

lay on the Table of the House a copy of each of the following papers —

- (i) The Report of the Industrial Finance Corporation Enquiry Committee, 1953 [Placed in the Library. See No S-219/53]
- (ii) Views of the Board of Directors of the Industrial Finance Corporation on the Report of the Industrial Finance Corporation Enquiry Committee, 1953 [Placed in the Library See No S-220/53]
- (iii) The Resolution issued by the Government of India on the Report of the Industrial Finance Corporation Enquiry Committee, 1953 [Placed in the Library See No S-221/53.]

#### CONSIDERATION OF THE REPORT ON THE WORKING OF THE PREVENTIVE DETENTION ACT, 1950

THE MINISTER FOR HOME AFFAIRS AND STATES (DR K N KATJU) Mr Chairman, I beg to move

"That the report on the working of the Preventive Detention Act, 1950, during the period from 30th September 1952 to 30th September 1953, be taken into consideration"

The House is aware that after considerable discussion it was resolved last year by Parliament that the Act should continue, I mean that its term should expire on the 31st December 1954. An undertaking, however, was given that an opportunity would be afforded to Parliament to examine the working of the Act after twelve months, and the Government will state as to what they thought of the matter, after consulting the State Governments. I may say, at once, that we have consulted these Governments and they are unanimously of the opinion that the Act should continue for the period

for which it has been enacted, and we share the opinion expressed by the State Governments. Therefore, I have placed the Statement before the House and the House will have the opportunity of pronouncing its judgment in terms of the amendments moved

Sir, I do not propose now to go over the ground which was very largely covered last year when this Bill was under discussion. The House would recollect that we had proposed some changes and there was a Joint Select Committee. Further changes were made and, practically every paragraph and every clause in the Bill was exhaustively examined. It was debated upon for a very long time and the Bill was passed after a great deal of discussion. In the course of the discussion, of course, the obvious points were raised. Great stress was laid upon the fundamental rights, the right of a fair trial, the inequity of detention without trial and the necessity of every citizen in a democratic State knowing the charge laid against him and his undergoing a trial therefor. The House in its wisdom considered all those matters and came to certain conclusions. I do not want to cover that ground again. I will just say that our Constitution is not an ancient constitution.

It was framed recently. It came into operation not even four years ago and the Constituent Assembly, the Constitution makers, had all the requirements of the country in their minds and while they were emphasising and describing the various fundamental rights particularly the right to freedom from arrest and the right to a fair trial, they also came to the conclusion that contingencies might arise which might necessitate preventive detention and, therefore this matter was dealt with in the Constitution at length and safeguards were provided. It should never be forgotten that while we are insisting on our fundamental rights under the Constitution, we should not overlook that the provisions regarding preventive detention

[Dr. K. N. Katju.]

are also a part of that very Constitution. The second thing, that I should like to assert before you, is that Parliament in legislating upon this topic has been extremely careful. The House would recollect that the first Preventive Detention Act was passed before this Parliament came into existence. I think it was the old Parliament, namely the Constituent Assembly converted into Parliament. Before that there was no Central legislation on this subject. In each State you had what were called Public Security Acts. Many of them differed from each other. I am not going to characterise them in point of liberality or in point of stringency. Parliament thought fit, in 1950, that it was better to regularise the whole thing and have one Central legislation for the whole of the country, more so because by that time, namely 1950, the areas known as the Indian States had finally been integrated into the Union and we had the Union of India which included those Indian States. Now, I would like to ask the hon. Members to compare the Act as it was passed in 1950, in 1951 and then last year, in 1952. I could claim that Government, supported by Parliament, has been most anxious to do two things: (1) the interest of the security of the State and the preservation of law and order are paramount and (2) subject to that paramountcy, we have been most anxious to give the widest scope and every possible occasion to persons against whom action is taken to defend themselves, to know what the charge against them is. We have also taken care to see that action is not taken by subordinate officers, that it should come before the State Governments at the earliest possible moment so that orders for detention may be passed on the responsibility of the State Governments. Now, the various clauses under which this action could be taken are defined but I would remind the House as to what exactly the procedure is. I am doing so because the phrase 'detention without trial' is very widely used but in my humble sub-

mission, speaking as a lawyer, the full significance of the existing provisions and the amplitude of their scope are not sufficiently realised. Now, by way of contrast, the House might consider what happens in other cases. Supposing information is lodged in a police station about a murder or the commission of a dacoity or any other serious offence, the police take action. Serious cases are, as you are aware, Sir, in police language, in court language, cognizable cases. The police take action. There is the culprit. They produce him before a Magistrate and generally they ask the Magistrate to let the accused remain in police custody for a fortnight or as long as the Magistrate may allow. Having done that, the police go on with their investigation. Please remember. The accused against whom the information has been lodged is in custody. If it is a serious offence, he is not allowed bail. They complete the investigation in a month or two; sometimes I know they take four months or five months. Then, under the existing procedure the accused is produced before a Magistrate for enquiry. These are called in court language, 'commitment proceedings'. The Magistrate conducts the enquiry, examines the witnesses. The accused is under detention. He is called an under-trial; he is lodged in a jail and this enquiry takes three months or four months.

PROF. G. RANGA (Andhra): That itself is long.

DR. K. N. KATJU: You may take it from me that the number of discharges, namely, the number of people whom the Magistrate discharges on the ground that there is not sufficient evidence against them is almost microscopic—insignificant. I have been looking at this matter recently. It does not exceed 2 per cent. 98 per cent. of the people are committed. They remain in custody, detention. Then the Sessions Judge takes up the case. It all depends upon his calendar and his business. They take three months even.

PROF. G. RANGA: Do you justify that? Is it justifiable?

KHWAJA INAIT ULLAH (Bihar): These are the facts.

DR. K. N. KATJU: I am only stating the existing state of affairs. We are trying to prevent all this by our judicial reforms. The accused remains in custody, detention, and the Sessions trial may begin after a year, after 8 months or 9 months. The Sessions Judge acquits or convicts the person. Now, if he acquits the accused, he has already remained in custody for 8 months; if the man is convicted then there is a right of appeal. I have again been looking at the figures. For instance, in the Allahabad High Court 33 per cent. of the appeals are allowed and the accused is acquitted. There again, the accused may be under a sentence of death or under a sentence of transportation for life, in which case no question of bail arises. The High Court may take 3 months or 4 months or 5 months for hearing the appeal and then perhaps the accused is acquitted. I am only giving these figures to show that this is a proper and fair trial which all of us free citizens of India demand, but the result of this procedure is that the accused, who may ultimately be pronounced innocent or not guilty, has had to suffer detention as an under-trial in jail for 12 months, for 8 months, for 9 months.

SHRI H. N. KUNZRU (Uttar Pradesh): Is such a thing as bail not known to the Criminal law in India?

DR. K. N. KATJU: I am talking of serious cases. In a death sentence, bail is practically never allowed and when a man is committed by a Magistrate, that means that there is some sort of case against him and bail is unheard of. No bail is allowed to dacoits, no bail is allowed to robbers. You have only to go to any jail. I have been there very often and you find a barrack there for the under-trials. There are 400 under-trials or 200 under-trials.

KHWAJA INAIT ULLAH: In which capacity have you gone?

DR. K. N. KATJU: Now, that is one side of the picture. Now, look at this, what my friends will call an atrocious Act. How liberal it is! I am really astonished at the.....

SHRI B. GUPTA (West Bengal): Liberalism!

DR. K. N. KATJU:.....provisions. If I may say so, the prosecuting agency is the same. The police submit certain information—the Intelligence Department and other sources—and it is suggested that a particular individual has been indulging in objectionable activities. I want to dispel one false impression as far as this Act is concerned. It is said as if the Preventive Detention Act is only utilised for the suppression of political liberties or political opinions. That is not so. It will become apparent to you from the figures that have been given in this Statement. In PEPSU it was largely utilised for suppression of dacoits. In Hyderabad it was the same. In Bombay, what they call *goondas*, they were stopped there.

SHRI M. P. N. SINHA (Bihar): What about the *Goonda Act*?

DR. K. N. KATJU: I do not know the *Goonda Act*. It is used in the case of these people also. No harm is there. The point is that the State Governments took action against all sorts of people against whom they received information from, what they call, reliable quarters. Who takes action? It is either the District Magistrate in the first instance, or the State Government. If the District Magistrate takes action, then the Act provides that he must report the matter, *this factum of arrest*, immediately to the State Government, and the Minister is supposed to deal with that file and then either set aside the order of the District Magistrate and order the release of the man or say, "Very well, it is all right". When the latter is done, the Act directs that within four days all the grounds of detention

[Dr. K. N. Katju.]

should be handed over to the person detained. The High Courts and the Supreme Court have now ruled that this document containing the grounds of detention must be most carefully worded, most precisely worded, that there should not be the slightest vagueness and every ground should be germane to the topic. If there is any ground, out of say 12, and if that ground is not clearly worded, if it is vague or if it is hazy, then the man is let off. They say, "On this document you cannot, possibly, arrest the man". I am not criticising the judgments. Supposing a document contains 12 grounds and 11 grounds are perfectly all right and the 11 were furnishing good material for taking action, but if the 12th ground is a little loosely worded and may not justify action or may not cover the matter mentioned in the Act, then the High Court will say, "Well, on this document we cannot, possibly, say whether the District Magistrate or the State Government were taking action upon what you may call the right 11 grounds". They may have been influenced by this wrong 12th ground and, therefore, the benefit of doubt must go to the detenu, and he is released. Now the Statement would have shown to you that reports had been made to the Supreme Court and to the High Courts on numerous occasions and their judgments either have been this way or that way.

Then, there is the Advisory Board, perfectly independent, in many States consisting only of Judges. Otherwise, it is always presided over by a High Court Judge. The grounds go before them, and the answers given by the detenu, for which the Act allows legal assistance, are also submitted to them and, as I said, these Advisory Boards are perfectly independent, above all the executive authority, and they are entitled to go into the matter, to call for any documents they like, to call for any information that they require and to summon any individual man or woman whom they want to see. You would recollect, Sir, that, former-

ly, under the previous Act, the right of personal audience was not given to the detenu, but last year Parliament gave him that right, and if the detenu says, "I want to appear, I want to put my case", then he has got that right and I find that during last year, after the passing of the Act, this right was very liberally utilised. 562 detenues prayed that they should be allowed to appear before the Advisory Board. I said on the last occasion and I repeat it now that—it may be my opinion—you make take it from me that, humanly speaking, no better tribunal can be devised for adjudication upon such cases. No better can be devised. We had a long argument about legal representation before the Advisory Board and Parliament, after a great debate, said that it won't be allowed, namely, the right of audience to lawyers. I said then and I repeat it here that I am a lawyer myself and my experience has been that there is a bit of human nature, and if the Judge is face to face with the culprit or the plaintiff or the defendant—I mean the accused—then there comes the human touch and there is the human factor. You talk to the man face to face and you think he will give you right answers, and after a very few questions and answers you will be able to study the man. The police report may say that he is a very dangerous man, that he was making very dangerous speeches inciting people to violence and all that, and when the man is before you he looks to be a meek sort of fellow and answers the questions well. Straight then the impression created in you is: "He is really not so bad as the police people paint him." Another thing is that there is no appeal from the Advisory Board. They are not bound to give reasons for their opinion. They just say: "We have considered this matter and in our opinion there are no valid grounds for detention". What happened? This time about 700 men were arrested and the result was that 224 people were allowed to go away. In 224 cases the Advisory Boards interfered and said, "There is no case" and in the cases of 465 people, double the number set free, the Advisory Boards

said, "There is good material. Let the men remain for the remainder of the year". On the technical ground of the vagueness of the grounds against the detenus, the figures are small. In half of them the High Courts interfered and in the other half the High Courts did not interfere. These figures of 224 and 465 would satisfy Parliament that the Advisory Board is not an illusory body. The course of Advisory Board is just like an appeal to the appellate court. We had a discussion in the other House and my friends had said to me, "Look, 224 people have been ordered to be released. That shows that the State Governments were not acting with proper circumspection. Probably they were acting hastily," and all that. I have been a lawyer and I have been arguing appeals for 30 or 35 years, and as I have told you, out of the total appeals preferred by people sentenced to death or long terms of imprisonment, only 33 to 40 per cent. of the appeals are allowed by the High Courts and you know that the Judges are highly experienced Sessions Judges. You are not going to condemn the Sessions Judges on that ground.

SHRI B. GUPTA: In these cases the appeals are not against convictions.

DR. K. N. KATJU: No, no, I am not saying that. What I am saying is that the Advisory Board is a very proper judicial tribunal. That is the theme of my argument. People think it a joke. If I were under trial I would rather like to be tried by an Advisory Board than go before superior courts engaging lawyers. What is the result? The result is nothing, smoke. Now this is the gist of the thing. I am giving these figures because I imagine the hon. Members, after knowing these figures, will not indulge in the facile argument that the democratic rights and the four freedoms and the five pillars of those freedoms and so on and so forth are being trampled under foot. Therefore, what is the good of it? Let us look at the facts. So far as this debate is concerned, the only point to be considered is, or

should be, how has the Act been worked. Is there any justification for suspecting that it has been used in an improper manner and what should be done in the future?

Now, Sir, I should like to give just one or two facts. If you look at the Act, at that time there were many detenus under detention. There were 584, and one of the provisions of the Act is that they would all be released within 12 months, if that period of 12 months expired before the 30th April by that date, otherwise by the 30th April. So these 584 people were released. They were arrested prior to 30th September 1952. During the year 1953, September to September, the total number of arrests all over India is 711 and these 711.....

PROF. G. RANGA: 715; it is said, here.

DR. K. N. KATJU: I think there is some doubt about it. Out of this, a large percentage is from PEPSU. Of course not dacoits, otherwise we could prosecute them, but people suspected of harbouring dacoits. I went to PEPSU, to Bhatinda, to Sangrur, and I went to the countryside. I was told that the dacoits were roaming about. I said, "Why don't you get hold of them"?

SHRI B. GUPTA: Did you meet any of them?

