case. We anticipated I that. Dr. Katju is a fine lawyer. Whatever else he does in the morning, he at least tries to pick up some points against the Communist Party—that I know. Otherwise the whole day becomes bad for him—an unpropitious day for him. Therefore he says, 'West Bengal Government has said it. What will they do?' Now the statement has been made. They will say.

"Now for the maintenance of law and order, we use the Preventive Detention Act against the Policemen who are on hunger strike because some of their very legitimate demands have not been made by the Government and against the Communist Party with which some policemen—they have not named them—are supposed to have some connections." Now the matter 'has been going on for a number of days. In none of the press communiques it had been said before. Now when the Government has been in an absolutely tight corner, when the policemen's case is something which even they cannot deny, they come out with this kind of fantastic and false allegation, not only to malign the Communist Party, not only to seek justification for such measures as this, but to use it against their political opponents, and of course, if necessary, against the police. Therefore we say, with such State Government we can never leave the use of this power. It is for Parliament, as long as Parliament remains in this country, to decide as to when, how and where this measure should be utilized.

(Interruptions.)

If anybody wants to get up. I shall sit down. Therefore I say

MR. DEPUTY CHAIRMAN: Parliament must have the power?

SHRI B. GUPTA: I say the State should not have the power. Surely, a resolution can be passed. Dr. Katju can come here and do some job of it. He can come and say that in West Bengal or Madras or Bombay, the situation is such as would justify the enforcement of this Preventive Detention Act. He can say that, he can give his arguments, he can state his case, he can show as to why and how the law and order has been threatened there and all that and then let the Parliament judge, let the Parliament advise him. and he can be also helped by consulting the Parliament. A resolution should be passed before it is brought into force. Therefore I say,

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I 'Keep it'. Now when I say this, I I am saying it. with the full knowledge that the same majority will be there but I don't treat the majority in the same way as the Chief-Whip of the Congress Party would treat it. I think if the matter is brought before them, there will be Members on that side of the House to give their thought and who will address their minds to it and see whether really the enforcement of the Preventive Detention Act in a particular State has become necessary. I leave it to them, to their good sense, to their judgment, to their sense of realism and I hope that Dr. Katju would accept that position. Then, Sir, my other amendment on which I would like to speak is very important. It says:

"Provided that the Act shall nor be used with respect to cases arising out of the movements of the people for the redress of their grievances in order to improve their standard of living."

DIWAN CH AM AN LALL: Y/ou say 'movement'. It may be violent.

SHRI B. GUPTA: May I tell Diwan Chaman Lall that we have not included 'violence' or anything of \ that sort here. We say 'for the redress of their grievances'. Now if it is a violent movement, deal with it as a violent movement should be dealt with. I say here you give us an assurance in the clause by accepting this proviso that the measure will not be used against the movement of the people, when such movements are directed to have the grievances of the people redressed and for improving their standard of living I take it that the Government stands for the improvement of the standard of living of the people, I take it that the Five Year Plan is intended to elevate the standard of living of the people I take it that the Government would not arrogate to itself the entire task of elevating the standards of the people. I take it that they would leave it to the people to work for the improvement of their standard of living.

I

[Shri B. Gupta.]
 take it that they will have to concede to the people their right to strike so that they can lead a better life. If it is so, I think, this proviso should be accepted. At the same time we are told much about democracy and all that, and of course, our bonafides when we talk about democracy, is in question. We hope, Sir, we shall soon be on the other side, when the reins of administration will be in our hands in Andhra so that we can show them as to how we believe in democracy; but as long as we are on this side of the House, I think we can demand of the Government, we can demand of the Government very legitimately that the democratic movement in the country, no matter which party leads them, as long as they are in the interests of the people, should be allowed to continue and such measures as this should not be used against them. I think that is something which should follow from your profession. Dr. Katju and others spoke about the Hyde Park and he said that the English people.....

MR. DEPUTY CHAIRMAN: You have spoken about Hyde Park.....

SHRI B. GUPTA: What is the use of having people.... (Interruptions). The moment he used Hyde Park certain thoughts crossed across my mind.....

MR. DEPUTY CHAIRMAN: You have dealt with that.

SHRI B. GUPTA: Anyway, he said that meetings and other things may be held but he tells how they have become peaceful in England. Our people are also peaceful. I think it is a libel on the people when you say that they hold meetings and commit violence. How many meetings have been held in India during the last 2 years or so, may I ask him? Many thousands of meetings had been held in the course of the last 3 years of this Parliament. In how many meetings violence has taken place? No matter for what results, I am not go-

ing into it. You will see that meetings are held very peacefully and in a very lawful manner and sometimes it is the Government which gives the provocation which results in violent incidents which nobody desires— neither the sponsors of the meetings nor the public nor anybody. Therefore, I say that if it is a question of dealing with meetings which indulge in violence or are by their very nature violent, you have, in your ordinary law, provisions to deal with such meetings; but let there be an assurance in the shape of this amendment that such measures as this Preventive Detention Act, will not be utilized for preventing meetings or for threatening meetings. He forgot to mention about this aspect of the matter i.e., the threatening aspect of the matter. It continues to threaten. The Preventive Detention Act is nothing if it is not to be understood as a measure which threatens the people and by threatening prevent the people from doing legitimate things. This will clearly be shown when the operation of this measure would be examined. I would just read out from one charge-sheet. He referred to the charge-sheets. I tell you frankly that this charge-sheet contains about 3 or 4 items and the charge-sheet is about a gentleman by "flame Indrajit Gupta.

MR. DEPUTY CHAIRMAN: You are converting this into a general discussion, Mr. Gupta.

SHRI B. GUPTA: No, Sir, no general discussion.

MR. DEPUTY CHAIRMAN: There is no time for all this.

SHRI B. GUPTA: I don't know, there are two clauses and if you have more clauses I will have more things to discuss. I will just read out this charge-sheet.

MR. DEPUTY CHAIRMAN: It is not necessary. It is out of order.

SHRI B. GUPTA: Out of order?

MR. DEPUTY CHAIRMAN: What has it to do with the amendment?

SHRI B. GUPTA: You cannot say like that, that it is out of order. I am trying to say that the Act shall not be used in respect of cases arising out of things mentioned in my amendment and in support of that I am reading this charge-sheet. And you say it is out of order?

MR. DEPUTY CHAIRMAN: There is no time left and you are going on with your speech.

SHRI B. GUPTA: Yes, we will have to.

MR. DEPUTY CHAIRMAN: But we have to close by 3.30.

SHRI B. GUPTA: We will see; maybe that the Minister may not have time to give a reply.

MR. DEPUTY CHAIRMAN: Go on.

SHRI B. GUPTA: I think that is a better way of dealing with it. Here it reads thus:

"On 16.9.53, at the Working Committee Meeting of the Bengal Chat-kal Mazdoor Union at the Bengal Chatkal Mazdoor Union Office, you the Secretary of the Union instigated the workers to surround the office of the I.G.M.A. on 26.9.53"

For what? There are eminent lawyers. There are some there on that side and you, Sir, are also another, I suppose. They can say if this is any charge. Note it "...at the Working Committee Meeting of the Bengal Chatkal Mazdoor Union on 16.9.53, at the Bengal Chatkal Mazdoor Union Office" I know that office in Calcutta. It is a small room there in a three or four storeyed house. In that office the Secretary of the Union of the workers instigated the workers, they say. How could he do that? How can he instigate the workers who live, say, on the banks of the Hooghly? That is what I cannot understand. This is the sort of charge-sheet that is being given. That constituted the indictment against the man. You can as well as say that Shri Bhupesh Gupta, sitting in the Central Hall and talking to certain people is instigating the peasants

in Malabar for carrying on an agrarian revolution! Such fatuous things are uttered here. I can understand the man sitting there and instigating the members of the Working Committee of the Union, but not even the members of the union, that I cannot understand. They say, "You are instigating the workers." It is not even "with the intention of instigating". He was actually instigating, they say, instigating the workers of the jute mill! Wonderful charge-sheet.