DR. K. N. KATJU: They go about here and there and there are people who harbour them at nights. They were given good food and harboured. Such persons, suspected of harbouring dacoits, are included in this 711. And out of this 711, I think at least 70 to 75 per cent. fall under this category. Then, that gives us the balance of 200. Here, the House knows the very difficult times through which we have been passing and I say we have not gone completely out of the wood. We are going through difficult times. The House will have a debate on foreign affairs tomorrow, I do not want to go into that. Let us not anticipate. The Prime Minister will deal with that.

[Dr. K. N. Katju.]

We have our labour troubles, our strikes, our hunger strikes and fasts unto death. Ours is a free country. It is up to me, if I want, to fast and fast unto death. But I do not know why people do not fast unto death in their own homes. They have a passionate longing to fast unto death before the Prime Minister's house.

SHRI S. MAHANTY (Orissa): According to your own tradition.

DR. K. N. KATJU: Sir, I do not know.....

SHRI B. GUPTA: It is better to fast before the houses of those who eat too much.

DR. K. N. KATJU: Sir, if it is a purificatory fast, according to what I have read in the books, it should be carried on in a small room.

PROF. G. RANGA: Let us not talk about fasts. They are not doing any harm to India.

DR. K. N. KATJU: No, no; they do.

PROF. G. RANGA: What?

DR. K. N. KATJU: He is an Andhra man; he ought to know it.

MR. CHAIRMAN: Yes, go on.

DR. K. N. KATJU: My submission, therefore, is that these are all methods for rousing public excitement. Now in Delhi this year there was that Praja Parishad agitation. Volunteers from all parts of India were coming in large numbers. They started from different places. I have seen one from Jodhpur—huge bunkum, garlanding, slogan shouting and all that. Then they come here—great heroes—and they want to come here to break the law. In Calcutta, we had the tramway agitation and I am very familiar with Calcutta. One day it starts with some meeting; second day it is followed by bombs and everything else. Then we have the students. I said in the other House just now. I went to Travancore

last month. There is a fine college there—Mahatma Gandhi College. I went there and asked, 'Where are the students?' They said, 'The college has been picketed'. I said, 'What for?' They would not allow other people to come into the college; they would not allow other students to attend the college and then comes all the *jhagda*. In Calcutta, they have started a new thing. I wonder whether you, Sir, have heard about it. It is known as *gherao*. Now up till now I was aware of two things. First was the lock-out and the second development was stay-in-strike. Now the third form is this *gherao*. Suppose we are sitting here and this House is surrounded on all sides, let us say, by a mob of 5,000, and they say, 'We will not let you go out'. This is that *gherao*. The members of the Calcutta Corporation, 75 of them, poor fellows, decent gentlemen, citizens, they had assembled there for the good of the city. Now, they were all surrounded by some persons—I do not know who they were—and they said, 'You must not get out of this'. Now, they did not want to break any law. And please remember, Sir, they had to remain there up to two o'clock in the night.

SHRI S. BANERJEE (West Bengal): Rightly.

DR. K. N. KATJU: Then the students of the Calcutta University; what did they do? You ask Dr. Kalidas Nag. The members of the Syndicate were working in the Calcutta University room. The students surrounded them and said, 'You cannot get out'. And the poor Vice-Chancellor and the members of the Syndicate were shut up in that room till two or three o'clock in the night. The same happens to managers of factories, superintendents in ordnance factories. What is all this joke? So this was the situation then and this is the situation now. It has not improved. I can only guarantee that the Act is not being misused. Sir, I venture to say—and I do say in all seriousness—that

nowhere have the State Governments acted in any excessive vein. You cannot charge that any State Government has acted in a sense of arbitrariness. Probably, if I had been in a State Government, I do not know, I would have been a little more energetic about it.

Now, this morning I read a judgment. It was astonishing. It was a labour dispute—wages, labour union and so on. It was a case of the secretary to the union writing and putting forward some demand: whether it was about some bonus or increase in wages or about conditions of work, I do not know. The manager was rather a stiff man who said, "I won't yield". I am telling this from the judgment of the High Court. This secretary goes, in the absence of the manager, to his poor wife and says, "Now, you better warn your husband; I shall get him killed. I have taken pity on your vermillion and I do not want to make you a widow. So see to it that unless your husband changes his manners, I will get him killed". And this was done. He wrote letters. This was not an ancient case. It is quite a recent case. The story begins in July 1951 and the climax comes in April 1952. This manager was a Bengali gentleman, a young man with a young wife and two or three children. Now a meeting was held in which the secretary of the union assembled the workers—this was a colliery in Manbhum—and said, "go and kill that man". And the next morning when the manager was going along the colliery road he was beset by about 50 workers and they did him to death. The case was taken up and the High Court found the whole prosecution case absolutely correct and sentenced people to death and life imprisonment.

**KHWAJA INAIT ULLAH:** That secretary might be a Communist. Was he a Communist?

**DR. K. N. KATJU:** This is not a question of whether he is a Communist or not. I have not used the word 'Communist' here. I am only saying.....

**SHRI PRASADARAO (Andhra):** What has this got to do with the Preventive Detention Act?

**DR. K. N. KATJU:** I will tell you. If the State Government had taken action under the Preventive Detention Act, then the poor fellow would not have been killed and the three men under sentence of death would not have been ordered to be hanged. These things would not have happened. It is a preventive Act. If you go to a doctor and the doctor says, "You better take soda mint and you will escape an attack of flu or something", then it is much better to take soda mint at that stage rather than to have an attack of tuberculosis at a later stage.

I submit, Sir, that having regard to the enormous size of our country..... (*Interruptions.*) Will you please sit down? I want to finish this, Sir. I say, this is a new-born fever. We are in the midst of anxieties of all kinds, from everybody. Everybody threatens. You have got only to read the newspapers—the Urdu newspapers, the Hindi newspapers. If anybody has got a grievance, then there is a threat. I had a report in the morning. In the Himachal Pradesh Legislative Assembly, there is some enactment about land reforms. The President has sent it back for further consideration. The gentleman, who has opposed it, wrote that he was going on a death-strike, hunger-strike. "I shall fast unto death before the door of the Assembly", he wrote. What happened was: He was removed in the State car to a hotel; he came back and said that he was fasting. We are surrounded by all sorts of anxieties in this vast country. You will get all these from the Prime Minister himself and Members will expatiate upon it. All sorts of demands are made; people do not make them in a soft manner. You go to the village; hon. Members go to the village; I go to the village; say to the village people—you won't say—I know—"Dr. Katju lives on Queen Victoria Road, in a big house with four or five rooms, and you live in a hut" and so on. I know you may not say that.

**KHWAJA INAIT ULLAH:** They are saying so.

**DR. K. N. KATJU:** This report on the working of the Preventive Detention Act, ends with the period 30th September 1953, and I think on that date the total number of detenus in prison was somewhere about 130 or so.

**SHRI H. N. KUNZRU:** It is given here as 157.

**MR. CHAIRMAN:** They have got the figures in their hands.

**DR. K. N. KATJU:** Sir, on the 31st October, it is 117; it has come down; it may be that some of these cases may be under examination. I would end by saying that the Act has been worked in a most responsible manner, cautious manner, with the utmost anxiety and scrupulousness, and the machinery which Parliament has in its wisdom provided under the Act, has worked very well, and I don't think there has been any injustice this way or that way. The Advisory Boards have functioned with the utmost sense of responsibility and this Act has done a lot of good in the maintenance of peace and order. I quite realise that you must have some sort of restraining influence, and this restraining influence is sometimes good. The fact that you may be locked up is the restraining influence. Somebody talks; you restrain him for three hours. The thing settles down and fizzles out. If the Governor-General goes there.....

**PROF. G. RANGA:** There is no Governor-General.

**DR. K. N. KATJU:** If the Governor-General of Pakistan goes there, or if the Pakistan Cricket Team goes there, some people say "I am going to raise a hullabaloo about it." Well, you take a little action and lock him up for ten hours. The match is played out and the person is released, and no harm is done to anybody. With these words, Sir, I submit that the case for the continuance of the Act is unanswerable and that the hon. Mem-

bers for once at least will show their kindness to me, not speak too much, and pass this motion.

**SHRI H. P. SAKSENA** (Uttar Pradesh) Sir, may I have

**MR CHAIRMAN:** Motion moved:

"That the report on the working of the Preventive Detention Act 1950, during the period from 30th September 1952 to 30th September 1953, be taken into consideration."

**MR CHAIRMAN:** There are four amendments to this motion. I would like the Members just to move and keep silent.

**SHRI S. N. MAZUMDAR** (West Bengal): Sir, I beg to move:

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

'and having considered the same, this Council is of opinion that there is no further necessity for the extension of the life of the Preventive Detention Act, 1950'."

**SHRI H. C. MATHUR** (Rajasthan): Sir, I beg to move:

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

'and having considered the same, this Council is of opinion that there is no justification for continuing the Act up to the specified date' "

**SHRI S. MAHANTY:** Sir, I beg to move:

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

'and having considered the same, this Council is of opinion that the exercise of the powers conferred by the Preventive Detention (Second Amendment), Act, 1952 (LXI of 1952) be discontinued even before the expiry of the prescribed term of life of the Act'."



DIWAN CHAMAN LALL (Punjab):  
Sir, I beg to move:

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

'and having considered the same, this Council is of opinion that there is more than ample justification for continuing the Act for the remaining period'."

MR. CHAIRMAN: The motion and the amendments are now before the House for discussion. Mr. Mahanty.

SHRI S. MAHANTY: Mr. Chairman.....

MR. CHAIRMAN: I want to tell you, before you speak, that Dr. Katju has to leave for Calcutta by six o'clock. He has to deliver the Convocation Address there tomorrow; and I hope Members will be co-operative with him.

PROF. G. RANGA: How much time does the hon. Minister want for his answer?

MR. CHAIRMAN: You have to be brief, as far as possible. I do not want to impose any time limit so long as you are relevant and have something to say.

SHRI S. MAHANTY: Sir, I will be failing in my duty if I do not express my appreciation of the inimitable advocacy of the hon. the Home Minister of a very bad cause. With all humility may I point out to him that his citation of isolated instances of human folly, of violence, of vandalism, was irrelevant? Here we are discussing a specific issue, whether the term of this Preventive Detention Act should be extended or not. In order to determine the quantum of necessity, we have to make an objective analysis of the political conditions obtaining at the moment. If, after having determined that quantum of necessity, we come to the conclusion that there is a necessity for continuing the extraordinary provisions of the Act, well, speaking for myself, I would consider it a privilege to support the hon. the Home

Minister in his motion. So, this specific issue is very limited and we would like to know or if the hon. the Home Minister has got anything else to convince the House than isolated tales of human violence and vandalism, etc. If he could impress on the House the necessity for continuing such a measure, there is no reason why we should not support him. Sir, I yield to none in my anxiety that law and order should be maintained. I do not argue that freedom is an absolute concept. Like anything else, freedom is also a relative concept. Freedom is always related to the society in which we live. We must maintain the conditions in which freedom could prosper and enlarge. But what pains me most is that after having obtained our freedom, when we looked forward to the extension of that freedom, measures were initiated to restrict and diminish that fundamental freedom.

Now, coming to the report that has been circulated to us, I do hold and maintain that conditions obtaining in India do not justify any further continuance of this most reprehensible measure. Now, I will quote from the very report, which has been circulated to us. We find that persons under three main categories have been put under preventive detention. One of them is "persons who have been arrested under clause 3(1)(a)(i), persons who were supposed to be acting in a manner prejudicial to the defence of India and the relations of India with foreign powers". Do you know, Sir, that out of 26 States, only three States had to keep four persons under detention?

Sir, you should permit me to say that the phrase "prejudicial to the security of the State and public order" is a delightfully vague phrase. It may mean anything and everything under the sun. It may also mean just satisfying your personal or political vendetta. Even then we find that out of 26 States, only 17 States had to take recourse to this extraordinary piece of legislation and they did put in 931 persons. And we find also that only

[Shri S. Mahanty.]

Madras, West Bengal, PEPSU, Bombay and Delhi Governments had put in more number of detenus on this account. Therefore, you cannot, by any stretch of imagination, say that these lawless conditions are prevailing all over India. Here we find that out of 26 State Governments, only 17 State Governments had to take recourse to this measure, and that too, when we go to PEPSU and Rajasthan, we find that persons have been detained for harbouring the dacoits. It is a strange phenomenon. As I said on another occasion, these things are more a social phenomenon. No amount of preventive detention is going to cure this malady. Well, if the dacoits are being so voluntarily harboured by the people, even at the risk of their freedom, then I should say that today in our country dacoits are more popular than even the Ministers. Otherwise, people would not go all their way to harbour them. So, if you come to that conclusion that dacoits are being harboured by people, well, the malady has gone too deep. You should then agree that those dacoits have carried more popular sanction behind them than what you have been able to do. So, by just bringing in this extraordinary piece of legislation which is repugnant to all sense of natural justice, to all the tenets of democracy, you are not going to stop this menace and you will never be able to stop it.

Then, Sir, coming to the third category, you will find that another set of persons have been put under preventive detention who were supposed to have been acting in a manner prejudicial to the security and the safety of the State. Out of 26 States, only 5 States have arrested 29 persons. So that is the picture. You find that in a country of 360 millions of people about a thousand persons, for various reasons, have been put under detention, and that too only in a limited number of States. Therefore, you cannot argue that today all over India that condition is prevailing which justifies the furtherance of this re-

prehensible piece of legislation. Now, Sir, from amongst these persons who have been put under detention you will find that the Advisory Boards have released 224 detenus. This matter should not be dismissed as lightly as the hon. the Home Minister sought to dismiss it. Now about one-third of the persons detained have been released by the Advisory Boards, presumably, because the grounds were not sufficient enough to warrant preventive detention. You will also find, Sir, that the Government *suo motu* have also released 738 persons. May I ask the Government as to why they go all the way to release them *suo motu*? Evidently, because the State Governments were not prepared to run the risk of being discredited either before the Advisory Board or by the High Court or the Supreme Court. Then, Sir, the most serious thing is that the High Courts and the Supreme Court in between themselves have released 156 persons. If all these unfortunate victims of the Government's craving for power could have got the means of approaching the High Courts and the Supreme Court, I am sure the percentage of the detenus released would have been much higher. How many persons in our country have got the means to reach the precincts of the High Courts and the Supreme Court and pay for all the elaborate legal procedures there? Thus, you will find that there is neither any justification nor the conditions in this country are such which warrant the continuance of the term of life of this Act.