SHRI A. DHARAM DAS (Uttar Pradesh) : Please read out all the charges.

SHRI AKBAR ALI KHAN: No, that will take more time.

SHRI B. GUPTA: There, keep a note of that charge. It is on Shri Indrajit, Secretary of the Chatkal Mazdoor Union and I got a copy of it, true copy of the thing by Commissioner of Police, dated the 3rd October 1953. You can get a copy from the Government. This is one of the items of the charge-sheet. I do not say that all the other items are like this.

MR. DEPUTY CHAIRMAN: Now you must finish.

SHRI B. GUPTA: I am finishing. But the Preventive Detention Act is going to finish us before I finish and do you realise that?

MR. DEPUTY CHAIRMAN: I don't think so.

SHRI B. GUPTA: I find that cooperation from the side of the Chair always makes me feel better.

MR. DEPUTY CHAIRMAN: You have withstood the Preventive Detention Act all these years.

SHRI B. GUPTA: Another charge-sheet is against Mr. Mohammad Elias who is General Secretary of the Bengal Provincial Trade Union Congress. What is the offence? The Union key was taken away by the employer and then he has asked the workers to get it back from the employer and agitate for it. That becomes an offence in the charge-sheet, under the Preventive Detention Act.

[Shri B. Gupta.]

I have to refer to another charge-sheet, but that is not now in my possession. That charge sheet is against Mr. Jyoti Basu and what does it say? It only says—You are so and so, Mr. Jyoti Basu. Your father's name is such and such. You are a member of the Communist Party. You are the leader of the Communist Group and you supported the Teachers' movement. That is all; and goes the man into jail. That is the sort of thing that is being done. The purpose of this Act is to crush the people's movement, democratic movements in the country rightful movements, not violent movements, but absolutely peaceful and non-violent movements. The movement to ask for the bonus was something which was absolutely peaceful. So also the teachers' movement; for until the police came out with their guns and certain incidents took place there was nothing, unlawful, everything was peaceful and actually many congressmen also participated in that movement. After all, you should remember that many congressmen, well-known congressmen, who were teachers also participated in that movement. But IOO people were arrested under the Preventive Detention Act on such fantastic charges. Some of these teachers are still in the Congress organisation. There is a congress teachers' sponsored organisation. This is how it is being used.

Therefore, I say that if it is a question of suppressing the *goondas*, we do not think the Preventive Detention Act is necessary, because there are Goonda Acts in almost all the States. If it is a question of preventing subversive action against the State, I have already said that such a measure like this is not necessary, and neither is it effective. If it is considered necessary for the maintenance of law and order, I do not accept that ground, because law and order can be maintained by other means. Therefore, the sole object of this measure is to suppress the popular, democratic movements, movements of the pressmen,—pressmen were beaten up in the

streets of Calcutta, you remember—against the movement of the bank employees, the movement of the sugar workers.....

MR. DEPUTY CHAIRMAN: You are again going to the general discussion.

SHRI B. GUPTA: No, Sir. Between October 1952 to September 1953, 963 people were arrested; and I have counted from the previous reports that out of the 963 arrested, 840 were arrested in connection with one or other of the people's movements. They were not *goondas*, they were not dacoits, they were not harbouring dacoits, they were not associated with espionage or anything of that sort. They were workers like trade union workers. Kisan Sabha workers, etc. who were arrested and detained without trial. Many of them had to be released either by the Advisory Boards or by the courts of law. Therefore, the same picture emerges out of the present report. If the report is scanned properly and if it is re-arranged, then you will find that the majority of the cases come from that category where you get popular movements, that is to say, people connected with popular movements are being arrested and that is why we say that this amendment should be accepted so that at least we get the assurance that this measure will not be used against the popular movements.

MR. DEPUTY CHAIRMAN: Yes, Dr. Katju.

SHRI H. C. MATHUR: Sir. I....