[MR. DEPUTY CHAIRMAN in the Chair.]

Then, Sir, the hon. the Home Minister last year, in 1952, while initiating this measure, based his entire case on one thing. He said that the Communists were inciting violence. Well, he cited the instance that the Communists in Hyderabad had dumps of arms and ammunition and goodness knew alone as to what they were contemplating for. Therefore, Sir, under compulsion of circumstances, he said, he had to bring in this piece of legislation. But may I remind this House

that those conditions have changed now? Now, on the eve of the fraternisation between the Congress and the Communists, on the eve of the two totalitarian parties embracing each other in a fraternal cordiality, where is the need for this piece of legislation? They have already given the cry for conscription and they are going to be the storm troopers of the Congress. So, for whom now is this measure intended? Where is the violence being practised? Your reports show that the conditions obtaining in India do not justify the continuance of this measure. Then as regards harbouring dacoits and for preventing goondas from doing some anti-social activities, well, the normal laws can very well take care of them. Therefore, I do not wish to take the time of the House by unnecessarily going into all the ideological aspects. But I simply want to bring before this House the fact that conditions do not exist justifying the continuance of this measure. And if the Government have got anything more to convince this House that the conditions exist not by repeating twice-told tales of human foolishness, violence and vandalism, but by objective facts—then, I am sure we will reconsider the whole position.

SHRI ALLURI SATYANARAYANA RAJU (Andhra):

श्री अलुरी सत्यनारायण राजू (आंध्र) :  
उपाध्यक्ष महोदय, मैं भारत के उस सूबे से आता हूँ जिसको आंध्र कहा जाता है। वहाँ से आने वाले व्यक्ति के लिये हिन्दी में अपने भावों को प्रकट करना कितना कठिन है, यह आप लोगों को मालूम है लेकिन इस विषय पर बिना बोले हुए मैं रह नहीं सकता। मेरी समझ में नहीं आता कि खास करके कम्युनिस्ट पार्टी (Communist Party) की ओर से इस ऐक्ट (Act) के खिलाफ क्यों इतना हल्ला मचाया जाता है, वे क्यों इतना इसके खिलाफ चीखते और चिल्लाते हैं। आपको मालूम है और आज सारा भारत इस बात को जानता है कि उन्होंने क्या क्या किया और क्या क्या नहीं किया। गत पांच

वर्षों में, खास करके मुकम्मल आज़ादी मिलने के बाद, उन लोगों ने जिस तरह से अपनी पार्टी की पॉलिसी (policy) बनाई और जिस तरह से आंध्र में, खास करके हैदराबाद में, हमारे ज़िले में व पश्चिम गोदावरी, कृष्णा तथा गुंटूर आदि जिलों में अपनी काली करतूतों को चलाया वह शायद उत्तर भारत के प्रतिनिधियों को और आपको मालूम नहीं है, क्योंकि जो कुछ अखबारों में आया उसी से आप लोगों ने अंदाज़ा लगाया होगा लेकिन उनकी काली करतूतों को हम लोगों ने खद देखा है और वे उनकी काली करतूतें आज भी खत्म नहीं हुई हैं। मेरी समझ में यह भी नहीं आता कि काटजू साहब क्यों अपनी सरकार की ओर से बार बार इस पर सफाई देते जा रहे हैं। मैं तो समझता हूँ कि प्रिवेंटिव डिटेंशन (preventive detention) को सिर्फ एक साल तक के लिये ही जारी करने की बात नहीं है, यह तो उस समय तक रहना चाहिये जब तक कि कम्युनिस्ट पार्टी अराजकता का रास्ता छोड़ कर प्रजातंत्र का रास्ता अस्त्रियार नहीं कर लेती। लेकिन वे तो विश्वास करते हैं डिक्टेटरशिप (dictatorship) में। वे कहते हैं कि फ्रीडम ऑफ़ स्पीच (freedom of speech) नहीं है, फ्रीडम ऑफ़ प्रेस (freedom of Press) नहीं है, यहां पर एक बन्दीगृह चल रहा है, यह आज़ादी जो हमें मिली है उसको हम आज़ादी नहीं मानते। यही लोग, जो कि एक दूसरे मुल्क के पुजारी हैं और वहां की पद्धति को मानते हैं और उसी अनन्यशासकता (डिक्टेटरशिप) को ला करके हमारे सिर पर रखना चाहते हैं, क्या मास्को, लेनिनग्राड या स्टालिनग्राड में एक भी व्यक्ति दिखला सकते हैं, जिसने कि खड़े होकर कंस्ट्रक्टिव क्रिटिसिज्म (constructive criticism) का एक भी शब्द बोला हो या बोल सकता हो? क्या उनको इतनी आज़ादी मिली हुई है? इसी

[Shri Alluri Satyanarayana Raju.]

तरह से वहां जो हजारों अखबार निकलते हैं उनमें एक वाक्य भी ऐसा दिखा सकते हैं जो कि वहां की सरकार की टीका-टिप्पणी करने के लिये लिखा गया हो ? हमें अच्छी तरह मालूम है कि वह एक भी ऐसा उदाहरण नहीं दे सकते। लेनिन महोदय ने १९०५ के पहले देशभक्ति की जो तारीफ बताई थी, वह रेवोल्युशन (revolution) के बाद बदल गई। उन्होंने पहले बताया था कि सरकार के खिलाफ काम करना, वहां आन्दोलन खड़ा करना, सरकार के खिलाफ लड़ना और कुर्बानी करना यह सब देशभक्ति है लेकिन इक्लाव के बाद, हाथों में सत्ता आने के बाद उन्होंने दूसरा ही स्लोगन (slogan) दिया था और वह स्लोगन यह था कि सरकार के खिलाफ कोई भी स्लोगन नहीं हो सकता। उन्होंने कहा कि आज की देशभक्ति दूसरी है, आज की देशभक्ति यह है कि ज्यादा पैदावार की जाय, हर एक क्षेत्र में खाने की चीजें पैदा की जाय, पहनने की चीजें पैदा की जाय और जो ज्यादा वस्तुओं को पैदा करने के लिये काम करेगा, जो ज्यादा काम करेगा वह ज्यादा देशभक्त होगा। और अगर कोई इसके खिलाफ या सरकार के खिलाफ एक भी शब्द बोलेगा, तो वह देशद्रोही होगा। इस स्लोगन को कम्युनिस्ट पार्टी ने माना है। वही पार्टी आज यहां जो आजादी है उसको आजादी नहीं मानती और कहती है कि यह आजादी नहीं है। यही नहीं, वे इससे भी आगे बढ़े हैं और हमारे महान् नेता को, अन्तर्राष्ट्रीय नेता श्री जवाहरलाल नेहरू को, कल परसों तक अमेरिका का एजेंट (agent) कहते रहे हैं। यहां की कम्युनिस्ट पार्टी के नेता मिस्टर सुन्दरैया ने मेरे जिले में एक बड़ी सभा की और मैंने अपने कानों से सुना, उन्होंने सभा में कहा कि जवाहरलाल दुर्योधन का माफिक पानी में जाकर डूब कर मरेगा, हम लोग अपनी आंखों से

देखेंगे कि वह दिन बहुत जल्दी आता है जबकि जवाहरलाल का अंत होता है, जवाहरलाल के राज्य का अंत होता है और हम यहां जनसत्ता का राज्य करेंगे। इन शब्दों को हमारे जिले में मिस्टर सुन्दरैया ने एक आम सभा में कहा। उनका एक पेपर (paper) निकलता है जिसको कि "विशाल आंध्र" कहा जाता है और जिसमें कि उनके भाषण बगैरह निकलते हैं। उनमें वह लिखते हैं कि इस शासन को हम नहीं मानते, बिल्कुल नहीं मानते और इसका अंत करने को हम तैयारी कर रहे हैं। वही यदि आज डिटेंशन की बात करें और उसका विरोध करें तो उसका क्या मतलब हो सकता है ? आपको मालूम है कि कितनी दुर्घटनायें हमारे जिलों में हुई हैं। बहुत सी दुर्घटनायें मेरी आंखों के सामने हुई हैं। एक ६० वर्ष के बूढ़े को इमलिये कल किया गया कि उसने वीवर्स (weavers) को, बुनने वालों को, कांग्रेस के झंडे के नीचे एकत्रित किया। यही उसका गुनाह था और कम्युनिस्ट पार्टी ने ऐलान करके, चिट्ठी लिख करके, दीवाल पर चिपका करके उसका अंत किया क्योंकि उसने उनकी बात नहीं मानी। इसी तरह से मेरे अपने गांव में एक विलेज (village) मुंसिफ था जो कि पहले उनका सपोर्टर (supporter) था लेकिन पीपुल्स वार (people's war) के स्लोगंस के बाद उसने कहा कि हम कम्युनिस्ट पार्टी की सहायता नहीं कर सकते, पंडित जवाहरलाल नेहरू की सरकार के खिलाफ सहायता नहीं कर सकते। दूसरे ही दिन कम्युनिस्ट पार्टी के ४० सदस्यों ने उस पर आक्रमण किया जब कि वह और उसकी बीबी सिर्फ दो ही आदमी घर में थे और अकेले सो रहे थे और उसके दोनों हाथों को काट दिया, दोनों पैरों को काट दिया और वहीं पर उसका कल कर दिया। यही नहीं, जो उसकी गर्मिगी स्त्री थी उसको भी नहीं छोड़ा, उसको भी उन लोगों ने पीटा

ऐसी दुर्दशा हो रही है। अगर मैं इन सब दुर्दशाओं को कहना जाऊँ तो एक दिन नहीं बल्कि दो दिन लगेगे। वह सब तो मैं कहना नहीं चाहता। मैं तो यह समझता हूँ कि आज देश भर में यदि कोई भी डिस्ट्रक्शन (destruction) का काम होता है तो वह कम्युनिस्ट पार्टी की ओर से होता है। एक जगह जहाँ धान का प्रोक्योरमेंट (procurement) होता है, जहाँ धान की प्राप्ति का काम चलता है, वहाँ जाते हैं और किसानों से कहते हैं कि भाई तुम उपजाते हो, अपना खून पसीना बहा कर काम करते हो और सरकार तुम्हारा धान लेकर इधर उधर भेज देती है, कहीं रायल सीमा पेज देती है, कहीं तामिलनाड में ले जाती है। दूसरी ओर वे वहाँ रायल सीमा और तामिलनाड में जाते हैं और कहते हैं कि देखो भाई, यह क्या तुम्हारी सरकार है, क्या तुम्हारी कांग्रेस की सरकार है कि तुम को खाने के लिये एक दाना भी नहीं देती। तो इस तरह से वहाँ जा कर वह डिस्ट्रक्शन की बातें करते हैं और यहां आकर प्रोक्योरमेंट को रोकते हैं और कहते हैं कि सरकार को कोई भी अन्न न दो, ऐसी सरकार को जिसको कि अन्न देना पड़ता है उसको यहां से मिटा दो, हटा दो। यही उनका स्लोगन वहाँ हो जाता है। इसी तरह एक ओर जो बुनने वाले हैं उनके पास जाते हैं, तो कहते हैं कि देखो भाई, तुम्हारे लिये सूत नहीं मिलता, सूत के बिना तुम्हारा काम कैसे चलेगा, तुम्हारा पेट कैसे भरेगा और सब कमियों का कारण यह सरकार ही है।

दूसरी ओर जहाँ मिलों में सूत बुना जाता है, वहाँ जाकर वे मजदूरों को भड़काते हैं, स्ट्राइक (strike) करवाते हैं और सूत के उत्पादन के खिलाफ काम करके सूत तैयार कराने के रास्ते में बाधा डाल देते हैं। लोगों से कहते हैं कि यह सरकार तुमको कुछ नहीं देती है, न पहिनावे की कपड़ा, न खाने की

दाना और न रहने को घर देती है। मैं समझता हूँ कि अगर कोई प्रोग्रेस (progress) अब तक रूकी हुई है, तो वह कम्युनिस्ट पार्टी की वजह से, मैं किसी और पार्टी से शिकायत नहीं रखता क्योंकि वे या कांग्रेस-पार्टी हिंसामें बिलीव (believe) नहीं करते हैं। अगर मेरी शिकायत कुछ भी है तो वह कम्युनिस्ट पार्टी के खिलाफ है। वे लोग हिंसा में बिलीव करते हैं और हिंसा का लोगों में प्रचार करते हुए कहते हैं कि डिमोक्रेसी (democracy) केवल दिखावटी है, धोखेबाजी है और कुछ नहीं। इसलिये मैं समझता हूँ कि एक वर्ष के लिये, दो वर्ष के लिये यह कानून लागू रहना चाहिये। हाँ, इस शासन को ब्लैक मार्केटियर्स (black-marketeers) के प्रति भी जो सरकार के खिलाफ काम करते हैं या प्रजा के हित के खिलाफ काम करते हैं, सक्ती के साथ कदम उठाना चाहिये। इस समय अन्तर्राष्ट्रीय स्थिति कुछ नाजुक होती जा रही है। हम सब लोग जानते हैं कि अमेरिका के एजेंट्स (agents) भी यहां पर रहते हैं और उनकी संख्या भी बढ़ती जा रही है। ऐसे एन्टीनेशनल क्रिमिनल्स (anti-national criminals) को यहां काबू में रखने की शासन को जरूरत है। इसलिये इस नाजुक वक़्त पर—पाकिस्तान के अंदर आप जानते हैं क्या क्या हो रहा है, किस प्रकार से उसकी अमेरिका के साथ संबंध की बातचीत चल रही है—हमें इन सब बातों को नज़र में रखना चाहिये। इन सब हालातों को देखते हुए, हमें इन लोगों की कार्यवाहियों को यहां जारी नहीं रहने देना चाहिये, क्योंकि ऐसा करके हम दूसरे मुल्कों के हाथों में जा रहे हैं। हम नहीं समझते कि हम अभी भी क्या कुछ कर रहे हैं क्योंकि उन लोगों की संख्या प्रीवेंटिव डिटेन्शन में अगर देखी जाय तो वह बहुत कम है। इसलिये

[Shri Alluri Satyanarayana Raju.]