MR. DEPUTY CHAIRMAN: No, there is this time limit.

SHRI H. C. MATHUR: Sir, I want only a few minutes.

MR. DEPUTY CHAIRMAN: But there is no time at all.

SHRI H. C. MATHUR: I have got to clear a.....

MR. DEPUTY CHAIRMAN: May be, but I have called the Minister to reply.

SHRI H. C. MATHUR: It is really unfortunate to find that when a statement is made and when we want to explain....

MR. DEPUTY CHAIRMAN: There are only ten minutes. What can I do? We have exceeded into the time of other Bills. The Chairman extended the time only by one hour.

SHRI B. GUPTA: Sir, I had a talk with the Chairman and he said that if the time was available he had no objection.

MR. DEPUTY CHAIRMAN: Yes, for extending it beyond 10 hours. We have extended it to 11 hours now. There is no justification for any further extension.

SHRI B. GUPTA: Yes, only extension takes place in the case of the Preventive Detention Act. When we ask for extension of time, we do not get it.

SHRI H. C. MATHUR: Sir, is it fair to refuse an opportunity to make a point clear?

MR. DEPUTY CHAIRMAN: But there is no amendment in your name.

SHRI H. C. MATHUR: You can give me just two minutes, Sir. Those people have been speaking and.....

MR. DEPUTY CHAIRMAN: But they had their amendments. There is no amendment in your name.

SHRI H. C. MATHUR: I have got to support this amendment. Sir, I feel myself constrained.....

MR. DEPUTY CHAIRMAN: I am also constrained. What am I to do? You may not realise. Suppose you are in my position, what would you have done?

SHRI H. C. MATHUR: You have not even permitted me to finish my sentence. I was only saying that I feel constrained to support this amendment.

MR. DEPUTY CHAIRMAN: Please go on.

SHRI H. C. MATHUR: But there was this intervention, and about what you feel constrained, I do not know. If you want to stop me, I will sit down.

MR. DEPUTY CHAIRMAN: No, I do not want to shut out anybody.

SHRI H. C. MATHUR: I will take only five minutes for there is nothing much to say.

MR. DEPUTY CHAIRMAN: Yes, please be brief.

SHRI H. C. MATHUR: I feel constrained to support this amendment, not because we are opposed to giving necessary powers to the Government when it is necessary, say, for the sake of the security of the State or things like that, but because as I have mentioned in my speech, this power is being misused. I gave a specific instance and I must make that very clear. The hon. the Home Minister was wise enough possibly, not to touch on that because he knows he had no case and he left it out. But Diwan Chaman Lall possibly not knowing the facts and possibly ignorant of the facts tried to mislead the House in this matter.

MR. DEPUTY CHAIRMAN: But Diwan Chaman Lall has not spoken on the amendment. He spoke in the general discussion. Please confine your remarks to the amendment before the House.

SHRI H. C. MATHUR: If you will only listen, if you will only give me three minutes, I will finish my speech. I gave concrete instances of how this Bill was being abused and that is why I am opposing this Bill and that is why I am supporting amendments Nos. 2 and 4 so that the mischief may not be there. A specific instance which I quoted has not been refuted by the hon. Home Minister because from the authority from where he has to speak, he cannot afford to refute facts.

MR. DEPUTY CHAIRMAN: Amendment No. 2 is ruled out of order. Only No. 4 has been moved.

SHRI H. C. MATHUR: People were put under detention in 1953 and the whole transaction was over in 1954 when they were admitted into the Congress fold to break up the opposition. It is only this sort of abuse of this Act that I have opposed and opposed strongly. Dr. Kane pointed out as to how this Act has been operating and he pointed out that the 65 detenus were released by the Advisory Board and another 14 by the High Courts but I would like to add to what Dr. Kane has said that 166 persons were released by the Government *suo motu* and the case of these people requires special mention because it is generally the practice, Sir, and this is how this Act is abused. You arrest a person and you know that the case is very weak and you have no mood to refer it to the Advisory Board. After about 15 or 20 days you release him *suo motu*. When we take into consideration the abuse of this Act, it is not only the 65 and 14 but it is the 166 which makes the situation still worse. I maintain that there has been an abuse of this Act and it is why I say that we should restrict the use of this Act as much as we can by accepting this amendment.