इस कानून को कायम रखना चाहिये और उस पर सख्ती से अमल करना चाहिये, इसमें कोई अल्पाचार की बात नहीं है। आज हमें अपने मन के विचार प्रगट करने की, लिखने की या बोलने की स्वतन्त्रता है, लेकिन ऐसा करते हुये जो लोग हिंसा का कार्यक्रम अपनाते हैं, देश के हित के खिलाफ ब्लैकमार्केटिंग (black-marketing) करते हैं उन सबके लिये और जो लोग यहां रहते हुये दूसरे देशों के या तो मास्को के कहिये या अमेरिका या पाकिस्तान के एजेंट बन कर काम करते हैं, उनके खिलाफ कार्यवाही करने और उनकी काली करतूतों को रोकने की इस शासन को जरूरत है। इसलिये इसको जारी रखना ही चाहिये।

[For English translation, see Appendix VI, Annexure No. 168.]

SHRI B. GUPTA: Mr. Deputy Chairman, I will not be much concerned with replying to the speech that has just been made by a gentleman who has, evidently, not been properly coached to speak on the subject. Nevertheless, he has been quite enthusiastic in letting the cat out of the bag. It is clear after his speech that the Act is intended to suppress the Communist Party of India and the other Opposition Parties, but the Home Minister, being a little more intelligent than most of the other Members on that side, would, perhaps, not like to say the thing so clearly as has been said by the previous speaker. But I think that is the position. It is not merely the Communist Party which comes under the range of this Act, which becomes the target of this Act, it is all the other Opposition Parties in the country which do not follow the line of the Congress or which oppose the Congress. If you would look into this document, which has been supplied to us, you will find the name of almost every other Opposition Party featur-

ing there. I would not waste my little time in answering the kind of ignorance that has been demonstrated there. I hope the hon. gentleman will find sufficient time to educate himself on matters on which he has but little knowledge. I would advise him not to talk about Stalingrad and Leningrad.....

SHRI ALLURI SATYANARAYANA RAJU: It is not your monopoly.

SHRI B. GUPTA: I would advise him not to talk about Stalingrad and Leningrad so early in this Parliamentary days. Since he has come here, he will find sufficient time to study the situation a little better before displaying his profound knowledge on the Soviet policies.

I would rather deal with the hon. Home Minister who is the law-giver, law-maker and the law-breaker, all put together. He has tried to make out before this House that the Preventive Detention Act is necessary to stop the hunger-marches, fastings before the Prime Minister's house and to stop some kind of things like what he calls *gheraos* and similar things. Four years ago Sardar Patel said something else. He said that the Preventive Detention Act was necessary to save the infant State, to prevent an impending revolution, to stop violence that was stalking the country, to prevent armed revolution, rebellion, etc. Now we find the hon. the Home Minister who was at that time in Bengal, coming here and telling us something quite different. No matter what happens in the country, no matter how the situation is, the Preventive Detention Act must remain on the Statute Book. This is their case. Why is that so? We know that as long as the Congress remains in power with such gallant gentleman hanging on to the band-wagon of the Congress regime, there will be need of the Preventive Detention Act because of the necessity to bolster up such people in power by force and intimidation, by crushing the peasants' struggle, by crushing the workers' movements and by crushing democratic movements of the country. This is

to ensure that these gentlemen, isolated from the people more than ever, can remain in positions of authority and brandish their swords. That is the position. Look at West Bengal. He talks about violence and what not. There the Communists cornered you and put you on the run in the South-East Calcutta bye-election, not by pointing at you bayonets but through your own ballot boxes. The debacle that you had there should have provided you with some amount of commonsense; but it seems that after the defeat you have become all the more desperate and all kinds of fantastic arguments are being now trotted about.

AN HON. MEMBER: What about Nabadweep?

SHRI B. GUPTA: Since the Preventive Detention Act was passed last year, we have the experiences of this measure for about 14 or 15 months. It is not possible to recount all the things that have happened, but we find the measure has been used in West Bengal to stop the trade unionists from carrying on their trade union movement. They had been sent to jail for "asking the workers to demand bonus". We have seen that the Preventive Detention Act has been used against the trade union leaders for "protesting against the employers when they took away the union office key and kept it in their possession". The Preventive Detention Act has been used in West Bengal against the peasant leaders for asking the peasants to demand better rice, reduced price and better food. All these are there in this paper. I will not be in a position to translate the whole thing from Bengali into English. I met a number of detenues in West Bengal and I had the privilege of going through their charge sheets. I found a number of charges were like this: "You have done this, you have asked the workers to go and demand their bonus or you have asked the peasants to ask for their food" and all that sort of thing. During the anti-tram fare enhancement agitation, when the Tramway Company increased its

second class fare by one pice, the people opposed the increase and they demanded that the increase be cancelled. The Company refused and on the advice of the Company the Government came out in its support. The people resorted to a very peaceful method of opposing.

KHWAJA INAIT ULLAH: By burning the trams.

SHRI B. GUPTA: There was no violence, there was no question of intimidation. It was perfectly legitimate on the part of the people to go and ask their fellow citizens not to travel in the British trams if the Company would not reduce the enhanced fare. It was very legitimate. But what happened on the third day? The Congress force was out on the streets. The tram-cars were taken possession of by the police and the passengers were pulled out; and people who wanted others not to pay the fares were driven out of the tram-cars and whisked off to prisons. That is the sort of thing that happened. Not only that, the leaders were arrested from their homes and from their offices and put into jail. About 800 people were arrested in one single day. That is the record of these people who advertise the Preventive Detention Act as being a very liberal measure. On the 5th of June, in another place—Burnpur—workers were fired upon and seven workers were killed. A miniature Jallianwala Bagh was enacted there by these very champions of the Preventive Detention Act. Not content with this sort of violation of human rights, not content with shedding the blood of the workers, they used this Preventive Detention Act against the members of the various legislatures, against leaders in public life, so that the interests of the British capitalist could be served. And these very gentlemen come here and tell us that the Communists are the agents of Moscow, and these gentlemen who have proved by their conduct, proved by their own acts that they are the base agents of British imperialism, the

[Shri B. Gupta.]

British Tramway Company, have the audacity to come and tell us here that we are the agents of Moscow.

SHRI T. S. PATTABIRAMAN (Madras): You co-operated with the British.

SHRI B. GUPTA: They are shameless. I say the whole of Calcutta rose against them and they retired into their shell. They did not have the courage.....

(Interruptions.)

MR. DEPUTY CHAIRMAN: Order, order.

SHRI B. GUPTA: ..to go and face the public. But now, taking advantage of the privileges of this House, these gentlemen tell us, "The Communists are the agents of Moscow." I invite them to come to Calcutta and say these things in a public place and they will then realise how their words are received by the broader parliament of the citizens of Calcutta.

SHRI T. S. PATTABIRAMAN: You come to Madras.

SHRI B. GUPTA: I know these gentlemen are not going to learn. They ..

SHRI GOVINDA REDDY (Mysore): Sir, we can follow what the hon. Member is saying only if he speaks in a lower tone. If he shouts like this we cannot understand what he says.

KHWAJA INAIT ULLAH: We may also be allowed to speak like that.

DR. SHRIMATI SEETA PARNANAND (Madhya Pradesh): Sir, is "shameless" a parliamentary expression?

SHRI B. GUPTA: I do not know. I shall say "without shame". Is that parliamentary? I am not accustomed to parliamentary decorum. Is that parliamentary?

MR. DEPUTY CHAIRMAN: You go on, please.

SHRI B. GUPTA: All right, Sir. But is it parliamentary to call people the agents of Moscow?

AN HON. MEMBER: Certainly.

SHRI B. GUPTA: Of course, they will be in need of this Act, because they are totally isolated from the people, at least in those States in the South and in West Bengal where they are, particularly, resorting to police violence.

SHRI T. S. PATTABIRAMAN: Which States?

SHRI B. GUPTA: They cannot face the public. They cannot go to the people and convince them of their case against the Communist Party or for the matter of that, any other opposition party. So, the best thing for them is to have this Preventive Detention Act in their arsenal and use it against the Communist Party and other opposition parties, in order that they can flourish in positions of authority. And when they want such a thing, they are never wanting in arguments, because Dr. Katju can always make a case out of anything. Last year you heard him. This year he has produced another set of arguments. Last year it was a different type of arguments. This year, he has compared these detentions to sessions cases, as if the people who are arrested under the Preventive Detention Act are people against whom sessions cases can be started. Twenty or twenty-five years ago, I suppose, his legal talents developed in one direction. It was not so bad, neither very much good. He tried to shine in the reflected glory of the late Motilal Nehru and others.. ..

MR. DEPUTY CHAIRMAN: Order, order. Please do not make such remarks.

SHRI B. GUPTA: It is not a personal remark. It is a political remark. I am paying compliments to him.

MR. DEPUTY CHAIRMAN: No. No personal remarks, please.



SHRI B. GUPTA: Very well. So he is defending the Preventive Detention Act exactly in the opposite direction now. What is his case? He compared these cases to sessions cases, as if those people, Members of Parliament, legislators and others are dacoits, as if they are being arrested for heinous, cognizable offences, for such grave offences as dacoity and murder. What is the use of making such comparisons, I cannot understand. The Preventive Detention Act is being used for no offence at all; whenever Government likes, when the Government wants to put the opposition elements out of harm's way, they use this Act. Therefore, it is no use making such comparisons.

We understand that their need will be greater. We know that as long as these gentlemen sit there, they will require the Preventive Detention Act, because that is an important weapon that they possess, with which to crush the opposition parties. We have been told what the States have advised. Dr. Katju tells the House that the States are unanimous in their opinion, that they all want this measure to continue, at least up to the end of next year. Of course, we know all the States will be in agreement with you. After all, birds of the same feather flock together. Dr. B. C. Roy, for instance, will sign on a blank cheque, because he wants this Act up to the end of his life, if he is to stay in Writers' Building, if he is to remain in the Bengal Secretariat. It is no use telling us what the State Governments have said. Please tell us what the people have had to say. You are supposed to represent the people! You claim to be the champions of democracy!

SHRI T. S. PATTABIRAMAN: People have voted us into power.

SHRI B. GUPTA: What have the people and the Press said about this Preventive Detention Act and the continuance of this Act? You know in the South East Calcutta bye-elections, we made this Preventive Detention Act an issue and.....

SHRI GOVINDA REDDY: How many misrepresentations did you make?

MR. DEPUTY CHAIRMAN: Order, order.

SHRI B. GUPTA: Whatever it is, this was an issue in the electoral campaign and you got a trouncing there and the people rejected not only this Preventive Detention Act, but also your candidate who was bolstered up with all kinds of assistance from the financiers whom you do not check, from the black-marketeers whom you do not arrest under the Preventive Detention Act. Against them or your American friends you have nothing to say. But there you got the trouncing of your life. So, naturally you cannot claim that the people of West Bengal demand the Preventive Detention Act, or for that matter, the people of the South or in any other State demand it. They never want such measures. They have expressed this not only from the platform, not only through the public speeches of their leaders, but even through the press which generally supports the Congress. The Act has been condemned on all hands and by all people. Even so, we find our hon. Home Minister telling us that the States have agreed, that they want the Act. We are not concerned with the State Governments. We know what they are worth. Some of them have been maintained even when they have not got a legislative majority. When they were tottering, the Assembly was prorogued so that the Ministers might remain in position. What is the use of telling about those gentlemen who constitute the Council of Ministers? These Councils are totally isolated from the people. They have no right to express the opinion of the States in which they live and function. They are isolated even from the rank and file of Congressmen. That is why there is rebellion inside the Congress. That is why there is disaffection inside the Congress. That is why these gentlemen, when they go to the lobby speak differently from what they speak here. We know.....

(Interruptions.)

MR DEPUTY CHAIRMAN: Order, order

SHRI B GUPTA I know when home-truths are said here, they feel very very chary I do not want to add to their anguish and I will not say more on this point But as far as the Preventive Detention Act is concerned, let it be clearly understood that public opinion is deadly against it It has expressed itself against it in all possible manners Therefore, if you at all care for public opinion if you at all stand for what you preach, then it should have been the duty of the hon the Home Minister to come here and ask for the annulment of this measure But we find him doing a different sort of thing

You see from the report that so many people have been let off by the Advisory Boards, by the High Courts and by the Supreme Court Dr Katju, an eminent lawyer and a police court lawyer at that, tells us, "See how liberal we are How fine it is being used Why are you worried?" But we say, the Preventive Detention Act and this report, if interpreted in the proper way, not in your own way, condemns your conduct It shows that there was no necessity even under the provisions of the Act, for the continuance of this measure

That is why so many people had been released The Advisory Boards are not made up of people who are very well known for their democratic opinions They are drawn from the services and whatever their worth they certainly are not people who are politically very very democratic Even those people functioning under the limitations of the Preventive Detention Act have been forced to set at liberty at least 224 of the persons who had been arrested Now, Sir, the Supreme Court and the High Court, similarly, had released a large number of people and then the Government *suo motu* had released a large number of people Dr Katju will say, "What is wrong

there? After all, if you are arrested, you are released" We ask, "Why should we be arrested?" We should like to ask him, "How many policemen had been called to question for making such arrests?" We ask him, "Dr Katju, have you gone into the cases of those who had been released in order to find out as to who were responsible for making such arrests that are not sustainable in a court of law and even before the Advisory Boards?" There is no answer to this point in his report Dr Katju, last year, gave us an assurance that he would personally look into this matter I know, Sir, such mighty persons never look into the matters which concern human rights and human freedom They have something else to look after and that is why they do not find time to look into such matters Now, if Dr Katju had been slightly amenable to public discipline, if he had been slightly respectful to the tenets of democracy if he had been slightly respectful to all that he says, he would have come here not with the fantastic police court arguments that he has trotted out but with a resignation letter in his hands saying, "The Preventive Detention Act which I got passed last year has been so abused that the Home Minister feels morally honour bound to submit his resignation" He has done nothing of that sort because here you can do anything you like However badly things may go, the Minister remains for ever They are unchangeable creatures Once they are seated in the positions of authority, they stick to it and until and unless a convulsion comes they cannot be removed from such positions They will never write resignation letters. They will never cultivate the art of signing resignation letters They have known the art of muscling in here into the Cabinet there into the Commission, there into the gubernatorial houses, but they are not ready, when the public demands it, to walk out of such places They talk about the Parliament If in the British Parliament such a thing had happened the Minister who had produced such a report as this would have perhaps been called upon by the Parliament and by

the public to tender immediate resignation but Dr Katju wants to build up a case on the fantastic document which he has prepared I do not know whether he has personally prepared it or somebody else had been at the job of preparing it for him