MR. DEPUTY CHAIRMAN: Any reply?

DR. K. N. KATJU: Yes, Sir. There was one amendment relating to Jammu and Kashmir. Probably my hon. friend is not aware or has overlooked the fact that the President has issued an order under article 370 of the Constitution and the State of Jammu and Kashmir comes under the jurisdiction of the Union Government and the Parliament to the extent to which the President by order defines that jurisdiction. Now, as a result of settlement, the jurisdiction of Parliament has been largely extended but inasmuch as the Jammu and Kashmir Government have a Public Security Act of their own which is in

force for five years and which is much more drastic than our Preventive Detention Act, it was agreed upon and the President has directed that in relation to the State of Jammu and Kashmir, Parliament should not have any power to pass any Preventive Detention Act. This Order was made on the 14th May 1954 and thereafter Parliament has ceased to have any jurisdiction about this. That is about Jammu and Kashmir.

There was an appeal for restricting the extension to one year. I submit that I have practically allowed my hon. friends to have their say in this matter because it really comes to the same thing. If you have the Government bringing a Bill every year, it will only mean spending fifteen hours in that House and another ten in this House with the same result. I have agreed that every year towards the end of the year, I shall move a Resolution—the Home Minister shall move a resolution—justifying the extension of the Act and giving a report as to what has happened in the past year.....

SHRI S. N. DWIVEDY: The same time would be taken in discussing this resolution.

DR. K. N. KATJU: ... thus giving Parliament an opportunity of examining the working of the Act and indicating its opinion as to whether the Act should remain on the Statute Book or whether it should become a dead-letter. That opportunity being given, having this Act extended for only one year means nothing.

Thirdly, there is an amendment which is rather curious and which says that the Act may be passed but it should not come into operation in any State unless both the Houses of Parliament by Resolution agree. Apart from the impracticability of it, I respectfully suggest that this amendment is unconstitutional because under the Constitution you have three legislative lists, the Union List exclusively, the State List exclusively

and a Concurrent List in which both the State and Parliament can legislate. If you do not legislate, then it is open to the Government of the State to enact legislation. After they legislate, then the only thing is that they have got to obtain the President's assent and nothing else. I do not think it will be constitutional for us to say that we are not going to enact for the State at present but that we can only extend an Act after a resolution has been passed by Both Houses of Parliament. This will be entirely unconstitutional and, apart from it being constitutional or otherwise, I am unable to accept such a cumbersome piece of legislation because the emergency has to arise. The emergency is there in Calcutta and do you mean to say that I am going to bring in a resolution after the emergency has arisen? It might have ceased to exist by the time this resolution is passed.

Shri Mathur pointed out about the <55 persons. Please remember one thing and that is when the Advisory Board advises the release it does not necessarily mean that the order, from its inception, in the opinion of the Advisory Board was improper. The Advisory Board says, "Well, the man has been in detention for two months or two weeks or four weeks. In the circumstances of the case, having regard to the emergency or having regard to the circumstances under which he was detained, his further detention is not necessary". Releases by the Advisory Board do not at all indicate that the detention was improper right from the beginning. Then my hon. friend said something very extraordinary and that is to say, if *suo motu* Government releases from detention that means that Government does not want to detain any person for a single day more than necessary,—my hon. friend said it became a sort of a joke,—it is an arbitrary action. I can say from knowledge that that is not so. The State Governments are most reluctant to order any detention. I have nothing more to add.

MR. DEPUTY CHAIRMAN: Do you want to press all the amendments?

SHRI S. N. DWIVEDY: Yes, Sir, all of them.