Now, what are his arguments? In the other House he said, "After all we have got 36 crores of people and only 117 are under detention—only 117 in a population of 36 crores" Wonderful arguments! Sir, we would soon find murderers and dacoits in a court of law saying, "We have committed only five murders In a population of 36 crores, what are five murders? So, acquit us" Sir, beware of such arguments dropping from the lips of the Home Minister which inspire and incite dacoits and murderers to increase the number of murders and dacoities We are not children, we are not to be regaled with such fatuous arguments produced by no other than the hon the Home Minister of a responsible country, in a responsible institution I do hope that the hon Dr Katju will revoke such an argument before he retires from this House after the easy passage of this Act As long as those gentlemen are sitting over there, there is no question, there is no doubt that this measure will be passed They are there to pass it but I should say that such argument from the Government derides the name of Parliament It makes the Home Minister look ludicrous before the entire world

SHRI T S PATTABIRAMAN  
Jaundiced eyes

SHRI B GUPTA You better keep quiet

Sir if you look into his arguments you will find that the absurdity of his argument is matched only by his total unconcern about the people He has not the least concern as to what the people feel, what the country thinks, as to what others say What he thinks is law and that has to be presented before the Parliament and got passed That is his line of argument

Sir, as far as this measure is concerned, I am not in a position to speak from the experience of other States but in West Bengal we know Sir, Dr Roy, our Chief Minister

MR DEPUTY CHAIRMAN No names, Mr Gupta

SHRI B GUPTA If you do not like the names there is a thing called the Council of Ministers It is not a personality but a collection, a Council of Ministers thirteen or fourteen I do not remember the number because it goes on increasing all the time These gentlemen constitute this Council of Ministers, and they so arrange matters that when they are in a difficult position they put the Opposition Members in jail whether he is the Leader of the Opposition of the State Assembly like Jyoti Basu or whether he is a Member of this House like Shri Satyapriya Banerjee They put them in jail whenever there is some kind of "trouble" Trouble here means people wanting more rice more cloth, but Dr Roy puts them in jail

MR DEPUTY CHAIRMAN No repetition Mr Gupta, do not repeat

SHRI B GUPTA I am, sorry, Sir The Chief Minister

KHWAJA INAIT ULLAH Do not forget Beria also

MR DEPUTY CHAIRMAN There are a number of speakers So do not repeat the arguments

SHRI B GUPTA I shall not repeat, Sir, but the names are unforgettable names and it is difficult to forget them

MR DEPUTY CHAIRMAN You are repeating your arguments Do not repeat them I am not talking about the names

SHRI B GUPTA I am not repeating Sir I am giving some instances In September last, the jute workers demanded a bonus All that they said was "We demand bonus as deferred wages The companies have made

[Shri B. Gupta.]

enormous profits and are in a position to pay the bonus. They are very wealthy companies and are financially very well off to pay the bonus." The Chief Minister himself had to admit this to the Leader of the Opposition and to the other people. I also referred the matter to the Prime Minister when I came to see him over the situation. The owners of the companies refused to pay the bonus in spite of the fact that they were in a better position financially to pay the bonus. Through their press they demanded that some action should be taken against those people who presented this demand. Immediately we found that the Secretary of the Chatkal Mazdoor Union was arrested and put under detention; we found some more people being arrested including the General Secretary of the Bengal Provincial Trade Union Congress who also happens to be a Member of the West Bengal Assembly. Now, this demand was a legitimate one; there was no question of violence or disturbance at all. The workers only presented their demand in a memorandum and immediately their leaders were arrested and sought to be intimidated under the Preventive Detention Act. In that month alone 750 people in West Bengal were arrested, some under the Preventive Detention Act. In the current year alone, if you take that into account, 21 people had been shot in West Bengal on various occasions. That is how these repressive measures are being used. Later on the detenus were released. Of course, they were released later on, all of them were released. I do not know whether at the intervention of the Prime Minister or not. All the five remaining detenus were released after I had met the Prime Minister here. There was absolutely no case; they were taken before the Advisory Board; personally they appeared before the Advisory Board and the Board ordered their immediate release. Now, Sir, we had known that the Advisory Board was not furnished with the materials concerning their detention up to the last moment. When some of the Members

of the Advisory Board talked to the detenus—all of them are our friends—it appeared that some of the members of the Board did not have the opportunity of reading carefully the charge-sheet even. We made enquiries and found out that the police had not supplied the materials to the Advisory Board in good time for these gentlemen to read them carefully.

Such is the state of affairs. We do not know what is going on behind the scene. It is clear that first you make the arrest, then you try to detain them without trial as long as you can and, then, when you find that you are in a tight position you release them and after doing so you come and say, "See how many people we have released."

Now in Bengal nobody is sure about his freedom because anybody at any time and at any place may be arrested under the Preventive Detention Act. As long as they are so determined to use it for crushing the opposition movements, one feels that there is practically no guarantee to elementary democratic rights and trade union rights. This is what we find. One year of the experience of the Preventive Detention Act has proved that there was no necessity for it and that there is no necessity for it whatsoever. We hope, Sir, that the hon. Members in the House will take note of the developments in the country. It is no use trying to scare us with what has happened in Pakistan and all that kind of thing which will be referred to in the Prime Minister's speech that will be made tomorrow. We know something serious has happened, but how can you stop such things? Are you applying this Act in the case of the Americans in Calcutta and putting them in the Dum Dum Central Jail? Come with me to Calcutta and you will find that the American agents are going on with their intrigues and propaganda openly. What about your Preventive Detention Act here? Are Americans free from this Act? If you talk about danger, why are you not

making use of this Act against them—one can legitimately ask you. It is no use trying to play on the fears of the people to justify the continuance of this hated measure in the country. If you, on the other hand, enlarge human rights and expand democratic liberties and give trade union rights to the workers, they will know how to maintain the security of the country. They will know how to create safeguards for the defence of the country and all other things. Therefore, it is no use trying to justify the Preventive Detention Act on the ground of peace and security of the country. Therefore, Sir, I would demand of this House that these proposals of the hon. the Home Minister be rejected although I know that the voting strength is large on the Government side. Many of them, I suppose, feel that there is not the slightest justification for this measure that there is peace and tranquillity in the country. The people are determined to fight for their rights in a constitutional, peaceful and democratic manner. It is only the Government and their minions who are crushing the legitimate demands of the people. It is they who have created the terror of bayonet. It is they who have murdered the people. It is they who have indulged in violence in the country. It is they who have sometimes provoked the people to violence in self-defence. If they stayed their hands, if they withdrew from violence, if they sheathed their swords if they took away the bayonets, we know the people of our country, glorious as they are, will know how to fight for their rights in a peaceful and democratic manner and how to fight for the security of the country. Therefore, Sir, in the interests of peace, in the interests of democracy and in the interests of civilized order, these people should see the unwisdom of such measures which give provocation to the people, empower the police to go at the people at any time they like and encourage the police to pounce upon the Opposition parties and deal with them as they like. This measure should, therefore, be given the go-by. We all stand for democracy and we all stand for

peaceful conditions and we all fight for a better life in a democratic way. We hope the Congress Party and, particularly, their ruling clique will know how to manage their affairs. That is the main thing that has got to be done. They should control themselves first and if they control themselves if they behave properly, if they know how to respect one's freedom and how to be peaceful, the country shall be in peace. I hope they will realise this before it is too late.

DIWAN CHAMAN LALL: Sir, it is difficult to answer the childish and reckless statements touched with ideological frenzy made by my hon. friend who has just spoken, speaking as he was on a matter of very great seriousness and of very great importance to the Opposition in this House. I give him credit, and I do so openly, for the ideological attitude that he adopts towards this measure. On the last occasion, when this measure was before this House, I said that I was not enamoured of this extraordinary piece of legislation and I thought that there would be no occasion for employing this weapon and that it would just remain in our armoury to be used only in extraordinary circumstances in order to preserve law and order in this country. But may I ask my hon. friend, how much he and those associated with him are really responsible for the necessity that has been created in this country for such a measure to be placed upon the statute book? They must take their due share of responsibility for the continuance of this measure, and I do hope since he has stated on the floor of this House just now that he and those who think with him are willing to adopt non-violent ways and constitutional methods, that by the time this measure comes to an end, automatically, under the constitutional provisions of this statute, there will be no necessity to prolong the life of this measure. The Government will have to wait and see what weight to attach to my hon. friend's statement on the floor of this House, because I

[Diwan Chaman Lall.]

am quite sure neither his colleagues on the floor of this House nor the Government are unaware of the fact that on the last occasion, when I was trying to get out of my hon. friend's colleague this admission whether he and his party were in favour of violence, it was not the Leader of his party then, but it was my hon. friend who got up and said, "We believe in violence".

SHRI B. GUPTA: Who said? I never said so.

DIWAN CHAMAN LALL: My hon. friend's memory is so short. In his enthusiasm he forgets what he actually said. He said, "Yes, we believe in violence against the Government's violence". That is what he said on the floor of this House. I pointed out to him then that there are constitutional methods of fighting what he ascribed to the Government as 'violence' but which is really the use of force for the purpose of the preservation of law and order.

And my hon. friend's colleague at that time admitted that he was giving instructions in regard to the weapon position in Hyderabad and that he was perfectly aware of that. In those circumstances, it became necessary then for the Government to arm itself against a menace for which, with the expression of non-violence that he has made today on the floor of the House, I hope it will not be necessary for the Government to continue to utilise an extraordinary legislation of this nature.

Now, my hon. friend said that this measure is being utilised for the purpose of crushing the Communist Party.

SHRI B. GUPTA: All other Opposition parties.

DIWAN CHAMAN LALL: Not only the Communist Party but the democratic forces of this country—other parties in Opposition. I take it that that statement is correct. My hon. friend says that this measure is being

utilised by the Government for crushing the Communist Party. Out of the 117 men who are under detention today, there are just exactly ten declared Communists. Ten Communists out of 117 and it is sought to be made out that this Government is utilising this power to crush his party out of existence. Do I take it that his party consists of only ten or fifteen people? I want hon. Members to understand the implications of this violent tirade that has been given by my hon. friend dragging every red herring across the trail. I suggest to my hon. friend to look at the facts. There are under detention today one Communist in Bombay, three Communists in the Punjab, two in the U.P. and three in PEPSU.

PROF. G. RANGA: Not one in Bengal?

DIWAN CHAMAN LALL: No, Sir. Not today. Now let us take it step by step. Let us take Bombay. There is only one Communist there in detention. If you will turn to page 10 of the report which the hon. Home Minister has placed before us and which has been condemned by my young colleague here as a useless and as a valueless document, you will see that an analysis has been given in regard to Bombay. And the people who were under arrest there were all for indulging in violence, for preaching violence, for both indulging and preaching violence, criminals, one goonda, harbourers of dacoits and one with a view to making preparations for the expulsion of a foreigner from India. These are crimes of violence; these are crimes of conspiracy and my hon. friend says that this measure is being utilised against a constitutional party which this country permits. It is permissible for any man to be a Communist. The action that has been taken against this one person in Bombay is not because he is a Communist but because he was indulging in violence.

SHRI B. GUPTA: That is an after-thought.

DIWAN CHAMAN LALL: There is the only individual that is left over and he says it is an after-thought. But

the actual details of the crimes that were committed by these people in Bombay who are under detention show that the crimes were of this nature. Does my hon. friend like that such crimes should continue? Is he in favour of these crimes? Is he? Obviously not. If he is not, then he must cast his vote for this measure.

SHRI B GUPTA I do not consider it necessary to answer him.

DIWAN CHAMAN LALL: Then let us take the next State. The next is Punjab—my State. And my friend will find from page 13 of this document that the people who were under detention were 11. And what was the detention for? One was for intended violent activities.....

SHRI B GUPTA Intended violent activities.

DIWAN CHAMAN LALL: .....and ten for harbouring dangerous desperate outlaws. May I take it that these three, who are under detention in the Punjab today, belong to this particular category of those who harbour dangerous and desperate outlaws?

SHRI B GUPTA There is the ordinary law for that.

DIWAN CHAMAN LALL: And is it for them that my learned friend is preaching? Is it for their safety, is it for their liberty that he is pleading?

SHRI B GUPTA. There is the ordinary law court for such things.

DIWAN CHAMAN LALL: Is it for their sake that he is raising this argument that this measure is meant to crush the Communist Party? Let me take the list one by one, Sir, because it is necessary that there should be no misunderstanding in regard to this position. Let us take PEPSU. Now if you will turn to page 6 of this document you will find that in PEPSU there are three detenues today and what were the 67 detenues originally arrested for? One was for preaching violence and 66 for harbouring dacoits. Now,

which particular category is my learned friend referring to? Which particular category does he want to protect? Does he mean that by arresting people of this nature we are attempting to crush the Communist Party? The Communist Party does not consist of dacoits or those who harbour dacoits. It does not, according to my learned friend, consist of people who go about preaching violence or who harbour desperate outlaws. It does not consist of people of that category. The action, that is being taken, is being taken against people of that nature. It is false, it is absurd to say that the Congress Party or the Government which represents the Congress Party is utilising any of its authority for the purpose of crushing the Opposition out of existence.

SHRI B. GUPTA. This becomes an excuse for them.

DIWAN CHAMAN LALL: My learned friend will remember that I did not interrupt him. I have very little time. If I had more time I would have given way to him.

SHRI B. GUPTA. Let the hon. Member make out a case. After all he has been hard put to it.

MR DEPUTY CHAIRMAN. That is what he is doing.

DIWAN CHAMAN LALL: The amenities of legislative procedure are probably unknown to my friend. When an hon. Member gives way, he gives way only because of an interruption that is relevant. Otherwise he does not give way.