MR. DEPUTY CHAIRMAN: The question is:

3. "That at page 1, lines 9-10, the words 'except the State of Jammu and Kashmir' be deleted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

4. "That at page 1, after line 10, the following proviso be added, namely:—

'Provided that the Act shall not come into force in any State unless and until both Houses of Parliament have passed a resolution in this behalf and also a notification thereunder has been published in the Official Gazette.'

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

5. "That at page 1, after line 10, the following proviso be added namely:

'Provided that the Act shall not be used with respect to cases arising out of the movements of the people for the redress of their grievances in order to improve their standard of living.'

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

6. "That at page 1, lines 11 and 12 be deleted"

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

[Mr. Deputy Chairman.]

"That at page 1, line 12, for the figure '1957' the figure "1955" be substituted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

8. "That at page 1, at the end of line 12, the following be added, namely: —

'and the following proviso shall be added to the said subsection, namely: —

Provided that every year within the period of the continuance of the Act a motion approving the continuance of the Act shall be passed by Parliament'. " The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 2 stand part of the Bill."

The motion was adopted.

Clause 2 was added to the Bill.

MR. DEPUTY CHAIRMAN: Now there are three amendments, 9, 10 and 31 which are out of order.

SHRI B. GUPTA: No, Sir, you may kindly hear me. The matter has been debated in the other House and I would like to make my own submissions regarding the amendments.

MR. DEPUTY CHAIRMAN: You want to amend the main Act?

SHRI B. GUPTA: My reasons are as follows. When a measure of this sort expires and we undertake legislation in order to extend the life of the entire measure then, in exceptional cases, there is a ruling that the parent Act can be gone into and the provisions of the parent Act can be considered.

MR. DEPUTY CHAIRMAN: Can you show any ruling to that effect?

SHRI B. GUPTA: I am coming to that, Sir. Firstly in my support I would re-

mind you of what happened in 1952. In 1952 the hon. the Home Minister came before the other House precisely for the extension of the Preventive Detention Act, and then of course the matter was brought up before the Chair and before the House and there was, as you know, a lot of debate over it. Then the Government agreed that in view of the very strong demand on the part of the Member's of the House, the parent Act should be taken into consideration and actually Sir, every clause of the parent Act or every provision of the parent Act was considered by Parliament at that time. Therefore in my support I produce the example of how we had treated the Preventive Detention Act itself in 1952. In the British Parliament of course there is no definite ruling of that sort; but it has been found from the proceedings of the Parliament that at times when a measure of this sort is brought up it is in the discretion of the Chair and also in the discretion of the Government Party to open the provisions of the parent Act for discussion. Now of course I know, Sir, it lies in your discretion and it is also in some cases for the Government because in that case things become easy. Here, Sir, you see that but for this measure of extending the whole Act, the entire Act would have fallen through. It is not a question of retaining certain provisions of the Act. The entire Act would have been defunct after the 31st of December, had it not been for the fact that this measure is being passed. Therefore it should not be placed on the same footing as if we are amending a particular Act. It is an extension. Extension of the period means extension of all provisions; and non-extension of this thing would mean the lapse of all the provisions. Therefore the question of amendment does not arise in that way either. Now in the other House it had been debated—and I know the ruling had gone against the contention that I am making before you at the moment. But, Sir, in this House I think we are independent that way. We have our own wisdom,

go by our own wisdom and by what we think right or what we think wrong. Therefore the other House should not influence us in any way at all. Now it is for you to decide whether in view of the strong opposition that you have seen in the country and also in the House to some extent, it would be relevant to go into the parent Act. Mention has been made of the previous Act, the parent Act. Mention has been made of the provisions of the parent Act, not of this particular Bill, because there is only one provision in the Bill that instead of '1954', make it '1957'. Now the Advisory Board has been mentioned; the grounds of detention have been mentioned and the object of the - Bill has been mentioned, everything, all that relate to the parent Act. Therefore I say that when we are extending the life of a measure, which, to say the least, is the subject—matter of strong controversy in Parliament and outside. We should be given the right at least to suggest amendment to some of the material sections of the parent Act and therefore I have suggested here that this clause be admitted as an amendment so that we can discuss it and it is for the House to decide as to whether the parent Act should be modified to this extent or not. It is entirely for the House. Our only submission to you is: Do you think that here is a measure which has to be examined not merely from the point of view of the extension, but also from the point of view of the provisions? Do you accept, Sir, our contention that the provisions had been at least according to some, abused in the past and that in the light of the experience of the last two years it becomes necessary for the Parliament, before it gives it another fresh lease of life, to see as to what provision should be retained and what should be rejected and thrown out. If you think that this is a reasonable proposition I think, Sir, you will be well advised to give us the opportunity of moving this amendment. Now there are precedents on both sides. Against me there are precedents. In support of me also there are precedents. I am