Now let me take up the argument. Having dealt with the Communist Party let me deal with the other party. Now the total number of trade unionists today who are under arrest is only one and that is in the U.P. and that too because of violence. Of course there are some students in the U.P. and you, Sir, and the whole world are aware of the deplorable incidents that took place recently and it is better that action should have been taken under this measure for violent activities than under the law and I do hope that they will soon be released.

[Diwan Chaman Lall.]

Now in regard to the other party, the communalist party, I have the list before me which shows that there is not one single individual under detention today who belongs to the R.S.S. or to the Hindu Mahasabha; not one. And this is said to be the action that has been taken by the Government to crush its political opponents and which my hon. friend was attempting to assert. Sir, all that has been done is to humanise this measure—this very detestable measure—from the point of view of those.....

SHRI B. GUPTA: Why do you detest it?

DIWAN CHAMAN LALL: Yes, detestable, because of the activities of my learned friend. It is detestable because his activities are detestable. Only if my friend's activities were constitutional then I submit there would be no necessity for prolonging the life of this measure.

In any case having drawn your attention to these things that it is false and utterly irrelevant to say that the Government is utilising this measure for crushing its political opponents, may I draw your attention to the objects with which this particular measure was introduced and passed? The principle of this measure has been accepted by a very large majority on the floor of this House and so the principle of the measure is no longer in dispute. All that is under dispute is how the measure has been worked. It was at my suggestion in the Select Committee that it was decided that a report regarding this measure should be placed before Parliament after having seen a year of its working. That is the stage we have reached today. The review of this measure's working for a year has been placed before Parliament. Now that review is before us in connection with what? Not the basic principles. What were the basic principles that guided the passing of this measure? First of all, securing the defence of India. I take it that there is not a Member here who

would object to action being taken for the purpose of defending our own country. Now our country may be menaced in a very serious manner. I, too, do not desire to anticipate what may be said tomorrow. Then, the second principle was the security of the State, that is, the preservation of law and order and the third was maintenance of supplies. In connection with the last, action has been taken against certain blackmarketeers and I am quite sure that my hon. friend would agree that such action is necessary and desirable in the interests of the country. Now, Sir, these are the principles which guided the passing of this measure. Is there any hon. Member who objects to preservation of the defence of this country, preservation of law and order or a steady and uninterrupted flow of supplies in a difficult food situation? Is there any one here? I take it that there is not one Member here who objects to the principles underlying this measure. Then what are we objecting to except merely raising a point which is important in my opinion, but which has not really been made in the manner it should have been made? I shall make a present of that argument to my hon. friend. What is being objected to, Sir, really is this. It is an extraordinary legislation and we should not, normally, resort to extraordinary legislation. I entirely agree with that.

In its totality, I agree with this argument and, therefore, I do hope, and I have not the slightest doubt, that it will happen, that my hon. friend, the Minister-in-Charge will take the earliest opportunity of reviewing this measure from the legal aspect, to provide certain offences in the criminal law which will cover some of the cases of the detenus who have been detained under this measure. There is a very great necessity not only to review this measure from the legal point of view but also otherwise, so that we can provide certain offences, so that the ordinary normal law may operate and thus enable us to do away with this extraordinary legislation. That is a constructive proposal; I was hoping that



it will come from the other Members of this House.

AN HON. MEMBER: You are on that side.

DIWAN CHAMAN LALL: My heart is on both sides.

SHRI H. C. MATHUR: But your.....

DIWAN CHAMAN LALL: I hope my hon. friends will follow the arguments. After all in the olden days when a similar debate was held in the House I got up and made a speech in which I attempted to tear to bits the measure; I refer to the Public Safety Bill. We were not responsible in those days. Today, the danger is obvious and responsibility rests on the representatives of the people of our country.....

SHRI S. BANERJEE: .....responsible for this atrocious piece of legislation.

MR. DEPUTY CHAIRMAN: Order, order.

DIWAN CHAMAN LALL: My hon. friend, in spite of his grey hair, an old friend of mine, has not got out of his sense of irresponsibility.

This matter must be looked into from the point of view of the conditions prevailing in the country today; not only in the country but all along its borders. This measure may be utilised presently for the purpose of securing the defence of this country; and no Government in its senses, no responsible Government can possibly give up, at the present stage, in view of the international situation, the powers which it has got in order to meet the difficulties that might come up if the situation does not improve. Therefore, I submit, I make an appeal to my hon. friends opposite to realise that there is nothing in this measure, which is now being utilised for the purpose of dealing with violent activity in the country, to object to and it is they who should offer assistance to the authorities for the maintenance of law and order. So, give up preaching

violence and give up this bombastic talk like "Come to Calcutta and see for yourself; the Congress lost its election" and so on. There was another election on the same day in Bengal and the Congress won, won that election with a majority of nearly 50,000 votes. Do not try to draw conclusions from things of that nature. Extraordinary things do sometimes happen. Extraordinary candidates were put up and something happened. What you must concentrate upon is—I beg of my hon. friends on this side as well as my hon. friends on the other side—to suggest some constructive proposals whereby, law and order may be preserved and the safety of India secured.

SHRI S. N. DWIVEDI (Orissa): Mr. Deputy Chairman, I do not propose to take much time of the House. When in August last this measure was introduced it was debated for many days and Members belonging to all sections of the Opposition stated that the conditions in the country did not warrant any such extraordinary measure. Sir, after a year if we would look at the document, the report that has been presented before the House, it is clear that there is no necessity for such a legislation at the present moment. There is no justification for the continuance of such a measure any more. The previous speaker has stated that actions under this Act have not been directed towards the political parties. Mostly, it deals with other elements. If that is so, may I ask, Sir, neither the Home Minister has convinced us with any argument regarding them, nor had the learned speaker said whether the ordinary law of the land had failed to deal with the offences of a criminal nature and why is it that persons have been taken to prison under this Act. I feel, Sir, there is no justification for the continuance of this measure.

I had thought that after the experience of this year and after going through the deliberations on the last occasion, the Minister would come forward with a Bill to amend this Act. The previous speaker, who seems to

[Shri S. N. Dwivedi.]

be a spokesman of the party to which he belongs, very enthusiastically asked a question "Is there anybody in this House who does not want that this country should be defended, who does not want that these anti-social elements should be hauled up?" There is nobody really in this House who does not want this. All are agreed on this point. If that is so, may I ask him, if he has any influence and is not merely a camp-follower, to exert his influence on the party sitting on the Treasury Benches to amend this Act and confine it, limit its scope only for the defence and security of this land? This Act has a wide scope; unlimited scope; it is not confined to the very issues which my hon. friend has just now mentioned.

Therefore, I would have liked and I would have given him my whole-hearted support if I had found—let alone political parties—that this Act has been used against only anti-social elements. It is not so. From the figures you will find that only 29 persons within these twelve months have been detained for offences, with a view to preventing persons from acting in a manner prejudicial to the maintenance of supplies and services essential to the community—preventing black-marketing, profiteering, etc. Do I understand that in this country only 29 persons are involved in such actions? Are there no more? The fact is that thousands of persons under the protection of this Government are indulging in this activity; and if there is any menace to our society today, it is this and nothing else. If this Act was amended, its scope was widened so as to haul up all such persons, then, I have no doubt that many high functionaries of some States would have been detained by this time. It is not being done, because they are the pillars of the party in power today. They do not want to raise their finger against them. 'International situation' and 'internal commotion' are old slogans. Therefore, Sir, no case is made out to convince this House that the

Act has been utilised in a proper manner and its continuance is justified. Therefore, I oppose this motion and I feel that this measure should have been amended to end its life here and now. But if the picture as presented in this House has not convinced the hon. the Home Minister to repeal this Act, my fear is that after a year, in 1954, this Act is not going to end. Perhaps, the Home Minister would come forward to make it a permanent measure. If this has not convinced him, I do not think there would be any situation in the country which would convince him that such Acts are no longer necessary. Sir, we here represent the people whose custodians we claim to be. Take, for example, the land question. The Government spokesmen say that it is a State subject. The legislation in respect of zamindari abolition has not been passed in some of the State Legislatures as yet. When this question comes up here, you say that it is a State subject and it is primarily the responsibility of the States. We do not interfere in their affairs, but we only advise. And here in this case it has been admitted that this law and order is primarily the responsibility of the States. Why don't you leave this matter to the States concerned? Let them decide for themselves as to whether such Acts are necessary or not. If one goes through the report, he would find that as many as 11 States have not taken recourse to this measure. But here the Minister comes forward and says that the States have asked for the continuance of this measure. We know how the different States are functioning today. A slight indication from the Centre is a mandate for the States, as they belong to the same party and the Centre is controlling their freedom. They have no freedom to think and no freedom to act for themselves. Therefore, this plea does not hold any ground that the States have asked for the continuance of this measure. I think that if it is left to the States to decide, many of the States would like not to have any measure of this type because the conditions do not justify the existence of any such measure. Therefore, I would

suggest to the Government that if they are very sincere and honest about the preservation of the democratic rights of the people then such a measure should be repealed as early as possible. When they speak about the international situation and the immediate danger arising out of that situation, then let them remember that India today is a country to which many other countries are looking forward with hope and expectation. How do we preserve our democracy? How do we give freedom of expression and freedom of association? That is being looked to by people of other countries. And if you proceed in this way, if you give such instance of continuing this extraordinary measure curtailing the rights of the people at a time when complete peace prevails all over the country, then I say that you are doing greatest disservice to democracy to freedom, and to what we cherish for and what our Constitution stands for.

**SHRI H. C. MATHUR** Mr Deputy Chairman, the hon. the Home Minister advanced some wonderful arguments trying to build up his case for the retention of this Preventive Detention Act. And the hon. Member from the other side, a forceful speaker that he is and of course, an eloquent parliamentarian came to his rescue by supporting the retention of this Act. The hon. the Home Minister has made much out of the fact that all the States have unanimously asked for the retention of it and, Sir, he has not hesitated to say that he himself feels very strongly that there are ample reasons and there is ample justification for its retention. Sir, the hon. the Home Minister has not stayed there and knowing as we do the inkling of his mind, he feels that this Preventive Detention Act should be retained for all times and that it should be put on the statute book almost as a permanent measure. Sir, when I was speaking on this measure last time I made it perfectly clear and candid that we would not have the least hesitation—and I repeat the same thing today that we would not have the least hesitation—in arming

the Government with such power as the Preventive Detention Act gives, and if need be with still greater power, if it was necessary for the stability and security of this country. But I submit, Sir, that if we make an objective and analytical study of the whole case we will find that whatsoever, no justification exists. The wonderful arguments which have been advanced will be torn to pieces, and if our friends just care to examine how those arguments can be sustained a little more coolly and dispassionately, they themselves will come to that conclusion.

The hon. the Home Minister while supporting this measure gave two or three instances. Sir, he talked of the students' strikes and the hon. Member, who came to his rescue, also referred to what had happened at Lucknow. I would most respectfully refer them to the speech made by the hon. the Chief Minister of Uttar Pradesh in the Legislative Assembly about this very affair. I would further refer them, Sir, to the speech of that most illustrious philosopher and a great man with greater understanding and sympathy who made that speech in the Delhi University. And they will find an absolutely fitting answer to them in those two speeches. Nobody can do better. They fixed and they fixed properly, the entire blame on the Government for not tackling these cases and for not tackling these situations as they ought to have done.

Sir, the hon. the Home Minister further gave a very convincing sort of example on which he seemed to have based his entire case. He told us of a manager in Bengal where that manager was brutally dealt with. And he built up his case on the argument that if they had an Act like this Preventive Detention Act they could 5 P.M. have stopped it. Sir, I am really amazed that a great lawyer like that should be advancing such arguments. Now if you look at the ordinary criminal law if the Government had been vigilant, if the police had been vigilant, if they had

[Shri H. C. Mathur.]

discharged their responsibilities properly, there is section 107 of the Criminal Procedure Code under which they could have taken action. It should have been possible. As a matter of fact, they have the Preventive Detention Act at their disposal, but they have made no arrests under it. Then, what is the use of having it? This is just to bamboozle the public and to make them believe that there is urgent need for preventive detention.

Sir, the Calcutta hunger marches are another set of instances, which is being pressed into service for the retention of this Act. We are told: "If such things happen in the country, how can they cope with the situation without having an enactment like that?" Sir, there were leading articles even in our most moderate papers against the wholesale arrests of persons at the time of these hunger marches. I, respectfully, submit that the Preventive Detention Act is not the remedy for it. The proper remedy was the statesmanly statement of the hon. the Food Minister.

The hon. the Home Minister argued that this Act has not been abused in any sense, and he quoted cases after cases to show that this is primarily meant for coping with dacoities. We have never been against your suppressing dacoities. We have not said one word when you go out and shoot the dacoits. We have rather praised you for these encounters, but we certainly object to your taking action under the Preventive Detention Act. Possibly not having studied the facts and figures, our friends here mentioned again PEPSU and Rajasthan, because it is very clear that these are the two States where the state of affairs is not very happy. There are a number of dacoities and the police have been very active in those States, but if you would look at the statement, you will find that Rajasthan has been practically out of the picture. There are the least numbers of arrests in Rajasthan, though the number of dacoities is much larger there than anywhere else.