being very fair now. We are entirely in your hands and in the hands of the House, and it is for you to decide whether the measure itself, the argument that have been advanced, the public opinion about it, all this goes to justify our claim that we fall back on the parent Act and its provisions before you allow it to be passed as the law of the land for another period of three years. Therefore, Sir, I think it is a very material clause that we have chosen and I think this clause should be discussed by the House. I hope you will give a ruling in our favour and show that the Upper House or the Rajya Sabha is really a guardian even in regard to matters of procedure, it has its own independence, it has its own wisdom, it is not influenced by extraneous things. And this will redound to the credit and glory of the Rajya Sabha. I hope you will allow this thing. And, as you know, Sir, they can have it passed by a majority vote. I only beg of you that you allow these things to be taken up for discussion by way of amendments and as far as the Government is concerned they have no fear. They have got the majority. But in all fairness let us have a discussion of this clause so that we can say, before we give it another term of life, whether this clause which has become a weapon of oppression in the country is something which should be retained or is something which should be cast aside.

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MR. DEPUTY CHAIRMAN: The Bill seeks to continue the Preventive Detention Act, 1950, and comes within the category of what is known as an Expiring Laws Continuance Bill. It is a well established practice in the House of Commons of the United Kingdom that where a Bill is brought to continue an expiring law, it would not be competent to move any amendments seeking to amend the provisions of the Act proposed to be continued. It is laid down in May's Parliamentary Practice, 15th Edition, pages 532-533, that the amendments which may be moved to aft Expiring Laws Continuance Bill are subject to the following limitations: —

[Mr. JDeputy Chairman.]

"dXJ amendment is outside the scope of the Bill if it seeks to amend the provisions of the Act proposed to be continued or to make permanent such Act or to include in the Bill a statute which has already *Jer* ceased to have effect; and

(2) An amendment may be moved to the operative clause of the Bill to alter the date to which the Act is to be continued¹.

The provisions of the 1952 Act do not apply to this Bill because that was an amending Bill and amendments were moved to the, clauses that were sought to be amended, to the relevant clauses. So the procedure followed in the 1952 Act does not apply to this Bill.

In the present case the scope of the Bill covers two matters, that is, (i) the period of continuance and (ii) the extent of the Act. Amendments in respect of these two points are per-ffictly competent. Any amendment to the provisions of the principle Act sought to be continued will thus be beyond the scope of the present Bill. It will however be competent to have a general review of the way of its working or administration and to suggest improvements and to point out defects during the general discussion of the Bill. And that has already been done. But it will not be permissible to suggest any textual amendment in the provisions of the principal Act. I therefore rule that amendments, 9, 10 and 11 are out of order.

SHRI B. GUPTA: May I draw your attention to one aspect of the matter, Sir? I am not contesting your ruling. Sir. You have said that the 1952 Bill was an amending Bill, not merely a Bill for extension. In a way, Sir, you will see that this Bill is also an amending Bill. If you refer to subclause (2) of clause 2 it says "It extends to the whole of India except the State of Jammu and Kashmir." That was not there in the old thing.

MR. DEPUTY CHAIRMAN: For extension only, for extension of peiv< if you have tabled any amendment, that amendment has not been ruled out.

Clause 1, the Title and the Enacting Formula were added to the Bill.

DR. K. N. KATJU: Sir, I move:

"That the Bill be passed."