In PEPSU, a much more tiny State, we have 66 arrests, but in Rajasthan there are hardly seven arrests. Last time, when I spoke about it, I took a lot of time in explaining the position in Rajasthan. There were certain M.L.As. who had been arrested; *Jagirdars* had been arrested, but what happened? The situation of lawlessness continued to be the same and dacoities are perpetuated there. Many people have been shot down by the police, but no arrest has been made now under the Preventive Detention Act. There has been no *Jagirdar* arrested. The only difference in the situation that I know of is that last year the Members of the Legislative Assembly in the Opposition were trying to pull down the Congress Ministry. They moved a motion of no-confidence. Now, no M.L.A. or *Jagirdar* harbouring these dacoits has been arrested. Now, the situation is entirely different. The Congress Ministry is being kept in power by these *Jagirdars*. Why? It is because there is such a disruption in the Congress there. There is actually a truce. That truce is not known only to me. It is known to the hon. the States Minister and it is known to the hon. the Prime Minister. Still, our friends on the opposite side tell us that this Act is not being abused, that it is not meant for suppressing the political opposition. Here is the true picture that I have given you. No doubt, the security of this country is more precious than anything else, and as I have said at the very outset of my speech, we are most willing to arm the Government with any measure or with any power that is necessary to maintain the security of the country, but, Sir, I have made a dispassionate study of the whole situation and have come to this conclusion that this demand, this unanimous demand, from all the various States and from the Centre is symbolic of the diseased mind of this Government. Sir, this disease has taken deep roots. The roots have gone deep into the bureaucratic mentality of this Government. They have gone deep into the incompetence and the inefficiency of our Ministries. The roots go deep into the failure of this Government and our

leaders to understand the spirit of the times, to understand the spirit of the circumstances that have changed, and to bring about a changed outlook in dealing with public matters. Sir, that tendency is there. I most humbly appeal to the hon. the Home Minister that, instead of being obsessed by these superficialities and instead of trying to keep up the symbols of this disease, he should try to cure the disease itself. I have placed before him the position in a nutshell. Only if we can put the national interests above party interests, only if we can have competent persons to deal with the situation and only if we bring about a fresh outlook on all these matters, most of our difficulties would be overcome. The Preventive Detention Act is certainly not the remedy. Sir, the tone and temper of the hon. the Home Minister's speech hurt us. He told us about respect for law. He asked us to go and inculcate in the people respect for law. I wish the Home Minister realises that nobody has done greater harm to the dignity of law than he himself. This Preventive Detention Act is the greatest onslaught on the dignity of law. You cannot by these pressure tactics, by these shock tactics, accustom us to keeping in company with such a law for all times.

[THE VICE-CHAIRMAN (SHRI AKHTAR HUSAIN) in the Chair.]

I wish that the Home Minister realises that there are Members in this House, not only on the Opposition I hope also on the Congress side, who will be vigilant.....

AN HON. MEMBER: Not one.

SHRI H. C. MATHUR: I am really sorry for it if they are not. Without hearing my sentence you say it. What I say is that there are Members not only on the Opposition but also on the Congress side who are vigilant, who will be watchful and who will go with the public opinion. That is all, I wanted to say. We are not going to be carried away by these shock tactics. Here is the Minister saying this. What is the purpose? It is a very psycho-

logical deal. The hon. Minister is just giving out his mind and says that "We want this Act. I think there is nothing better than this Act", and this Act will be there as a permanent measure. It is a very great psychological deal which he gives. He wants that the Members should get accustomed to it, that the Members should feel that it is something as a matter of course and he wants to dull the sense of Opposition. What I submit is that I hope not only Members on this side but Members on that side too will not be weak enough to succumb to that.

THE VICE-CHAIRMAN (SHRI AKHTAR HUSAIN): Has the hon. Member finished?

SHRI H. C. MATHUR: I will take another two or three minutes. Therefore, I very much wish to state that the argument advanced—the last argument in connection with a change in procedure made by Diwan Chaman Lal—should definitely be taken into consideration. I strongly feel that there is absolutely no necessity for the retention of this Act.

THE VICE-CHAIRMAN (SHRI AKHTAR HUSAIN): The hon. Member has already said that.

SHRI H. C. MATHUR: It is just to advance an argument further on it. The hon. the Home Minister has more than once repeated that it was much better to prevent the offences rather than that the offences occurred and then punished the man. He said it in the other House and he made a great point of it in this House also. Why this argument? Am I to understand that there are no provisions in the ordinary law for the prevention of the offences?

SOME HON. MEMBERS: No.

SHRI H. C. MATHUR: I wish our friends should know that there are ample provisions and there is ample power. It is not to the prevention of the offences that we are objecting to. There is a fundamental difference and

[Shri H C. Mathur]

that is that when you go under the ordinary law, you prevent the offence under the preventive provisions of the criminal procedure but there the basic difference comes and that is that you afford the accused an opportunity, that you let the accused know that this is the charge against him and you also further give the accused an opportunity to prove or disprove the facts as fits in his case. Therefore I submit that we have got preventive detention provisions for that. If it is necessary, there will be no objection to re-considering those provisions for the preventive detention and to make them such as would meet the situation in the country. Thank you.

SHRI S BANERJEE Mr Vice-Chairman I have read the report prepared by the hon. the Home Minister in consultation—I was going to say in collusion—with the State Governments with interest and I am constrained to have to say, if I may use a military phrase a 'pincer movement' is going to be started against the liberties of the people of India—the State Governments and the Centre are acting in concert, in consultation and in collusion to suppress the liberties of the people. If I may quote a Bengali proverb or rather two

*Chorer sakshi gantkata*

*Shundir sakshi matal*

I don't know whether it is parliamentary I will just now translate it. The witness of a thief is a pick-pocket and the witness of the owner of a liquor shop is a drunkard. Sir, I listened with rapt attention to the magnificent but misfit performance of my friend over there—Diwan Chaman Lal. I would only beg to remind him that we are too near the Congress history to forget that it always described this law as a lawless law, as a dangerous menace to the liberty and a standing reproach to the statute book. But now that we are in the midst of the Congress Government, a Government which has come to power through betrayal in August 1947—I will not relate the history here—and not

through straightforward means, they are dinning into our ears that they have been forced to take to this legislation as a supreme necessity. I respect the opinions of others but I keep my own with equal respect and I make this bold assertion and say—and I am sure posterity will think aloud with me afterwards—that this piece of legislation is a treason against the liberties of the people—a treason infinitely worse than a rebellion of the people against the Government for winning and maintaining these liberties. The people rise because they think that obedience to tyranny is disobedience to the forces of progress that lead society from victory to victory till its last vestiges are wiped out of the face of the earth.

The application of this piece of legislation is arbitrary, is designed—not to say Opposition parties—to suppress people's movements, patent and latent and their leaders' movements which draw their inspiration from the needs and aspirations of the people. I will only refer to the tramfare movement in Calcutta in July last. I was deeply involved in it. I took a part in it and I may add, a leading part in it and

KHWAJA INAIT ULLAH And not detained?

SHRI S BANERJEE I was arrested under the ordinary law but not detained under this particular Act. I don't know why. It may be for fear of Parliament. In page 15 the report says "20 persons were detained under this for preaching violence in connection with Calcutta tramways fare enhancement resistance movement. This is a travesty of truth. There was no preaching of any sort of violence from the very first day to the last day of the movement. If there was any preaching, it was the preaching of non-violence, asking the people not to resort to any form of violence, because the sponsors of the movement knew, the leaders of the movement knew that once there is violence on their side, the movement would be scotched by the Government and the

demands of the people would be lost. They were fully alive to it. They were conscious of it and they have, therefore, from the very first day of the movement, implored the people not to resort to violence even under the gravest provocation. But violence there was. Who was responsible for that violence? It is the police and the agents of the Government. If there was the least violence on the part of the people, it was in the last resort to meet the violence from the other side, to defend themselves against the violence of the police and the agents of the Government. And one has every right to do that in self defence.

Sir, if what has been said on the report with regard to Bengal is a travesty of truth, I am constrained to say that every word that is written in the report bears the stamp of untruth. Sir, I am afraid, many will be the speakers. I do not, therefore, make an encroachment upon others. So far as this report is concerned, I will say this much in point of argument, the attack is bad, in point of taste, it is worse, because they give the dog a bad name and hang it, and in point of fact, it is utterly, basely, manifestly and absolutely false. I know all I say will fall upon deaf ears. But if instead of the Preventive Detention Act, the Home Minister had taken courage in both hands and enacted "Prevent Detention Act", the whole country would have rejoiced and he would have earned the blessings of his countrymen. I will, however, remind the Members of the House before I conclude of the memorable words said by that eminent political philosopher Burke on a similar occasion: "Patience is exhausted, reason is fatigued, experience has given judgment, but obstinacy on the part of Government is not yet conquered".

SHRI KISHEN CHAND (Hyderabad): Mr. Vice-Chairman, we are reviewing the working of the Preventive Detention Act from 1st October 1952 to the 30th September 1953. As has been pointed out by the hon. Minister, at present, there are only 117 people

coming under this Act. If the number is so very small, I do not understand how they can be a menace to the security of any State or of this country. I do not think the hon. Minister considers that this number of 117 is so large that they are going to jeopardise the peace and tranquillity of this country. If we go through the report carefully, we find that during the period of twelve months, nearly 1,100 people were ordered to be detained under this Act. Their cases were reviewed by the Board, by the State Government and by the High Court and the Supreme Court and out of this number of 1,100, nearly 800 were let off.

The hon. Minister has been an eminent lawyer. He knows that even in the ordinary law, if the judgments of a judge are reversed very frequently, what does it signify? It only signifies that the judge is incompetent, that the judge is giving wrong judgment. Similarly in this case, when you find that out of 1,100 cases, nearly 800 cases are rejected by the Boards or the High Court or the Supreme Court on the basis of insufficient grounds, it means that the Preventive Detention Act is being wrongly applied on innocent people, that they are being unnecessarily put behind the bars. When their cases come up, the Board rejects them and the Board finds them innocent. Therefore, one is driven to the conclusion that there are certain other motives.

If you see the figures given, you will find that a large number of cases are for harbouring dacoits. In the previous report, it used to be for violence; it used to be for political activities. But now the Government have found a very nice loop-hole or excuse and they say it is for harbouring dacoits. I do not think any hon. Member can raise an objection against that very laudable objective of the Government, namely that of putting down dacoities. Under that plea a large number of cases come up.

My hon. friend Diwan Chaman Lall was very eloquent when he was

[Shri Kishen Chand.]

defending the whole case like a good lawyer. He said, "We want tranquillity and what is to be done? Our security is in danger. No one can object if action is taken against people harbouring criminals". But I must say, this is not the correct form of advocacy, because by giving it a bad name you are trying to justify a wrong action. If there was really harbouring of dacoits, I don't think the Board would have let off such a large number of people. What was the harm if these 1,000 people had appeared before the ordinary law courts?

Sir, democracy and human rights are fundamental things and once we encroach on fundamental human rights, there is no limit to the encroachments by the executive. Then political vendetta or personal grievances and things of that nature, come into operation. A large number of persons who were detained, were afterwards let off and this only indicates that the petty officers, the subordinate officers who were enforcing this Act used it against their political opponents or against persons with whom they had personal grievances. They were put into the lock-up for a couple of days. Their cases go up to the courts and then they are let off. I submit that this is a very unfair way of dealing with political opponents.

If we look into the history of this Preventive Detention Act during the last twelve months, we are driven to the conclusion that there is no case for it, that these persons can be dealt with by the ordinary law of the land, that they are not a menace to the peace and tranquillity of this country and also that it is only being used for political purposes. Therefore, I submit, Sir, that this law should be withdrawn immediately.

SHRI RAMA RAO (Andhra): Mr. Vice-Chairman, comparatively speaking, this year's detonations over this measure are much milder than the shell-fire of last year over the original Bill, which is now being sought to be continued.

This is a clear recognition of the fact that the Opposition has come to believe that this measure requires an amount of support which must never be denied to a Government that has been placed in power by the overwhelming franchises of the people. I do not say that the Communist Party, true as it is to its genius, would ever accept a measure of this kind, because it knows that it will be very badly hit by it, as it has been already. Its influence has perceptibly declined. If the Communists are on their good behaviour today, it is because of the deterrent influence of this strong and formidable measure on the statute book.

SHRI S. N. MAZUMDAR: Your lessons on history have gone wrong.

SHRI S. BANERJEE: You are misreading history.

SHRI RAMA RAO: We are aware—and our friends, whose knowledge of history does not seem to be very sound, are not aware as we are, that repression is no remedy. I would tell them not to inflict their advice on us in the false belief that the Congress is somewhat like the British Government of old, that is without constructive remedies for the distempers of the body politic. It is not like that. It is a Government that is in office as a result of an election; it has been charged with the duty of maintaining political tranquillity and bringing about economic re-construction. Both the functions it is discharging. If any forces in this country come in the way of this holy task, they have to be crushed and they will be. I have not the slightest doubt about it. The Indian National Congress will never betray the trust which the people have placed in it.

SHRI S. N. MAZUMDAR: It has already done it.

SHRI RAMA RAO: Sir, I come from Lucknow. I was present at the time the recent disturbances were taking place. I watched with grave concern for several days the burning of buses,



the challenging of the police, and the leading of unlawful processions. Is this a democratic temper? The younger generation is being taught the technique of Communism and taught to destroy Government established by law.

SHRI S. BANERJEE: You came by a subterfuge and are continuing by a lawless law.

SHRI RAMA RAO: Everyone in Lucknow who went about could see new faces, some of them very lovely indeed, imported from Calcutta. The technique was perfectly 'Calcutta'. I must really congratulate the Communists on their extraordinary capacity to communicate so quickly their wisdom to their *chelas*—the unsophisticated children of U.P.

Sir, you will find that in the course of the debate not much has been said about the inherent make-up of this measure. The critics have been busy attacking its "flagrantly wrong administration". I know something about measures of this kind. I myself was a victim once of the Detention Act of the British days.

SHRI M. P. N. SINHA: Really?

SHRI RAMA RAO: But I cannot understand how they can possibly object to its present administration with so many safeguards which have proved valuable and realistic. The argument has been advanced that the courts have released quite a large number of people and, therefore, there is something inherently wrong, if not in the measure, at least in its administration. If that is the correct position, my answer would be that Government would have been justified in coming to this House with a stiffer and stronger measure. Have they?

They might have stiffened the law instead of merely asking for a continuance of the law as it stands today, in spite of the lacunae pointed out by the courts. Let me add that, although we are under the painful necessity of having to continue a law of this

nature, I agree we must not curtail the liberties of the people unless under extraordinary pressure of circumstances for which this law is meant.

"You are trying to crush our political movement" this is what our Communist friends have been saying. I am surprised that it was even the intention of the Congress. No man with a democratic conscience would support action of that kind. Political life would not be worth if there is not a clean hand and a clear conscience. Surely, what do we gain by crushing our opponents? Shall we not be making martyrs of them, making them personally more popular and politically more attractive? In such circumstances, they might come to office, definitely to our discomfiture. We are not so shortsighted as to allow that to happen. We are also aware that under a democratic constitution it is impossible to crush a political opposition, unless the Government of the day has decided to be thrown out.

My friend, Bombardier Shri Bhupesh Gupta, has spoken glowingly about the victory of the Communists in the recent Calcutta bye-election in order to prove the growing "political isolation of the Congress". What does it come to? Not much. We too won another bye-election, at the same time, as pointed out by Diwan Chaman Lall. As to the results of the bye-elections held up to date, the Congress wins have been at least fifty-fifty. Not a hair has been disturbed, not a wither has been wrung from the body of the Congress by the losses so far sustained. Normally such a high scale of success in bye-elections is not expected of a ruling party, particularly a party ruling amidst such tremendously difficult circumstances as the present. I want to see, for the fun of it, the trophies the Communists have won and the victories they have inscribed on the walls of India's political life. Few, very few; little, precious little.

Shri Gupta has advanced the argument that the Congress Ministers who have been coming to the legislature

[Shri Rama Rao.]

for legislation of this kind, have been changing their arguments every time. There is a Latin saying: 'O tempora! O mores!' (Other times; other manners). It does become necessary to do so when conditions change, when new situations require new remedies, when old laws require to be suitably amended or strengthened. If the Communist technique develops along different lines or the fellow-travellers of the Communist Party develop a novel technique of their own, we too have to adopt new measures to put them down.

This has been called a lawless law. I admit—a lawless law for a lawless people.

'You are applying this measure to put down labour strikes', is another allegation. What are these Communist-promoted strikes really? Is it not the wish of the Communist Party and its fellow-travellers to make it difficult for the country to progress on the economic front? Do they not want to create discontents everywhere and batten upon them? We have then the right to say that it is not genuine labour trouble, but deliberately promoted political trouble, and we shall deal with it on its merits.

Incidentally, I want my friends to remember the distinction between 'force' and 'violence'. The State is based on 'force' partly but largely on 'good-will'. To pit the violence of any citizen or set of citizens against the force of the State is to ask for trouble which will be put down immediately.

[MR. DEPUTY CHAIRMAN in the Chair.]

Mr. Deputy Chairman, the idea of preventive law is acquiring a new connotation all over the world these days. It is considered only by old-fashioned people, a grave departure from the familiar jurisprudence of fifty or hundred years ago. Extraordinary legislation is wanted for extraordinary times. Even the most

advanced democratic countries have gone in for preventive laws.

It has been suggested in the other House, "Why don't you proscribe the Communist Party"? Sir, that has been done in other countries already. It was done by the British in this country when they were ruling, but the fact that the Indian National Congress has not done it.....

SHRI S. N. MAZUMDAR: Has done it.

SHRI RAMA RAO: .....and has, instead, allowed the Communist Party to tenant the Opposition Benches in Parliament and the other Legislatures is a clear indication of the constitutional fairmindedness of the party in office and the wholesome mentality with which it approaches political questions.

Sir, the argument is next advanced that there is no actual and present threat to security and, therefore, there is no need for a special law of this kind. Last year I developed my reply to this argument when we were discussing the fundamental preventive detention law, which we are asked to continue today. In short, it is this: So long as there is in the field the theory of "Permanent Revolution" of the Communist Party, so long there is a permanent emergency in every country that wants to protect itself against infiltration, spying, sabotage, internal commotion and the fifth column. There is permanent emergency in India according to this description and, therefore, permanent or semi-permanent security legislation is necessary.

May I urge another argument in support of this measure in the light of the latest development? We have been hearing all these years about international Communism, but what about international Fascism? It is fast advancing. Wherever you find American influence, you find Neo-Fascists and Neo-Nazis coming up. They have been sprouting like mushrooms all

over Europe. The Americans are keen on promoting Fascism as a good standby for their policies. There are a sufficient number of people in this country, I believe, who would only too willingly sponsor a counter-revolution if they can thereby put down the Congress. Are we then to stand quiet with our hands in our pockets and allow these people to develop their plots and to do their havoc? No. We must save ourselves in good time. I would hence call this not so much a preventive measure as a self-preservation law.

Are we without definite plans of a constructive nature to meet the needs of the people? We have been continuously putting forward constructive plans for the development of this country and promoting its prosperity. We are not a police State like the Anglo-Indian State. Look at the progress we are making on all fronts. I sincerely hope and expect that the economic prosperity and the political tranquillity that the Indian National Congress has been maintaining and promoting will put down all sorts and kinds of discontents and distempers and will make it unnecessary to have extraordinary legislation of this nature. I trust that in the new kingdom we are building up rapidly, there will be no Fascists, Communists and that every one will be a good citizen.

DR K. N. KATJU: Mr. Deputy Chairman. I have to leave Delhi for Calcutta by the 6-30 plane. I should like, in a few minutes, just to say a few words. If the House desires to continue the debate till the regular hour, I have no objection and my hon. friend the Deputy Minister is here and if there is any point he will deal with it. I do not want to interrupt the House. I do not want to prevent other Members from speaking. So far as I am concerned, I have stated the Government point of view at some length in my opening address. And further the need for the continuance of this Act has been fully described by my hon. friends Diwan Chaman Lall and Mr. Rama Rao. I should like to assure the House on one or two points.

Firstly, to the Government and to me personally, it is no pleasure to have this enactment on the statute book, but being realistic and responsible—and I suppose every Member of the House whether sitting on this side or that side is responsible—for these—what may be called—dangerous times, having regard to the context of the world, the presence on the statute book of a very reasonable, and I repeat once again, rather cautious, statute of this kind would be a useful thing. I gave you facts and figures to show that there has been no desire, and there is no evidence of abuse of this Act. My hon. friend who spoke a little while ago said 1,100 people and so on. Now it is quite right, but you must take the number in the context of the population. The population of India in which this Act now prevails is 36 crores—the entire area including that covered by the Indian States which are now the component parts of the Union, B States, A States, Manipur and Tripura, everything is here. I say in all seriousness, I am astonished at the moderation of the State Governments; because, from what I hear and the reports that I receive, if they had been a little stricter, very likely their action would have been justified. They are States on the borders. It is not my desire to point to any single party or any political parties; but the fact remains that there are activities of violence. I tell you what I found some time back when I was in Calcutta for six months. In one particular year—I think it was in 1950—a particular policy was followed and there was an orgy of violence in Calcutta streets. Then, I came to know that the party has met and their desire was the desire of every political party, to acquire influence, to captivate the masses. Therefore, when the policy of violence had failed, and they had to become estranged with the people, they changed their policy. The result was that the violence subsided. There may be groups and groups; there is a group which says: "We will protest, we will organise, we will do this, that and the other; but under no circumstances shall we have recourse to violence". Then there is the other

[Dr. K. N. Katju.]

party, which says: "Of course, we will organise, carry on the constitutional agitation but it all depends; violence is one of the recognised methods". If you do that, the population of India being so various—there are seven crores of scheduled castes, backward classes, they are not all disposed to be violent; what they require is uplifting and they are poor and backward—they are liable to be led astray, cajoled; if you go to landless labourers and say: "Here it is. Government did not give land to you; come with us; we will give you". Sometimes, in districts, you hear people going in masses in order to acquire land. You heard the other day a sort of *satyagraha* campaign or what it was, in the district of Gujarat for the purpose of taking forcible possession. Some such thing has occurred in the eastern district of U.P. and Bihar. Nothing may happen. But I want hon. Members to seriously consider this that the Government is not running amuck; it will not harm anybody.

My hon. friend quoted some figures. The House knows that action could be taken straight by the State Governments. The District Officers, the District Magistrates, are the authorities to take action straight. He may be confronted with a situation in which he will not be able to communicate with the Government. The Act says, the moment the District Magistrate takes action on his authority, he must communicate that to the Government and receive their approval. It will be open to the State Government to say: "You had better release them after two or three days. There is nothing against them". But I find in Statement No. 3 that action taken by the local authorities was approved by the State Government in 707 cases and was revoked by the State Government only in 88 cases. I say with confidence and with some emphasis that under the Act when we were discussing it last year with the support of hon. Members on all sides of the House, we took care, extreme care so far as human ingenuity can go and human foresight can go, to see that at every

step there might be a check in order to ensure that the Act was being properly applied.

Firstly, the District Magistrate may be confronted with a very ugly situation. Very well, we will give him authority. He is a very senior officer; we give him that authority. The counter-check is: "Must report to the Government and get their approval". Well, in 88 cases it was found that it was not desirable and they might be let off. That means two or three days. Then comes the State Government's action, apart from this Supreme Court and the High Court intervening. I do not want to repeat myself, but I have given you the figures. And it is apparent from the figures before them that they take the extreme care to see that there should be a good case against everybody. And today in the whole of India, out of 36 crores of people, there are 117 people who are in detention as reported on the 31st of October. I wanted to get the figures up to the 30th November, but I could not get complete figures. So there is extreme cautiousness, and the whole question before the House today is: "Would you or would you not like to have a statute of this description in these difficult days? Whenever there is any case of supposed wrong-doing, the matter can be discussed or raised; Parliament is sitting; the State Legislatures are sitting; the matter can be mentioned. And it is utterly impossible—I go to this length and say that it is utterly impossible—for any action to be taken in a *mala fide* manner. The Government do not propose to do so. And I wish to assure once again my hon. friends who are sitting opposite me, that I can testify from personal knowledge that it is farthest from our minds, from the minds of the State Governments to take action against any particular political party as such. It is really against individuals. If an individual belonging to any party may do anything, well, action has got to be taken. And it is a preventive action; it may protect them. What is happening now? In the other House, one of my hon. friends spoke

very pathetically. Of course, it touched every heart. She said, "I have seen the police firing in Calcutta, and I have seen the widow and have seen the child". Mrs. Besant, long ago, in the year 1917—pre-Jallianwala days—she, the great master of English language, said, "Brickbats can be answered only by bullets. If you attack the police—the police does not carry small *dandas* or small sticks, they carry guns—if you surround them and if they are in fear of their lives, they have to protect themselves". Now I say that that contingency I do not want should arise.

I do not want that there should be any incitement to violence, that that incitement should succeed as it succeeded in the Manbhum case to which I have referred this afternoon, in which a man was actually killed, the manager of a mill, with subsequent trouble to every body. Similarly, people assemble near the Ochterloney Monument in Calcutta and in other public places, there is great squeal and hullabaloo. The police opens fire. I do not know whether the police is justified or unjustified, but firing takes place. People are killed or wounded. It is much better in the public interest that one or two people are arrested under this Act so that the whole thing will subside. The very fact that there is an Act of this description on the statute book exercises a salutary effect, but my hon. friends there say, "You declare it to be a dead letter or repeal it." Then, the object will be gone and there will be no restraining effect left. So, I appeal to my hon. friends on the other side to allow this Act to remain for the life that was intended for it, and I can only give the assurance that we shall continue to exercise the same vigilance about proper use as we have been doing in the past.

(*Shri M. P. N. Sinha rose.*)

MR. DEPUTY CHAIRMAN: We have got another Bill.

SHRI M. P. N. SINHA: But this is an important matter, and tomorrow we  
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have got no other business except the foreign affairs debate.

SHRI S. N. MAZUMDAR: The foreign affairs debate comes only at the fag end of the day.

MR. DEPUTY CHAIRMAN: We have got the other Bill tomorrow, the Salt Cess Bill. Every Party has had its say in the matter.

SHRI S. N. MAZUMDAR: Still there may be some points left.

MR. DEPUTY CHAIRMAN: The Minister also has replied.

SHRI S. N. MAZUMDAR: He has replied because he has to go.

MR. DEPUTY CHAIRMAN: Early this morning the Chairman made it clear that this debate should be finished by 6 o'clock.

SHRI M. P. N. SINHA: Did he say so?

MR. DEPUTY CHAIRMAN: You were there.

The question is:

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

'and having considered the same, this Council is of opinion that there is no further necessity for the extension of the life of the Preventive Detention Act, 1950'."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

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

'and having considered the same, this Council is of opinion that there is no justification for continuing the Act up to the specified date'."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

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

[Mr. Deputy Chairman.]

'and having considered the same, this Council is of opinion that the exercise of the powers conferred by the Preventive Detention (Second Amendment) Act, 1952 (LXI of 1952) be discontinued even before the expiry of the prescribed term of life of the Act'."

The motion was negatived.

MR. DEPUTY CHAIRMAN: Then we come to Diwan Chaman Lall's amendment.

SHRI S. MAHANTY: But he is not here.

MR. DEPUTY CHAIRMAN: But he has moved it. I will put it unless he withdraws it.

The question is:

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

'and having considered the same, this Council is of opinion that there is more than ample justification for continuing the Act for the remaining period'."

The Ayes have it.

SOME HON. MEMBERS: The Noes have it.

MR. DEPUTY CHAIRMAN: (*after taking a count*) Ayes 47; Noes 14.

The motion is adopted.

The question is:

"That the motion, as \*amended, be adopted."

The motion was adopted.

\*"That the report on the working of the Preventive Detention Act, 1950, during the period from 30th September 1952 to 30th September 1953, be taken into consideration and having considered the same, this Council is of opinion that there is more than ample justification for continuing the Act for the remaining period."

## THE SALT CESS BILL, 1953

MR. DEPUTY CHAIRMAN: I have to inform hon. Members that in pursuance of sub-rule (2) of rule 162 of the Rules of Procedure and Conduct of Business in the Council of States, the Chairman has allotted two hours for the completion and return by the Council of the Salt Cess Bill, 1953.

THE MINISTER FOR PRODUCTION (SHRI K. C. REDDY): Two hours from now?

MR. DEPUTY CHAIRMAN: Yes, two hours from now.

SHRI K. C. REDDY: Mr. Deputy Chairman, I beg to move:

"That the Bill to provide for the levy and collection of a cess on salt for the purpose of raising funds to meet the expenses incurred on the Salt Organisation maintained by Government and on the measures taken by Government in connection with the manufacture, supply and distribution of salt, as passed by the House of the People, be taken into consideration."

Sir, although the Bill is a very simple one, I find that there is a certain amount of misunderstanding in some quarters regarding the purpose and scope of the Bill. I would, therefore, like to start by clarifying that there is no change in the Government policy. There is no intention to levy a new cess, still less is there any intention to alter the rate of the existing cess. It was in April 1947, after our national leaders had assumed office and on the eve of independence that the Government decided to abolish the salt duty. A decision was taken at the same time that there should be a kind of small departmental charge as it were, to cover the expenses of the Government's Salt Organisation,