MR. DEPUTY CHAIRMAN: Motion J moved:

"That the Bill be passed."

SHRI N. C. SEKHAR: Sir, I want i to speak a few words. I

MR. DEPUTY CHAIRMAN: You have already exceeded the time. I cannot allow more than five minutes.

SHRI N. C. SEKHAR: Sir. this measure has already been passed by the majority here but at the same time, it is my firm opinion that this Bill is sought to be extended to be used against the majority of the people of our country, who are in great difficulty, not only economically but under political oppression also. The argument has already been levelled from both sides accusing each other, particularly from the Congress side accusing us as agents of the foreigners; but at the same time they forget that the same accusation can be turned against them also. They have been quoting things from the British experience, British Parliament, British laws and all that. In that context we can also charge them as the agents of the British, but we do not do that....

MR. DEPUTY CHAIRMAN: You have done it.

SHRI N. C. SEKHAR: We are people representing particular interests, but at the same time there are people who represent the big interests, that is, big landlords, big capitalists, foreign capitalists also, who have brought forth this Bill with a particular

interest, to be used against people who are struggling for one square meal a day. For example, this very important statement of facts shows that this Act has been used largely in Bombay, Calcutta as well as in other big cities, where the working classes and the middle classes have launched agitation for increase of their pay, for raising their dearness allowance and for the security of their services. It is in these places that this Act has been put into operation.

Now, Sir, this Home Minister—the glorious Home Minister—for instance made a statement on the floor of the House. What is that statement? He has said, by quoting a paper, that a statement appeared in today's papers that those policemen who are on a hunger strike in Calcutta are in league with the Communist party. Such frame-ups have been made against the detenus who "have been detained all these years. We can produce as many charge-sheets as possible as 'frame-ups', because so many charge-sheets have been proved, more or less, to be false and fabricated. Similarly, it is said that this Bill is meant only against those who instigate violence or preach violence. The charge-sheets themselves show that even the Ministers frame-up false charges. For example, I now speak here. Even this can be taken as reason for a charge for instigation of violence. Such charges had been made by the Britishers in the past. These people have been following the bad legacy of the Britishers. So, we stoutly *oppose* this Bill and we appeal, at the same time, not to the majority in this House, but to the majority of the people of our country, to overthrow this Bill, to make this Bill ineffective by their organised activities. Sir, with these few words I oppose the Bill.

MR. DEPUTY CHAIRMAN: Mr. Datar, have you anything to say?

SHRI B. N. DATAR: Sir, I have nothing more to add.

MR. DEPUTY CHAIRMAN: The question is:

"That the Bill be passed." The motion was adopted.

MR. DEPUTY CHAIRMAN: We shall now take up the Tea (Amendment) Bill

SHRI B. GUPTA: Sir, before you come to that. I have a submission to make. We had given notice to discuss the Calcutta Police hunger strike. Nothing has been done..

MR. DEPUTY CHAIRMAN: Not at this stage.

SHRI B. GUPTA: Sir, you must hear me, because I gave the notice. You know, Sir, that allegations have been made in respect of our party based on that hunger strike. I say that the whole matter should be discussed on the floor of the House. Let the Government come out with their case. Therefore, I request you to ask the Government to have a debate on the subject on Monday or Tuesday—at the earliest possible moment, since we cannot have any session on Sunday. It is very urgent and important. In view of the allegation that has been made by the hon. Home Minister, we challenge it, we have to prove that it is they who are responsible for the strike.

THE TEA (AMENDMENT) BILL, 1954

MR. DEPUTY CHAIRMAN: I have to inform Members that under Rule 162(2) of the Rules of Procedure and Conduct of Business in the Rajya Sabha, the Chairman has allotted one hour for the completion of all the stages involved in the consideration and return of the Tea (Amendment) Bill, 1954 by the Rajya Sabha, including the consideration and passing of amendments, if any, to the Bill.

THE MINISTER FOR COMMERCE (SHRI D. P. KARMARKAR): Sir, I beg to move: