

COUNCIL OF STATES

Friday, 5th August 1952

The Council met at a quarter past eight of the clock, Mr. CHAIRMAN in the Chair.

MEMBER SWORN

Shri N. S. Hardikar (Bombay)

SHRI K. B. LALL (Bihar) : The other day when a discussion was held about the Delhi Improvement Trust I never said that the Improvement Trust should be abolished. The papers had reported it wrongly.

THE PREVENTIVE DETENTION (SECOND AMENDMENT) BILL, 1952.

MR. CHAIRMAN: Dr. Kailas Nath Katju to move that the Bill further to amend the Preventive Detention Act, 1950, as passed by the House of the People, be taken into consideration.

SHRI KISHEN CHAND (Hyderabad) : Sir, this Bill cannot be moved, and I may be permitted in a few words to give my reasons why it should not be moved.

MR. CHAIRMAN : But be brief.

SHRI KISHEN CHAND : Mr. Chairman, Sir, I submit that this Bill cannot be moved in this House as it is against all parliamentary practice, it is the common practice in all parliamentary democracies that, if a Bill or a Motion or a Resolution has been considered in this House, in the same session another Resolution or a Motion or a Bill, which is identical in nature, cannot be moved. First of all, I would try to establish this common practice in all parliamentary democracies.

34 c.S-D.

MR. CHAIRMAN : Yes, we agree.

SHRI KISHEN CHAND : The fact is that this Bill is similar to another Bill which we have passed in this House a few days ago. I refer to the omnibus Bill, the Repealing and Amending Bill, 1952. We had passed this Bill saying that the enactments specified in the First Schedule shall be repealed to the extent mentioned in the fourth column thereof. The Bill is No. 55F of 1952. The Bengal State Prisoners Regulation, 1818, The Madras State Prisoners Regulation, 1819, The Bombay State Prisoners Regulation, 1827, The State Prisoners Act, 1850 ; The State Prisoners Act, 1858 ; etc. have been repealed. If the Chair accepts this interpretation of parliamentary practice that, if a Resolution or a Motion or a Bill is substantially similar to one which has already been discussed and passed in the House, it cannot be taken up in the same session, I will not go into details.

MR. CHAIRMAN : I agree that it is the parliamentary practice,

SHRI KISHEN CHAND : The parliamentary practice—I am quoting from May's Parliamentary Practice, 15th edition—is this : On page 380 it says :

"No question or Bill shall be offered in either House that is substantially the same as one on which its judgment has already been expressed in the current session."

Then on page 499—the heading is "Bills with the Same Purpose as Other Bills of the same Session." Here also, it is said that if a Bill is substantially the same, it cannot be introduced in the same session. I refer again to the practice under the American Constitution; "Constitution—Jefferson's Manual—Rules of the House of Representatives" article 515-. It says that a Bill once rejected, another of the same substance cannot be brought in again in the same session. I do not

[Shri Kishen Chand.] want to go on labouring this before you by quoting other constitutional practices in other democracies where it has been established by convention that a Bill which is substantially the same cannot be introduced in the same session. So, I now come to the Bill which is now proposed to be placed before the House. This is similar to the one which we have already passed. As I have already said

MR. CHAIRMAN : Yes, Mr. Kishen Chand, it is against parliamentary practice. Your contention is that this Bill is identical with the Bills that have been rejected. So this cannot be taken up now.

SHRI KISHEN CHAND : My argument is that the Bengal State Prisoners Act also deals with the detention of citizens without trial. This Bill also, in so far as it extends the period of the original enactment, deals with the same subject. When those Acts were repealed, it was clear from that fact that the Government did not want to continue this Preventive Detention Act, but now they are coming here with another Bill in which they want that the period of the operation of the Act should be extended beyond the 1st October 1952. In this there is direct opposition to a resolution which has already been taken into account by this House; and therefore I submit that this cannot be moved.

MR. CHAIRMAN : The point has been raised, and all that I wish to say is that it is too late to raise the question on the technical side. The Bill was laid on the Table; this House agreed to the appointment of a Select Committee and co-operated with that, and the time table was agreed to yesterday by this House. So far as the provisions are concerned, the substantial point is that it is clear from the Preventive Detention Act that these Regulations were repealed because the Preventive Detention Act had superseded these Regulations for all practical purposes. There was no intention

to drop this Preventive Detention Act either. In this Bill which is sought to be brought in, all that is now intended to do is to amend the Act. It is not a fresh Bill that is being introduced. It is not therefore substantially identical with the Regulations that were repealed. My ruling there-fore is that this is quite in order.

SHRI KISHEN CHAND : I got it recorded on that day. I was the first person to know that the Bill was laid on the Table. I said that the Bill could not be laid just then. If you look up the proceedings.....

MR. CHAIRMAN : You were not here when the Bill was laid on the Table. I got your letter at 10 a. m. yesterday. I had made a mark on that. Your letter was received at 10 a. m., while the Bill was laid on the Table at about 8.30 a.m. or so.

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

That the Bill further to amend the Preventive Detention Act, 1950, as passed by the House of the People, be taken into consideration.

As many Members of this House may not be sufficiently acquainted with the history of legislation relating to preventive detention, I should like, before I make my submissions, to give a short background. After the conclusion of the war, there was no central piece of legislation relating to this topic. Various States had various acts of their own. I am not acquainted sufficiently with their names but you may call them acts dealing with public safety. When we attained our independence those acts were under operation. I believe most of the States had them. I am talking particularly of the 'A' States because the old Indian States had not then been integrated. Now, most of the acts had no provision for an Advisory Board of any kind or description. There was no question of any independent

examination of the executive action taken by the Government. The procedure, I am speaking very broadly, was that for a variety of reasons relating to public order, public tranquility, security of the State etc. a man could be detained but in order to give him an opportunity of knowing broadly what the charge against him was and to give him an opportunity of meeting it, it was provided that grounds of detention were to be given to him and he was to submit a representation and that representation was to be considered not by any independent authority of any description—judicial or otherwise—but it was to be considered by the Government itself and suitable orders passed. I am not quite sure whether there was any particular period of detention specified. Now, this state of affairs continued from 1946 to 1950 when our Constitution came into operation. I imagine—it is purely a speculation on my part—that the framers of this Act were probably of the opinion that the matter rested entirely in the discretion of the Government and that there was no question of any person concerned having recourse to any law courts but man proposes and law courts dispose and some loop-holes were found and suitable applications were made in the courts and the point that was taken was that those acts provided that there must be grounds of detention which would enable the detenus to make a representation. These grounds of detention should be intelligible and should let him know what the case was and if the grounds of detention were of a very vague and indefinite description, no human being could meet them. Now that was the method of approach to the law courts—I am again stating the* broad facts—and these applications were entertained and disposed of. When these acts were being enforced, I think power was given not only to the State Governments but to a variety of officers—district magistrates, sub-divisional magistrates and other officers—and it may be that they were not fully then trained in the art of drafting their notices of detention, their detention orders and they did not

know how to set out the reasons. As you may be aware, Sir, Mr. Chairman, drafting is a difficult art and conveyancing is a more difficult task. If you give something to some person who knows his business, he will draft it in suitable words but some of these officers thought that in order to make the detention order more useful and more adequate, they went into the background of the whole history. Some of the detention orders that I have seen went into the history of the individuals "from the college days.. As it was mentioned somewhere, they set out ' You passed your B. A. examination from such and such college and then you were well known for having taken part in the activities of the Trade Union or you had taken part in the Chittagong Armoury Raids in 1931 etc.' It was a sort of ' Who is Who'. In the detention order it was completely unnecessary and when the matter came to the courts, the High Courts took a very severe view, as they ought to, of the whole matter and many of these detenus were released. There might be hard cases, I don't know. The years 1946-to 1950 were difficult years particularly from the 15th August 1947 onwards. It is unnecessary to recount the history of those days. India was in turmoil. A large number of people were detained—it went to thousands. I don't want to recapitulate the whole history once again. When the Constitution came into operation on the 26th January 1950, then the question at once arose as to how far some of these acts or portions thereof were consistent with our Constitution. That matter was also investigated and decisions were given. Till then, I repeat once again, there was no uniformity and the acts in each State ran bodily on the same lines but in different language, different procedure, everything different. I believe, early in 1950 while the Constituent Assembly on the judicial side was transacting business, an order was passed by the High Court at Calcutta by which they came to the conclusion that the Bengal Act was contrary to the strict provisions of the

[Dr. KN. Katju.] Constitution and they had to directly release about 300 detenus. The situation might have become difficult. There were no two Houses of Parliament then. There was just one House of Parliament and in 1950 my honoured predecessor, our great leader, Sardar Vallabhai Patel, brought a Preventive Detention Bill which was passed by the Provisional "Parliament and became the Preventive Detention Act. Now I shall go into that matter a little more fully later. The Constitution provides definitely that while individual freedom is sacred and no one can be arrested without—I am using popular language—warrant, but must be produced before the Magistrate and so on, preventive detention legislation is also permissible. And the Constitution mentions the reasons or the grounds for which preventive detention legislation may be enacted by Parliament. Broadly the grounds are—the security of India, foreign affairs, defence—that is what is called the Union List. On these it is only the Central Parliament which can legislate, that is to say, our Parliament. And then we have the Concurrent List which means either Parliament or the State Legislature can enact, and that deals with security of the State, which means the State concerned, one or several, and public order. Secondly you have the maintenance—and this is rather important—of essential supplies and essential services. "Supplies of goods" means supplies of food and other necessities and the supply of services means the services which are the very life of the community—postal services, communications, railways, and mills and factories—on which we depend. Now, these are the main objects for which the preventive detention legislation may be enacted.

The Constitution also provides that it is open to Parliament to make suitable legislation, but it must contain references to advisory boards and there must be the provision that if the detention were to continue for a longer

period than three months, then there must be a reference to the advisory board. But in the Constitution it is said that references in all these cases may not be necessary. The reference may be limited. Any way, in the first Preventive Detention Act which was passed in 1950, there was no provision about advisory boards, but it was said that a reference to the advisory board need only be made in cases of preventive detention relating to interference with the maintenance of essential supplies and essential services. There need be no reference to advisory boards if the preventive detention was caused by other reasons, that is to say, public order, foreign affairs and so on. Now, this Act was for twelve months. It was passed for twelve months. It was passed, I may say, as a matter of emergency, I think in a matter of four hours in one day, and Sardar Patel mentioned in the House that it was a matter of great urgency, but it was limited to twelve months, and that when he came to the House later, he would get the Bill thoroughly examined and see what could be done to make it more effectual, both in the interest of the State and in the interest of the people. Unfortunately, owing to our ill-luck, he expired but he had got the Bill drafted. He passed away in December 1950, but he had the matter circulated to all the State Governments and their opinions taken and he had considered the matter very fully and got the Bill prepared. I say this because his successor and my immediate predecessor, Shri Rajagopalachari, mentioned in one of his speeches, "I do not want to take credit for this Bill. It is the handiwork of Sardar Patel" and he introduced it. It was called The Preventive Detention (Amendment) Bill, 1951.

In this Bill it was provided that the advisory boards should be consulted in regard to each detention, not on limited number of detentions or a specific class of detentions. It said that the board should be consulted in each and every case of detention. Secondly there were certain other measures also. This Bill was also in-

tended to be for a period of twelve months, and therefore, there was no provision in the Bill itself for limiting the period or fixing any maximum period of detention of any particular individual. There was a section which said that it was open to the State Government and even to the Central Government to release anybody at any time they liked, to revoke the order of detention during the currency of the detention, to release the detenus on parole. But inasmuch as the Act itself was for twelve months, automatically every detention would come to an end after the termination of the Act. Now, I may tell you, Sir, that I am not as yet fully acquainted with the language of the State Acts, as to whether they provided for a definite period of detention or an indefinite period of detention. But it is correct to say that there were many people in many States who had been in detention for a long period, two years and two and a half years. And when Sardar Patel brought in his first Bill in 1950, these detentions continued. And when last year my predecessor Shri Rajagopalachari brought in his Bill and got the Act extended by another period of twelve months, the old detentions continued. People who may have been detained in 1949, they continued in detention right through 1951. No question of maximum period, therefore, could arise. Now in some respects the authority to issue orders of detention was circumscribed. Formerly, under the old procedure and even under Sardar Patel's Act, the authority was given to the State Governments and to the Central Government in the case of the centrally administered areas. In the States it was given to officers such as the district magistrates, sub-divisional magistrates and inasmuch as in the cities of Calcutta and Bombay which are called presidency towns there are no district magistrates as such, the authority was given to the Commissioners of Police to issue these orders. Now, that was also limited to some extent, namely, the sub-divisional magistrates were eliminated from this list. They could not issue such orders. These were the general broad features.

This period of twelve months expired or was due to expire on the 1st of April 1952. You are aware, Sir, that our general elections were held in India, I think, from January to early March. In the Himachal Pradesh, it was held a little earlier because of the wintry conditions there, and the Provisional Parliament met in February. Now, something had to be done. The Government of India did not want that any steps should be taken in this direction by mere Ordinance. Otherwise it was open to the Government of India not to bother the Provisional Parliament with this and to issue an Ordinance if they so thought fit, in April before the expiry of the Act and then wait for the meeting of this Parliament.

But, we brought in a short Bill, a one sentence Bill, extending the Act for six months, namely from the 31st March to, up to the 30th September, 1952. We had a fairly longish debate there, I think probably it covered a day, maybe a little more and, during the course of the discussion in two or three speeches which I made, in the other place, I extensively quoted extracts and said, for a variety of reasons, that the new Parliament would meet and we thought it would be more respectful, more appropriate, that the new Parliament, representing for the first time the entire people of India, should have an opportunity of considering this legislation and I undertook, that is what I substantially said, that if the Government thought that it was desirable to extend the Act, then, we would bring a Bill with necessary modifications, or such modifications as appeared to us to be necessary and on that, the Bill was passed.

Then again,—I am trying to give this history so that the House may understand—the period was to expire on the 30th September. The House has been meeting in very un-favourable and uncongenial climatic conditions ever since the 13th May. Well, it was open to us to say that there is no immediate hurry about it; "Why bother Parliament in thi

[Dr. K. N. Katju.] hot weather, rahjy season and sultry weather. Let us wait and then, we can issue another Ordinance if we thought fit to extend the Bill in the month of September and, then, lay the Ordinance before the House in October or November, when it may be that tempers would probably be a little cooler and then we can discuss the matter". But, we thought, good season or bad season or whatever may be the climatic conditions, it was not a matter for the issue of an Ordinance at all. It was a matter in which there must be legislation after the concurrence of Parliament and, therefore, this amending Bill was brought in in the month of July. I introduced it in the other House on the 9th July, please remember, two or three months ahead of its expiry. Of course, you may not take official notice, but the newspapers have been full of it. It has occupied already, I do not know how many days, probably 12 or 14, in the other place for what I thought was going to be not a very difficult measure which has been put down, by the wisdom of the Business Advisory Committee of this House for four days. That is the background of the whole history.

Now, before I take the House into the details of what the law was in 1951 and what we propose to do I think it is desirable that hon. Members should have a clear appreciation of what the Constitution provides because there have been raised a vdiety of matters and questions and my answers have been—if those questions are raised here my answers will be—'Change the Constitution'. The Constitution is not immutable. We have a recognised procedure for it. Get the Constitution amended but you cannot evade it by bringing in.....

SHRI B. GUPTA (West Bengal) : But, the Constitution does not give you a mandate to pass this measure.

Dr. K. N. KATJU : Very well, I understand it, but I do not understand the relevancy of it.

SHRI B. GUPTA : You should try to understand it.

Dr. K. N. KATJU . Sir, article 22, clauses 1 and 2, provide as * to what is to be done when a person is arrested either with warrant or without warrant. Hon. Members who are lawyers and who may have had any experience of these matters— there may be hon. Members who have had no exp2rience of these, and I pray they may never have—know that there are offences described as cognisable or non-cognisable. Cognisable offences are those offences where a police officer can arrest a person if he sees something being done in his presence contrary to the law. Non-cognisable offences are those where a Magistrate must issue a warrant. Nowj when a man is arrested, he must be informed as to why he is being arrested and I draw particular attention of the House to the concluding portion of article 22, clause (1) : "He must be informed of the grounds for such arrest"—then come the important words— nor shall he be denied,"—I repeat, "nor shall he be denied the right to consult and be defended by a legal practitioner of his choice". That is the normal basis and the Constitution confirms that.

Clause (2) of article 22 says that a person— arrested and detained must be produced before a Magistrate within 24 hours. I won't deal any further.

Then comes clause (3) which says, " Nothing in clauses (1) and (2)"— I repeat once again that clause (1) includes the right to consult and be defended by a legal practitioner of his own choice—"shall apply to any person who, for the time being, is an enemy alien or to any person who is arrested or detained imder any law providing for preventive detention". I am not now concerned with the expediency or propriety or even the necessity of consulting a legal practitioner. What I want the House to know is that the Constitution framers, in their wisdom, thought it right to say in so many words that in

so far as preventive detention was concerned, this particular right to have a legal practitioner of your choice should be taken away. As I said, I am not concerned with the propriety or the expediency of it. You put it anyway you like. But, the Constitution framers had this in view and thought it proper that they should say it in so many words. As to why they said so, I shall come to a little later.

I am taking the time of the House, Sir, to draw your attention because I find that it is sometimes overlooked and it is sometimes said : "Look at this Government. How oppressive, tyrannical and dictatorial they are, that they are depriving citizens, innocent or otherwise, of such a natural right, namely, to be defended by a legal practitioner of his choice."

9 a.m.

If you have got any complaint get the Constitution amended. Then comes the other clause, sub-clause (4). "No law providing for preventive detention shall authorise the detention of a person for a longer period than three months unless an Advisory Board is consulted". Now, there was a good deal of discussion—unfortunately, I have not got the amendments which have been tabled here—as to who should be the members of this Advisory Board. Many hard things have been said. People eligible for appointment as High Court Judges, well, if you appoint them, "they are in your pocket, who can trust them"? Retired Judges, well, there again, "human nature being very fallible, Retired Judges lose all sense of dignity and judicial propriety and independence and they again become greedy and therefore why appoint them?" Now I wish to say here that the Constitution provides for the personnel of this Advisory Board, and I say with confidence, Sir, that it would be highly improper, if not illegal, in the sense contrary to the Constitution, for any Parliament to say that the Advisory Board should not consist of persons who are expressly enumerated by the Constitution as being eligible for

appointment to the Advisory Board. Now who are these eligible persons? Persons who are or have been or are qualified to be appointed as Judges of a High Court, Retired Judges, Sitting Judges and people who are qualified to be Judges. Any attempt to restrict the personnel, to say that only a Sitting High Court Judge should be a member of this personnel, or only an ex-Judge should be a member, or persons who are only eligible for appointment on the Bench of the High Court should be excluded, I think, will be going against the spirit of the Constitution and should not be permitted. Then comes clause 5 which is exceedingly important. When any person is detained in pursuance of an Order made under any law providing for preventive detention, the authority making the Order shall—you mark the words, Sir—"as soon as may be communicate to such person"—what and for what purpose, it is very important—"the grounds on which the Order has been made, and shall afford him the earliest opportunity of making a representation against the Order". Now, please remember—it is a matter of history—that this Constitution was not only considered in great detail for many many months. I myself sat in the Constituent Assembly as a Constitution-making body for about three months, and then owing to the exigencies of the situation, I had to go elsewhere and I was not in that House, but many Members probably were, and the Drafting Committee consisted of some of the greatest lawyers of India. Now they have used these words. What have we to supply to the detenu, the person concerned, and for what purpose? You have to supply him with a document called the ground of detention and the purpose is that on reading that particular document he should be able to put up a representation. The House will forgive me if I take two or three minutes upon it, because it is very important. Parliament thought, or rather the Constitution-makers thought that what they were insisting upon was a document which in itself should be so ample, should contain so much, the necessary details, which

[Dr. K.N. Katju.] would enable the detenu to submit his representation. And please remember that before this thing was enacted, I believe some High Courts had already adjudicated upon this matter. Now my submission is there is no such thing in this Constitution as giving the grounds of detention and that inasmuch as this paper called the grounds of detention would contain nothing material, nothing adequate, therefore it should be supplemented by particulars and then the detenu would be able to submit a representation. . Nothing of the kind. The Constitution talks of only one document namely, the grounds of detention and my submission is, as a lawyer, as a Minister, as an individual citizen, that this very document called the grounds of detention should be so ample as to serve the purpose. If we were to say now, well, here is the ground of detention and that should be coupled with another document called further particulars, then we would really be defeating the purpose of the Constitution because the Constitution in its wisdom says that for the benefit of the detenu this very document should be quite sufficient to enable him to draw up his representation, and it is absolutely unnecessary—I may tell you it may be harmful—if we were to say that he should also have a second document containing the particulars. I say this because I am acquainted with these intricacies. If you add anything here in your anxiety to protect the detenu, you may be creating further difficulties, further hair splitting as to what 'particulars' mean, whether the document is sufficiently particular or not. Now what happens in a law court? I draw up a plaint and I say that this document—maybe a covenant or contract or anything—is not binding on me, because it was obtained by fraud. I say nothing else and then the court says—the Civil Procedure Code provides—that my mere saying that it was obtained by fraud is insufficient to enable the defendant to know as to what I mean. Now

some pleaders say that the fact that the document was obtained by fraud is set out as below and they then give the particulars. Some pleaders stop at that because they do not want to make the plaint a lengthy document. They say the particulars of the fraud are mentioned in Schedule A. Here we have only to give the grounds of detention. "You made a speech at shall I say, Bhatinda or Amritsar or Moga or anywhere, Pepsu, Patiala or Punjab, and in that speech you made on such and such a day at such and such a time you said such and such a thing". This is the ground of detention and that particular speech is calculated to incite people to violence and so on and so forth. That is the ground of detention. Nothing more is communicated. I can quite understand it. Then, Sir, I go further. Clause (6) says:

"Nothing in clause (5) shall require the authority making any such order as is referred to in that clause to disclose facts which such authority considers to be against the public interest to disclose."

This clause is important, because it illuminates the intention of the Constitution-makers as to what is meant by the grounds of detention—what they should contain and what it may not contain. Putting it in the negative way, you may not disclose facts whose disclosure is contrary to public interest. Positively, you should disclose other facts which are necessary to enable him to make a representation. Then comes the last clause, clause (7). Sub-clause (c) is:

"the procedure to be followed by an Advisory Board in an inquiry under sub-clause (a) of clause (4)."

I should have read the opening words:

"Parliament may by law prescribethe procedure to be followed by an Advisory Boardetc."

Now, an argument was advanced: "Well, as to the procedure, you just say that Advisory Board shall invent a procedure of its own". Now, please remember that this is supposed to be a uniform code applicable to the whole of India. There may be two Advisory

Boards sitting in one State, and if we were to say that each Advisory Board shall have authority to lay down a procedure of its own, we may have diversity. Diversity in unity is desirable, but not diversity in a procedure like this. Therefore, the Constitution-makers say that it is for Parliament to prescribe what the procedure is going to be.

Again and again references have been made to the Preventive Detention Act of England, or as they called it DORA—Defence of the Realm Act—of England. But we are apt to forget that ours is a vast country. I once went to an international conference. There were 16 nations represented, and their representatives were all talking on an equal footing. So one day, I did not lose my temper, but said in a rather lighter vein: "I am surprised. I am sitting at this table. Here is my friend opposite. He is speaking for a country whose population is 4 million". I will not name the country. I said: "In my State, with which I am very well acquainted, there is a district with a population of 4 million." Another gentleman stands up; he represents a country with a population of 7 million. There was a third gentleman who stood up on behalf of a country whose population was a little more than 3,50,000. In the United Nations, of course, you have this experience. Fifty-four nations are represented, beginning with Hawaii and ending up with China. When we talk mostly of England, we must remember that it is a small country, well knit, well organised. Here we are dealing with 360 million people. I shall have to come to that point a little later. But please remember this point. It must not be forgotten.

Then there is another point under this Constitution. If you will kindly turn to the lists in the Seventh Schedule, in the Union List, entry 9, that is the exclusive jurisdiction of Parliament:

"Preventive detention for reasons connected with Defence, Foreign Affairs, or the security of India....."

Then, please turn to the Concurrent List, entry 3. Every hon. Member knows that in the Concurrent List jurisdiction is equal both of the States and of the Union Parliament:

"Preventive detention for reasons connected with the security of a State;... one particular State: "the maintenance of public order, r the maintenance of supplies and services essential to the community,....."

Over and over again the argument has been advanced that there must be an emergency, there must be a war, or there must be foreign aggression, before legislation of this kind can be justified, and that we must follow the British example. I have had the misfortune, with you, Sir, if I may so, of having undergone both the wars. During the first war a law was passed there, and during the second war, another similar law was passed there. They say, "Very well, what is the necessity? There is no war". Hon. Members will probably quote from the Statement of Objects and Reasons that the tempo has decreased and greater tranquility has been brought about. "Scrap the law". But please remember two things. I want to emphasise this, because in the discussions which we had in the Select Committee and in the other House—and some hon. Member might suggest it here also—an attempt was made to exclude public order as of no consequence, and it was suggested that there should be no preventive detention for the maintenance of public order. "If you have got public order disturbed, there is the Code of Criminal Procedure. Go ahead." Then, they said: "Exclude foreign affairs"—which means relations between India and foreign countries. There are certain gentlemen who are interested in a variety of ways in different foreign Governments and foreign countries and they do not want to be disturbed. I am not making any comment upon it. They say, "cut that out also, so that we might have the utmost liberty of saying whatever we like, so that we may create confusion, and create conflict, and lead to disturbance of public opinion here

[Dr. K. N. Katju.] and outside." Thirdly, they suggested the most astonishing thing. I could not believe my ears, but that was so: "Why should you have any preventive detention connected with the maintenance of supplies and services essential to the community? Cut that out also." In the Bill which is before the House now, section 3 says that preventive detention orders may be issued on grounds connected with this matter. Now, this was a most extraordinary suggestion. Now this was the most extraordinary attitude, this exclusion of essential supplies and essential services, because if we have heard of one thing over and over again throughout these three or four difficult years, it is a regular tirade, condemnation, denunciation on the most—what word shall I use, I shall not use virulent—emphatic lines against profiteers, blackmarketees and hoarders who thrive on the blood of the community and all sorts of things. But would you believe it that the gentlemen who I thought were deeply interested in the welfare of the community, they themselves said "cut this out because it goes together—essential supplies and essential services—and the essential services would include the prevention of a general strike on the railways, the prevention of a general strike on the Posts and Telegraphs, something intended to paralyse the community. Therefore no preventive detention. And because the phrase goes together, cut that out." Now if you cut every thing, what remains there to indulge in this luxury of having a preventive detention law maintaining the security of India and defence? Well, no war is there. The security of India is not in danger. I tell you it is an absurdity, so far as the argument is concerned that preventive detention legislation should always be limited to a period of war. But our Constitution makes a provision. Then do not blame me. Blame the Constitution. Get it amended. Why? Because this item No. 3 in the Concurrent List pre-supposes that the country is in peace with foreign powers, no disturbances, no war, no

external aggression, no war existing; and the maintenance of public order not throughout India, even in any part of India, or in any district or in a city. In the city of Delhi you can have recourse to preventive detention. Similarly maintenance of supplies and services essential to the community. Now the Constitution framers were perfectly alive that a law might be passed in peace time and I suggest, to you, Sir, and to the hon. Members here to keep in mind the time at which this Act was passed in 1950. It is not an old Act like Bengal Regulation of 1880; it was passed two years ago; it was passed by the Provisional Parliament and you know the conditions that existed. No food, sugar scandals, wheat scandals, rationing system in progress and they deliberately put against public order.

I was in Calcutta in 1950 and I know what it was. I wish the hon. Members were there. Somebody talked some days back about the people being oppressed and rising in revolt in masses and sweeping everything away. There is a word in the dictionary called 'bunkum'. This is all bunkum. There was no sweeping of the masses. What I saw with my own eyes in Calcutta was this. Innocent people going about in tram-cars—women and children—were bombed. Acid bulbs were thrown at them. Policemen were walking in the streets and bombs were thrown at them..

SHRI B. GUPTA : That is your side of the story.

MR. CHAIRMAN : You will have enough scope.

DR. K. N. KATJU : I have always found that truth always pinches and whenever there is an interruption, I think, that truth is pinching them more. This is what I thought. I love the workers. I have been myself a Minister of Industry and Labour. I do not want any self-praise. I have been the Minister of Industry and Labour for many years in U.P. and I have tried to do all that I could for their welfare. I had many friends.....

(Interruption.)

I had many friends among the Communist Party not as a lawyer but as a private individual. I can enumerate those names.

MR. CHAIRMAN : Not necessary.

DR. K. N. KATJU : When we are talking of innocent workers, well, there are workers and workers. In the city of Calcutta, they know it, do you know what some innocent workers did ? They actually caught hold of four people—I tell you I cannot describe it—and threw them into furnaces. (*Hon. Members*, : ' Shame, shame.) Are you going to tolerate that situation?

MR. CHAIRMAN : Look here Dr. Katju, such instances are bound to provoke retorts of equal virulence. So we should try to restrain ourselves.

DR. K. N. KATJU : I am providing for action to be taken against those who incite them. The Preventive Detention Act is not directed towards the innocent workers who are the victims and who are the cat's paw in the hands of designing people. That is the justification of this Act. When we are talking of England, I would submit that the English people are so much disciplined that we ought to imbibe the law-abiding spirit of the English people. If you do that you will have no preventive detention. Very likely the Indian Penal Code will be cut out. Some of the provisions of the Criminal Procedure Code will be cut out. We have got what are called the preventive sections. There is a case before a Magistrate. But what is the charge? The charge against him is that he is a habitual receiver of stolen property, he is a habitual dacoit, he is a habitual robber. He is not being tried for any particular act of dacoity or robbery but he is a desperate character dangerous to the community. That is preventive detention. The Magistrate says it is because we want to detain him so that the Minister; may have a look at him ? i d see run

face to face and talk to him and prevent him from going underground. What is meant by 'underground'? As we have M.Ps, and V. Cs.—I am not speaking in a frivolous spirit but I have seen such and such a person described as U.G.—similarly we find U.Gs. and after some consideration* because there was another prefix before the name, I thought the U.G; meant underground. So it is for that purpose we have to bring forward this Bill. If you go to the preventive section of the Criminal Procedure Code, what is it that a Magistrate can do? He can order for the furnishing of a security of a lakh of rupees or R\$. 10,000 or whatever it is. I have no doubt that the security will be forthcoming. I have seen such cases. And you defy the order—in what way ? The order is made by the District Magistrate as on bail. You deposit the security. You walk out. You just cross over to Okhla, 4 miles away i.e. in Uttar Pradesh or you cross Jamuna and take a house in Rajewar, you are again out of Delhi and you may do what you like and guide from there, have meetings with Congress associates etc. So that is the matter. Therefore when we are talking of the English people, please remember that they are disciplined people. Whatever they may have committed outside, we are suffering from it. The Britisher at home and the Britisher abroad seem to me to be entirely two different individuals.

The Britishers were perpetrators of many crimes here in order to maintain their Empire, but these very people, when they go there, are different individuals. I would remind you of one incident, which almost made an indelible impression upon my mind when I had been there. In the year 1926 there was a general strike in England. Up till then there had never been a general strike. The Labour Party—it was then out of office; Mr. Ramsay MacDonald assumed office afterwards—they organised a general strike. It commenced. It was continued for about 7 or 8 days. The House of Commons was sitting. Sir John Simon who was the Attorney

[Dr. K. N. Katju.] General but not a member of the Government because he was a Liberal—he was a jurist of great renown under the British Law—was a member of the House of Commons and he stood up and said in very grave terms that he had not the slightest doubt that the general strike was against the law of the land. You know, Sir, what happened? That evening the general strike was dropped. The Britisher will do whatever he can in the newspapers, speeches in the House of Commons, etc. but he has got an ingrained respect for the law of the land and he will never break it. He will get it changed. Now consider the conditions here.

SHRI B. GUPTA : The hon. Minister has gone wrong on the British history.

SHRI GOVINDA REDDY (Mysore): There is great benefit in that.

DR. K. N. KATJU : Consider the conditions here. I am saying something of what I have read and heard. Here, the teaching is, "You are oppressed ; you are not given land; the landlords are a worthless lot ; seize the land. If anybody comes, shoot him. If the police come, attack them." I am not discussing whether there should be compensation awarded or not. I have got my own views on it. If you want to get article 31 amended, there is a good deal to be said for that point of view. In the Uttar Pradesh Assembly—probably my hon. friend over there will recollect—along with the resolution for the abolition of property, we also passed a resolution that private property in other directions should also be abolished or eliminated or whatever the word is.

AN. HON. MEMBER : Liquidated.

DR. K. N. KATJU : But do it. Do not do it by these means. This is a general observation. I refer to Delhi. A short time ago—Parliament was sitting and therefore I would remind you of the 26th May ;

I was not here—there was a question of a marriage between two private parties. I am not concerned with the merits at all. There was violent commotion, excitement. I won't mention names here, but what happened ? People gathered in the coun compound. The Judge delivered his judgment granting an interim injunction, and these innocent people began rioting. They seized Gandhi caps, snatched them and burnt them. Very well, you may say, feelings were running high. Then they divided themselves into groups, entered the city and near the Chandni Chowk they again played these pranks. Hundreds of Gandhi caps were burnt. It did not stop there. They stopped the tram cars, pulled out the people. Eleven were injured. Two were very seriously injured. One succumbed to his injuries in the hospital and then an order under section 144 was promulgated by the District Magistrate. I do not want to praise him here. He has been here for four years and everybody speaks very highly of him. He is a gentleman whom I know to be of the utmost integrity. I tell you his heart is as tender as the lotus. He issued the order under section 144. The order was defied in this way : No public meetings were held ; but the public meetings were held in big halls with loudspeakers outside. Thousands of people were assembled. Most exciting speeches were delivered and I have not the shadow of a doubt in my mind that, if further action had not been taken, there was every possibility of a riot on a big scale breaking out in the city of Delhi. You know the people who are living there. They have suffered exceedingly. They have been driven from their homes. The property which these people have left behind is said to amount to Rs. 1,400 crores. Some people say it is Rs. 2,000 crores. They have suffered exceedingly and you go and talk to them in a particular manner. What would happen ? Now, that is the thing that we want to stop. The Preventive Detention Act, as I said, is not a source of pleasure to me. Whatever may happen when I die, after 10 years or fifteen years, those at any rate who

belong to the generation to which my hon. friend over there belongs or my other hon. friend whom I love so well, they were brought up in the British tradition. I did not read Kalidas, because I did not know Sanskrit, but I read Burke, Sheridan, Macaulay and others, and therefore that tradition is natural to us. The Prime Minister narrated so many groups, terrorists, communalists, communists and others. There is also one other factor, Jagirdars—a good expression—blackmarketeers and others. But please remember, whatever those people coming from the States may say, that you and I who have lived in the areas which were known as British provinces had imbibed something, but in the areas which have now been integrated in the Union, particularly in Rajasthan, Madhya Bharat, Saurashtra what was the condition? The political awakening there has been of a very small duration and there are no democratic traditions there. They have got to be built up. The House is familiar with the history of Saurashtra. The Prime Minister paid a pretty compliment to Bhupat and other gangs, supported by arms, all over the area. In Rajasthan, they have no dearth of arms. In the British provinces, it was difficult for the highest of us to obtain a gun, what to say of a pistol. But there you can have them for the asking. The conditions are different. Therefore things have got to be done. People talk of economic issues; hunger, privation, etc. I read this morning in the papers that a chaprasi said, "My officer gets Rs. 60 as horse allowance, but I am getting a salary of only Rs. 54." Hon. Members over there would have to tackle this problem. I do not know how they would tackle this problem. Probably they would tackle this problem by liquidating them. It may be a good thing to liberate the soul from its imprisonment in the body. (*Laughter.*) I do not mean that, because I call myself a Hindu. But they have got to tackle this problem. They go about to Moscow, Czechoslovakia, East Germany, West Germany, international gatherings, peace gatherings, war gatherings, goodness knows what. These problems

have to be tackled. They have been tackled in a particular way in China, in Russia, in America. Everybody is tackling them, but in India too; Sir, we require to tackle them.

Take the newspaper report about the monsoon. There has been 20" rain in Rajasthan, Bikaner, Udaipur, Dungar-pur, etc. and there are wires to the effect: 'Please send supplies, communications cut off'. On the other hand in the Basti and the Eastern Districts of U. P. there is famine. Now we want a little time to tackle these problems and we want that the time should be given to us. You go to the masses and spread your philosophy among them about individual liberty, socialism etc.—I will go if I had a little time or energy to preach Gandhism. By all means preach any ideology but for God's sake, don't try to set a match to this dry fodder. That is what I want to prevent. This Government would not be worth its office if it does not do it. I want the co-operation of every single Member of Parliament to do that. That is the background which I want to tell you.

Now we come to this Act. My effort has been, and the effort of the Government has been deliberately—I don't use the word liberalise—I hate the word—nor do I use the word concession—I again hate the word—to have an effective Act in which the interests of the State in the way in which I have mentioned and the interest of the individual should be harmonized. That is the object of this Bill.

I will take it one by one. The first battle royal in this Republic was on the question of duration. It was said 'Sardar Patel gave one year, Shri Rajagopalachari gave one year and here you come, Demon Incarnate, and you are extending it to 27 months. Look at the enormity.' That is the argument put forward. Not very great justice to me. What is the object of an Act for one year? The substance is that nobody should be in detention for more than 12 months. That particular object is achieved in the Act

[Dr. K. N. Katju.] itself. There is a section which says that no person shall be detained for a period exceeding one year under any circumstances. Instead of receiving a compliment, I tell you I received very great, shall I say, expressions of dissent from many people. They say ' You are becoming weaker and weaker, you are not fit to be a Minister for Home Affairs.' But I don't know what will be said here. There the Act was limited to 12 months. Here the detention is limited to 12 months. I have made it clear that once you are detained for 12 months, it is just like a criminal washing out the crime. If he is convicted for 9 months, he can go out after 9 months. Now a man is once detained, then the grounds are furnished to him and you do this or that. His sentence might be revoked and he may be released but once he remains in detention for 12 months— and please remember it is now 12 months from the original date of detention and not from the date of confirmation though I could have made about 14 or 15 months—you get now a certain period of 12 months and then it is a complete wash-out of what had been done before. No detenu can be ordered a fresh detention for anything done prior to the first detention. There must be additional material for that purpose. If you read the two things, together, then I suggest that the entire objection to the period becomes forceless. The object of 1 year was that the man should go out after 12 months and that is achieved in this Bill.

Then comes the almost religious objection that we would like to have one year but not two years—a sort of blot on our Statute Book. My answer to that is two-fold. I shall be frank with the House. The times that we are passing are troublesome both in the international sphere with which you, Sir, are familiar and in the internal sphere also. Difficult economic conditions, stress of life etc.—and on this there may be a difference of opinion— but I readily believe that the peaceful conditions which have been restored

by God's grace owe much to the powers that have been taken under this Act. The very existence of that has served a soothing and a salutary purpose. Then comes the practical side of it. This is a topic which naturally excites complexes—I mean no offence to anyone. You may indulge in discussions without studying. I once said in the other House ' Here is a thing and the next Parliament will have this Bill or that Bill' and my friends said ' These would not take any time, why bother '? There are the various Acts like the Contract Act, Marriage Act etc. Nobody bothers about them. But when it comes to this particular measure each one says ' I am a Burke, I am a Cicero, I am a Sheridan, I am a Demosthenes' and the whole philosophy of liberalism of the past is brought up. But look at the practical side. When Shri Rafaji brought this, he spent only 4 days. We are now larger in number and perhaps our aggregate wisdom is greater. We have already spent in the House of the People roughly 20 days. This House has been more, shall I say, frugal and it has agreed to 4 days. I will count the cost of it, or you can count the cost of your sitting here and talking. The whole discussion can be confined within 3 hours. Is the Preventive Detention Act necessary or not? I have served that purpose by giving an assurance which I repeat for the consideration of the hon. Members concerned that before November 1953 I will do this.

I shall consult all the State Governments, collect their opinions, collect all the statistics, and submit and circulate a sort of a report to all Members, both in this House and in the other House. Government shall submit a Motion—I do not know about the phrasing of it—giving one clear official day each to the Houses of Parliament to discuss the matter. I give this assurance that when this Bill was brought, I tell you, I was rather new to the job.

SHRI B. GUPTA : Now you have got experience.

DR. K. N. KATJU: I am getting some experience, no doubt. And I feel that the Bill might have been a much better one, a one-clause Bill, asking for the change of 1st of October 1952 to 31st of December 1954. The discussion then would have been shorter. The curses or whatever it may be, may be as loud as now, but the discussion would have been much shorter. But I spent much time and went into this clause and that clause and tried to do my best to make it more effective from every point of view. Again I will do it and if anything strikes me I shall make the necessary change. And if anything strikes anyone here, any Member, regardless of party, can come and meet me. He can meet the Government of India. And if you do not find a very ready response in our heart or head, say so in your speeches on that Resolution and that will be considered and the view of the House will be taken and then if necessary, we will do something else more useful. The demand was that you should have one year so that Parliament may have an opportunity of considering the whole thing. You get the opportunity. But I do want that in the public interest, in your interest, in my interest and in everybody's interest, we should not be taking year after year, twenty, twenty-five or thirty days on this Bill, with an unhealthy atmosphere, unhealthy excitement and demonstration here and demonstration there, and all in the name of personal liberty and in the interest of the public.....

SHRI B. GUPTA : Thousands have died for personal liberty.

DR. K. N. KATJU : That is one point. Now I come to the next. I never thought, Sir, that the Home Minister—I take it as a personal compliment, of course—and the Home Ministers in the different States occupy such a corner of affection in the minds of the Members of Parliament. They said, "You pass the order. That will be quite all right. But do please see that it is passed only by the Home Minister here or the Home Ministers in the different States." It

was a very flattering description, no doubt. But what does it contain ? The Act contains that in addition to the Ministers, there shall be the district magistrates—I leave aside the Commissioners of Police, for the time being. You know, Sir, and everybody knows, that among these 36 crores of people, how many are district magistrates. In Bengal from where I have returned, there are 14 districts occupied by 2 crores of people and that means 14 district magistrates. In the U. P. with a population of 62 millions, that is 6 crores and 20 lakhs there are 52 districts and that means 52 district magistrates. These district magistrates are our highest officials. We depend upon them—I say both the Government and the public—see that order is maintained and the administration is carried on impartially and with integrity. And they have vast powers. The Superintendent of Police has got the power to arrest a man on suspicion of having committed a crime. Vast powers are there given to them under the Criminal Procedure Code. And all this is permissible because they are our high officers. But when it comes to the Preventive Detention Act, in so far as the Preventive Detention Act is concerned, the order of detention, these very officers become most unreliable! When this point was raised it occurred to me that I had better get this information as to what actually was happening. The House now knows—it has become public property—that the number of detenus has decreased. I leave Hyderabad aside for the time being. Otherwise the total number of detenus throughout India does not exceed 500 or 600, the number may be less. All Communists and other political parties are concerned, their number is very few. For the time being we thought that there should be no complaint that Parliament had not been properly represented and soon. And so they are there. In Bengal I was informed that in the year 1951 120 orders were made by the State Government directly and by the District Magistrates only 20. In Madras the numbers were half and half, fifty : fifty. In West Bengal in the current

[Dr. K. N. Katju.]
 six months, the Government issued 54 orders, if I mistake not, and the district magistrates issued 24 orders and these orders of the district magistrates mostly relate to hoarders—people who would not sell—and people of that description. - So far as the Commissioner of Police is concerned—I again speak with personal knowledge—so far as Calcutta is concerned, he is almost constantly in touch with the Chief Minister or the Home Minister there, almost all the 24 hours, on the telephone and all that, if necessary. And so I say this distrust of the district magistrate is not a commendable thing. We should not have it, for it is calculated to lower the morale of these people. And then please remember there are numerous places in our territory here where a district magistrate may have to act on an emergency. How can he get into contact with the Home Minister? Consider, for instance, the district of Jaisalmer in Rajasthan; it is miles and miles off. I do not know how far it is from Jaipur. Similarly in West Bengal take Jalpaiguri or Darjeeling or Kalimpong all scattered areas. And as I said, we must not make the Act unworkable. From my personal knowledge I know that every district magistrate instead of being anxious to act like a Napoleon or a dictator and so on, is really becoming a bit worried because of the constant criticism from Members of Parliament, newspapers and so on and they don't want to carry this burden of responsibility and would rather pass it on to others. The one good thing about British administration was that they taught and they expected their officers to act on their own initiative because administration requires initiative, and if we demoralise our officers by constant denunciation of them, holding them up as examples of inefficiency, partiality or shall I say, flattery or subservience and

SHRI P. SUNDARAYYA (Madras) : Of brutality.

SHRI B. GUPTA : Of patronage and sycophancy

DR. K. N. KATJU : The best way to deal with the hon. Member is to ignore him.

MR. CHAIRMAN : By constant interruptions, you invite such kind of comments.

DR. K. N. KATJU : Sir, I suppose, in normal cases, the district magistrate would only be happy and glad to consult the Chief Secretary or the Home Minister; but this provision is there for an emergency. And what I find is nobody pays the slightest compliment to me for the so-called improvements that I have made here.

SHRI H. N. KUNZRU (Uttar Pradesh) : We do.

DR. K. N. KATJU : Under the old Act which was enacted by Shri Rajagopalachari whom one hon. Member

MR. CHAIRMAN : Not necessary to repeat it.

DR. K. N. KATJU : No, I am only saying that he was described last year in the course of the debate as a great democrat. Now when a District Magistrate passes an order, what should he do? He should communicate that order, with the grounds of detention and the necessary information for the information of the State Government. Nothing else. It was open to the State Government to say that he has acted wrongly and revoke the order. The Select Committee in its wisdom thought that the period should be reduced and that within 12 days of detention, the order must be communicated to the State Government. The State Government, which includes the hon. the Home Minister for whom we have all such great regard, the Chief Minister or the Home Minister or the Minister in charge, shall personally consider this and set the seal of approval on this order. So, this poor dictator has got a life of only 12 days. What more do you want?

SHRI RAJAGOPAL NAIDU (Madras)
: The hon. the Mover of this Bill conceded that period in the Select Committee.

DR. K. N. KATJU : You mean reducing or extending the period ?

SHRI RAJAGOPAL NAIDU :
Reducing it.

DR. K. N. KATJU : I really regret I made a mistake in reducing the period from 15 to 12 days. It becomes unworkable. It is not a matter of mere debating. Please consider what you are saying. Now, the District Magistrate sends the papers from Jaisalmer to Jaipur. It would take 2 or 3 days itself by post to reach Jaipur. Now, you require some time for the Chief Minister or Home Minister or the Minister in charge to apply his mind to this thing. That unfortunate individual may not be at the headquarters ; he may be out on tour and you say 'reduce the period from 12 to 10 or 7'. The thing cannot be physically done. When I suggested 15 days, I thought 15 days was a reasonable period ; but, out of regard and respect to the Joint Select Committee I said "very well, let us have it 12 days". Below 12 days it would be completely ineffective. What you would have, then, is this. You will only get the rubber stamp from the State Government. Do you want rubber stamp ? I do not want one. That is the second point.

Then comes the question of Advisory Board. There was an astonishing affection for a sitting Judge, considered that to be very esteemable I have practised before them for 30 < 40 years. Unfortunately, as I said the Constitution says three members. Then came the question as to who should be the Chairman. I thought to myself and the Select Committee also thought that it should be desirable that a man of maturity should be their Eligibility qualification may bring younger people. Any advocate who has put in 10 years is eligible for appointment to a High Court. If you get a High Court Judge he would be a man of understanding, experience a 34 C.S.D.

naturity. If he is a retired judge, his maturity will be greater. So, we deliberately said, out of respect, we will agree to it. I thought that was a matter on which we were all united but I found from the minutes of dissent that a retired Judge will not do. But, a sitting Judge will do as Chairman. I really cannot subscribe to this doctrine which almost implies a distrust of retired Judges. There are many retired Judges here and there and everywhere. It will be a reflection upon ourselves if we are not to trust our own retired Judges. That is so far as the Constitution is concerned.

Then we had another big fight. In the current Act, it is provided that the Advisory Board will have all the material, which includes the detention order, the representation and any paper sent by the District Magistrate to justify his own order. The Board will have those papers before them. Secondly, now comes the most important thing, they may send for any information which they like from the appropriate Government. They may send for any information which they may like from the person concerned, namely, the detenu. The old Act said that they, if they think it essential, send for the detenu and examine him. Very likely Parliament thought that having all the papers and having the amount of experience, they would be able to come to some conclusion and it was not necessary that the detenu should always come before the Judge ; but, I thought we should have this also. So, the Bill as it stands today contains this provision that the detenu may¹ be sent for by the Advisory Board and I may go myself if he so desires and I shall see to it that in the grounds of 1 detention or by some other machinery : every detenu is informed, no matter : who he may be, most definitely that he : has got a right to go before the Advisory Board.

1
, 10 a.m.

r There were some suggestions about
l the language. I said that my opinion
a was that the words ' they may send
i 1 for any information which they may

[DR. K. N. Katju.] like' might include their asking the appropriate Government to send for some individual. The Board may say that here is the report which we have got and from the papers A, B are concerned. We should like to have a talk with A and B and A and B should come. It was said that we should put that clearly and, so, we have now included in the Bill that the Advisory Board shall be entitled to send for any information which they may require, send for any person, through the appropriate Government, whom they wish to talk to. They may ask for information from the detenu and the detenu will appear before them.

I tell you, Sir,—let the House take me seriously—that, if I were charged with any crime, even a murder case, I would prefer this sort of thing if I had an honest case. I do not want dishonest cases where I want to get out of it as many people do, but I would prefer nothing more than an Advisory Board of this description. We have the highest judges in the land with infinite knowledge, infinite experience and I can talk to them face to face, man to man in a free and easy atmosphere. You do not know what a law court means. Law court is something . like an indoor ward of a hospital. Everybody seems to be ill if you go to a hospital. Everybody is lying if you go to a law court. It has a contaminated atmosphere in many cases. If the case is an honest case and if the person who happens to be the detenu has got really an honest explanation, I cannot imagine of his getting a better tribunal than this tribunal that we are giving him. We are talking of a court of law and legal proceedings, legal proceedings before a Magistrate—and here is in this country wrongly, I say, there have been complaints against every single Magistrate that he is in the pocket of the executive. You have this great movement for the separation of judiciary and executive because you do not trust your Magistrates. Is a trial by a Magistrate with lots of lying

witnesses, let us say on either side, to be preferred to a thorough examination of the case in a friendly atmosphere before this 3-man Board?

SHRI. P. SUNDARAYYA ; Sir, is there a proposal to abolish all law courts ?

MR. CHAIRMAN : No, no.

DR. K. N. KATJU : I will not read the passage here, but, if necessary I will read it later on. Mr. Herbert Morrison, who was the Secretary of State for Home Affairs in England said in 1940 in the House of Commons that he had talked to many of the detenus. The detenus told him that they had found a most friendly atmosphere before the Advisory Board. And Mr. Herbert Morrison said that he had come to the conclusion that if there was any bias, it was not a bias in favour of the detenu, rather than a bias in favour of the Government. Hon. Members would treat me for once not as a Member of the Government but as one having some experience of these matters.

I am now drifting into another big criticism that had been voiced : " What about legal representation ?" The right to examine and cross-examine witnesses, having the benefit of lawyer and so on. Now, Sir, you remember, I began with the Constitution where the Constitution-makers—and please remember, hon. Members may read the names, there were some of our biggest lawyers—Shri Alladi Krishnaswami Iyer, I do not know, I forget whether he is here—they deliberately inserted this clause that they were not to be taken as a matter of right. There are two stages. The first stage is the drafting of the representation. Now if you ask me, my own opinion is that everybody who has got something correct to say will be able to write it out himself. But it may require some assistance in understanding the grounds, some assistance in putting it in proper phraseology and I can only express—I said it in another place and I repeat it here—that I shall address every State Government and tell them tha

they had better consider whether it would not be open to them to allow the detenu an opportunity of a legal practitioner if that help was asked for, for drafting the representation. That might be done. I will leave it to the discretion of the State Governments.

Then comes the next stage. That is a matter of great importance—the matter of appearing before the Advisory Board. Now, Sir, the Advisory Board may have lots of communications of a very secret nature dealing with foreign governments, foreign spies and the House knows that when intelligence is collected it is collected through people who almost risk their lives. It is never the practice to ask for sources. But I have known of cases in Bengal where—and my hon. friend may also know—the prosecution witnesses were murdered, lost their lives and so on. Therefore it can be exceedingly dangerous that information should leak out and the Advisory Board may examine this man, that man and a third man and there this question of examination, re-examination and cross-examination of witnesses and appearance of a lawyer would be highly detrimental, detrimental to public safety, detrimental to the safety of the witnesses, detrimental, I may tell you and believe me, detrimental to the interests of the accused. I know, I am a legal practitioner, as to where a practising advocate fits in and where he does not fit in. He does not fit in before an Advisory Board of that description where the whole proceedings are carried on in an informal way. The accused himself makes a more lasting impression than he would do through an advocate. I do not want to take up the time, but I would remind hon. Members who are acquainted with the law that under our Criminal Procedure Code there is a provision that no matter what may be the legal representation—the accused may be represented, I tell you, by the highest talent in the country, specialised in cross-examination and all that—but the Sessions Judge, the Magistrate

is bound—imperative necessity—to ask the accused in the dock, point by point, personally what he has to say, " 'A' has come and reported against you like this ; what have you to say to this ? This thing has been put against you ; what have you to say to this ? This paper has been filed as an exhibit against you; what have you to say to this?" His lawyers may be there, but if that process is not gone through, the Judge in the High Court will say that the whole proceedings are irregular, set aside the conviction and order a retrial. And this is founded on wisdom, because the legislature thought that the Judge should have an opportunity of watching the demeanour of the accused as to how he gives the answer to the specific questions when he is asked point blank. The Judge says, " Here is Hari Narayan ; he says that you told him 'let us go and commit this murder'. What have you to say to this?" And the Judge sees how the man is behaving, whether he is facing it boldly and he tells the jury: " Gentlemen of the Jury, you remember how the accused dealt with that question when I put it to him". So that it is a matter of great importance—this personal observation. It is not that I am inventing something new; the Constitution itself thought that it was a matter of vital importance. I won't deal with it further.

Then there is another question. What about persons who are today undergoing detention ? Now, the position

SHRI H. N. KUNZRU : Before my hon. friend passes on to that subject, may I ask him to explain the significance of the addition of the "following words to sub-section (i) of section 10 of the Preventive Detention Act— "Or from any person called for the purpose through the appropriate Government". As my hon. friend knows, the Advisory Board had the power to call for such further information as it might deem necessary from the appropriate Government and now it has been authorised to call for such

[Shri H. N. Kunzru.J . further information as it might deem necessary from any person called for the purpose through the appropriate Government. Will he be good enough to explain, what this addition means and what the purpose of these words is?

DR. K. N. KATJU : It means exactly what it says, namely this much. I will give a concrete instance. Supposing an allegation is made against a particular detenu that he delivered a certain speech, or he did a particular thing on a certain date at a certain place and the answer in the representation is that it is wrong, and that he was not there at all. He is pleading alibi. He says : "I was lying ill in the hospital in", let us say, "Madras." Now there are two things. The Advisory Board may well say to the appropriate Government : "Here is this man who says he was lying ill in Madras Hospital. We should like to have some further information about this point. Will you kindly make enquiries from the Surgeon-in-Charge or the Superintendent of the Madras hospital whether on such and such a date there was this individual. He says he was lying in the indoor ward". I am only giving a concrete instance.

SHRI H. N. KUNZRU : Will the State Government make the inquiry and let the Board know the result, or will the Board have the right to send for the person ?

DR. K. N. KATJU : That is what I am coming to.

Having read the information, they write to the Government : " We have read your report, but we should like to have a talk with the Superintendent of the hospital." That is what we have provided for. If that request is made, the Superintendent should come. Or, instead of writing to the appropriate Government for further information, they may write to the appropriate Government in the representation which the detenu has made : " He says he was lying ill in

the Madras hospital. We should like to have the register of the indoor ward of the hospital submitted to us for our perusal or inspection. We should also like to have the Superintendent of the hospital brought before us." Please remember, this is not going to be a summoning of a witness through a process of law. There is to be no oath-taking, and no question of any examination or cross-examination. It is only an investigation that the Advisory Board may make as they may think fit. And if the appropriate Government does not co-operate with them, then the answer, as hon. Members would realise, is very brief. The section says that the Advisory Board may either confirm the order or may refuse to confirm the order. And if the Advisory Board think that the appropriate Government is not sufficiently co-operative, the Board are empowered to say merely that they are not bound to confirm the order ; they merely say, " we refuse to confirm the order." That is the provision which will make the appropriate Government go to the fullest length to co-operate with the Board. This is one of the most important features in this Bill. We talk about jury trial—the virtues of a jury trial. I am one of the strongest believers in jury trial. Maybe, I am in a minority of one. But what I say is this. My hon. colleague the Law Minister was a Judge. He was bound to give reasons for his judgment, and those reasons were open to consideration by a higher tribunal. The jury are not bound to give reasons for their verdict. You may talk to them as much as you like about law and about facts, but they retire into their chamber, and they come back and say "not guilty." Nobody can ask them why? Similarly, here is the Advisory Board. They are not bound to give reasons. Their opinion is not open to appeal. I say, let us trust them. That is my answer to the question.

SHRI H. N. KUNZRU : As this is an important point, may I ask for a little more clarification ? If the detenu pleads alibi with regard to a certain charge and says, "You can ask

such and such persons," say, in Allahabad or Lucknow or Kanpur, "I was with them and not at the place where I am supposed to have been," then will the Advisory Board have the right to ask the appropriate Government to direct these persons to appear before the Board ?

DR. K. N. KATJU : I should think that if they want to, they can. That is what is intended. If they are not satisfied with the report which the appropriate Government submits, they can do it. That is why the provision was inserted.

And now I come to the last point. I was saying that the situation today is that the number of detenus has become very small. In order to ensure perfect freedom to the electorate to send anybody they liked, many people were released on parole, and during the last four months, particularly from March to May, there has been the most intensive review—hon. Members may take it from me—in every State about every particular single detenu. And the people who are now under detention are people whom the State Governments think they cannot possibly release in the interests of public safety. The question came before us : What was to happen to these men ? We provide twelve months from the date of detention. If that were to be made applicable to them, then assuming that the Bill is passed as it is or with amendments and the President gives his assent to it, all those people will walk out. I want the House to remember that we are discussing the matter here, but the responsibility for maintaining law and order primarily and chiefly rests upon State Governments. Every one of them was consulted, and they said, "We want this Act." And I cannot interfere too much with them, because I cannot shoulder their responsibility. Now, if they were to release those detenus at once, then there might be further developments, and the State Governments would say, "here are the consequences of our acts." Therefore, we have drawn up a *via media*, and the

position is this. You take the 1st April 1953. If anybody is there under detention on that day who has been there for more than 12 months preceding that date, he would be released. There are detenus, I know, who have been in detention for two years or 18 months or, maybe, for a period longer than two years. The State Government is not releasing them today. We say, "very well, whatever may be the consequences, 31st March 1953"—I believe that is the date—is the deadline or 1st April 1953." Then comes another question. -Suppose there is a man who was detained, say, on the 1st June 1952 ; what about Mm ? Well, he will get the benefit of this 12 months' limit. Whichever may be the longer period, if a man has been under detention for over 12 months prior to the 31st March *1953, he will be released. If he has been under detention for a period of less than 12 months prior to the 31st March 1953, then he must complete the 12 months, because that is the maximum period we are providing, and then come out.

I may have left a point here and there, but I do not think I will be justified in taking more of your time. I wish to say to the House before I conclude, as solemnly as I can, that India has emerged from a long, long night. It had been a dark night. People talk of freedom having come after 200 years. That is not my point of view. I think freedom has come after hundreds of years. I do not know much of history, but I doubt very much whether India has ever witnessed a unity of the description which we have achieved today. It is a people's *raj*. We read in our history books of small republics — of a very homoeopathic description ; in Buddhist times, they were a hundred or two hundred villages. This vast republic, this vast area, this vast number of people living under one national flag—this is a new experience in our national story.

And this unity has got to be preserved. This freedom has got to be preserved and I say that if we preserve our freedom and if we preserve our

[Dr. K. N. Katju.]

unity, then all the problems which are facing us today—I do not deny their importance, their gravity, their urgency—can be tackled. They can be tackled according to our own wishes, according to our own traditions, according to our own philosophy of life by ourselves and not at somebody else's dictation. Do what you like. It is the people's *raj* and the experience has shown and it came to us as a tremendous revelation. I tell you. I went inside a village. Women—who I thought were utter duffers—showed shrewdness and they could understand in their own small language as to what was the point. I went into a relief camp and I tell you that that experience made a tremendous impression on my mind. There were about 2,000 people—men and women—present. I am rather fond of mixing with the people. And there was a mike. There was no time for me to talk to them individually. So I got hold of one man and I told him "Now tell me what do you want ? What can I do for you ?" Instead of telling me alone, I asked him to speak into the mike so that all could hear him and know what he had been telling me. He felt shy and embarrassed and he came and spoke for two minutes. Then I sent for another man—a little more aggressive. He came. There are village people not used to this experience. Then I turned to the women. I wish everybody could have been there. It was so revealing. I said : "Now I want one sister from here." This was Rajasthan of sarees, lahngas and purdahs. There was utter silence. I asked a lady : "Why don't you come ?" And after about three or four minutes one woman stood up rather blushing and then I encouraged her and she came. I tell you what she said could not have been said better by our most eloquent people here. This is what she said. I am paraphrasing it. "You are doing a lot and you are doing a great deal." And then she summed up and said : "But I only tell you that if a thing is worth doing, it is worth doing it well. If you do not do it, well then don't do it at all."

(अगर यह काम अच्छा है तो उसे अच्छी तरह से करना चाहिये, नहीं तो न कीजिये।)

I thought I might as well have a daughter like her. So they have shown intelligence, shrewdness. I am anxious that everyone of us, be he a subscriber to the philosophy of Gandhiji, be he a Socialist, be he a believer in the old feudal doctrines, be he a Communist, or whoever he may be, may go to those men, talk to them, teach them, instruct them. But I am myself convinced that we will be going deliberately to chaos and destruction if we say to these people : " Oh, you are passing your days in great difficulties, and therefore you ought to rise in revolt, shoot, kill and murder and take possession of other people's lands and other people's property in the name of God and in the name of this philosophy or that philosophy." That will bring ruination and destruction in this country. And that is the basis of Acts like this.

I do hope, Sir, that commonsense will prevail and tranquillity will remain so that this Act like another Act may not have to be brought in to play. I see many things and I hear many things while I am here. If I were out of office, I will not hear anything. Probably I may not even read the newspapers. But having known of these things as to how excited people are in different parts of the country, I find this measure is necessary. People are untamed. They are inclined to take law into their own hands. Then it is not they who are guilty. I tell you that the people who are guilty are people who incite them to commit those things. That is the justification. It is in that spirit that I request the House to consider this Bill. I hope when next year we meet here the national situation may be such that this Act may not be necessary. And you may rest content that nobody will be hurt. But I wish all sections of the House must cooperate with the Government in bringing about that tranquillity in the land, tranquillity of mind and tranquillity of heart. What is the good of saying

“बिन भोजन भगवान नहीं”

(If we have got no food, we are not going to worship God.) Well that is contrary to the doctrine that I hold. That is the way to incite the masses. What I have laid down is that God will give me food. But if I do not get food—it may be my misfortune—I am not going to lose my faith in God for that. This is the way that these problems are approached in a poisonous way. Sir, I move.

MR. CHAIRMAN : The motion is :

That the Bill further to amend the Preventive Detention Act, 1950 as passed by the House of the People be taken into consideration.

SHRI P. SUNDARAYYA : Mr. Chairman, I get up to oppose this Bill, even the consideration of it. I do not know whether I would be able to express the anger of all our hundreds of millions of our people and the hatred which hundreds of millions of our people have got towards this Act, this poisonous black Act. The hon. Minister for Home Affairs tried to explain the sugar coatings of this poison. He tried to make these sugar coatings and tried to say that we could swallow this poisonous and black Act. Sir, we are not going to be deceived by all these sugar coatings. He himself does not believe in this. That is why he said he has brought out the "so-called improvements." But in fact they are no improvements whatsoever. Sir, my colleague, comrade Gopalan, when he spoke in the other House on the Presidential Address, characterised it as a war declaration on the people. Then the Prime Minister and the Congress Benches were furious. The press also thought that it is too much. Sir, now this Preventive Detention Bill that is brought before this House, what else is it if not a declaration of war on the people? It is a continuation of war which the Congress has been carrying on for the last five years on the people. Sir, I will prove by facts and instances, how the Congress Government from the time it came into power in the States as well as at

the Centre had been carrying on a war on the people through the Preventive Detention Act as well as through their police and military rule. Sir, I take it that it is January 1947. We were working in our offices. Then suddenly the Madras Government in consultation with the Central Government comes with a Public Safety Ordinance and tries to round up all the Communists, all the leaders of the trade union movement and kisan movement.

Sir, there was no illegal act. We were only standing with our people, with the kisans, with the workers, representing their grievances, leading their every day struggle to achieve their demands. The Government, instead of conceding those demands, came out with the Public Safety Ordinance and wanted everyone of the leading comrades, the leading leaders of the people, to be shut up in jail so that they could continue with their mis rule. Sir, I will give instances. In Gazullankha in Krishna District, the Raja of Chelapalli who owns 17,000 acres of land, had seized the lands from the peasants and the peasants refused to surrender. There was a struggle going on. Therefore, to suppress it, they tightened these laws. They opened fire and killed persons including a woman in Gazullankha. Sir, there is again in Munagala a zamindar who owned 3,000 acres and owned 30 villages. He seized the lands from the peasants, and even the Congress at that time had said that the land which had been seized should be returned. But this Award was not implemented. The peasantry was in a terribly distressed condition. The Congress came out with this Ordinance, arrested the leaders. Again, Sir, in Buchampet they are Koya people. Their lands were seized by the zamindars there. The Koya people said that the lands should be restored. Fire was opened by the police, and if I remember aright, five people were shot down on the spot. I can go on giving instances and instances during that period, to show how the Congress under the Public Safety Ordinance wanted to suppress the people's struggle. There are in Malabar—it is not only in Andhra but in the whole Madra

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Presidency—many cases of this type. In Malabar, I know the leaders of the Malabar peasantry were arrested. Was it the fault of the Malabar peasantry, or the leaders of the Malabar peasants, who were rack-rented, to have come forward to pay their rent to Government cooperative stores ? All that the peasants demanded was, "We will pay our rent in grains to the co-operative societies. We will get money from the co-operative societies and pay to the landlords.

AN HON. MEMBER : Was there a law to the effect that the peasant can pay their rent to the co-operative societies ?

MR. CHAIRMAN : Let him go on.

SHRI P. SUNDARAYYA : All that they demanded was that they would not give the grains to the landlords because they will sell them in the black-market ; they will give the grains to co-operative societies, get the price at Government rates and pay the rent to the zamindars. But the Congress let loose a reign of terror. Because these people demanded that they would not give their grains to the landlords to be sold in the black-market but give it to the Government co-operative societies, the Government came out with this Public Safety Ordinance.

Sir, in 1947 there were strikes. Of course, there was a railway strike in the S. I. R. It is the right of the workers to strike. If their grievances, in spite of repeated representations do not find any sympathetic response from the authorities, if the authorities refuse to concede even the modest demands of the workers, what else can the workers do except to go on strike, to bring it to the notice of the Government that they cannot carry on without their demands being conceded ? What was the result ? The Government opened fire on the workers and killed five persons in Golden Rock, destroyed the union offices. This is the way in which the Government behaved.

Then in 1947 the Mount batten Award came. There was a feeling in the whole country to which we were also

a party for some time that at least it was a step towards national freedom. Government wanted to foster that Idea and issued orders for releasing the detenus at the time for a period of four to six months. Once again on the 31st January, the Congress Government once again attacked the democratic forces in the whole of Madras. This time, Sir, the attacks started in Andhra in Madras on the 31st January 1948 and then again in March 1948 in province after province they started attacking the Communists, seized them and put them in jail. There were no violent activities during that period. There were no violent speeches during that period, There were no kisan or working class struggles. Because at the Party Congress in Calcutta we decided that in fact this. Mountbatten Award did not give us freedom, it was only an agreement between the Congress and the British imperialists to safeguard their interests, and the interests of the Indian Maharajas and landlords, and the big Indian capitalists, because we told the people the real nature of this Mountbatten Award just pompously called August Independence, because we showed the people the reality of this Award, the Government came down again with a heavy hand against us and tried to arrest all our leaders, the leaders of the kisan and workers movement in different parts of the country. If in spite of all this a large number of us have been free, it is because, as the Minister would say, we are U. G. Yes, we are proud to be U. G. in the service of the people. We do not want to be rabbits in the Congress kitchen. We try to be free. We try to be at the service of our people. Sir, we went on like that for years. Sir, this misrule went on from 1948 till 1951. Many people here think that we are opposed to the Preventive Detention Act because it is going to hamper us. It is only a part, a very small part of the truth. We are opposed to the Preventive Detention Act not merely because it is going to hamper us, it is going to obstruct us, but because it is an obnoxious Act suppressing all democratic elements and suppressing the democratic movement of the people

of India. That is why we are opposed to it. Sir, we are aware from our bitterest experience that Government is not dependent only on the Preventive Detention Act. It has got the military, it has got the police. It has used these in all parts of the country to shoot down the people and raze the villages to the ground. I am bringing these instances to the notice of the House only to show that this Government has used not only the Preventive Detention Act but even the ample powers of the military, setting aside their own laws. So, this Government should not be vested by the people's representatives with this power of detention. This Government should not be entrusted by the people's representatives with this power of detention. This Government should not be entrusted with any repressive measures. This Government which is the friends of imperialists, which continues to be in the British Commonwealth, this Government of big monopolists, of big landlords and Maharajas, should not be entrusted with these repressive laws. It is to prove this that I give the instances. In Bengal, in Kerala, in Tamilnad, in U. P. and in every part of the country the Preventive Detention Act has been used, police has been used and the military has been used to suppress the people. I am not going to give the details about every province. My other colleagues will certainly give you the details when the opportunity comes for them to speak on those different provinces. They are better authorities as people coming from these provinces. I will confine myself mostly to Vishala Andhra, i.e., Madras, the Telugu-speaking districts of Madras and the Telugu-speaking areas of Telangana in Hyderabad with which I am more acquainted and in connection with which the Congress Benches, the Minister and everybody else go on in season and out of season, accusing us of violent deeds like murders, arson, loot, etc. The hon. Dr. Katju himself said just now that Hyderabad stands as a category apart. I want to bring to the notice of this House what has happened in this Vishala Andhra area.

AN HON. MEMBER : The hon. Minister is not listening to the speech.

SHRI GOVINDA REDDY : He has two years.

DR. K. N. KATJU: I am listening and I am taking notes.

MR. CHAIRMAN : The point raised is the hon. Minister is not listening to the Opposition Member's speech so that he may reply later.

SHRI P. SUNDARAYYA : I give only some of the misuses under this Bill.

MR. CHAIRMAN : Mr. Sunda-rayya, when Dr. Katju was referring to the furnace, etc., I stopped him from proceeding further with that. So-kindly be brief so far as these matters are concerned.

SHRI P. SUNDARAYYA : I shall submit to your ruling, Sir. He has said about furnaces and other things. I wish to bring to the notice of this House of even worse things done by the-Government officials and which we have demanded on many public platforms to be enquired into but the Government refuses. We want to bring those facts before this House so that the Government at least will stop accusing us of violence, etc. I will show also by giving a few examples—not all exam-plesj there are 4,000 examples in Vishala Andhra itself and I will not take the time of the House by stating them—I will take only the most significant instances so that the Ministers concerned, the Government concerned can see the reality of the picture. Take U. P. before going to other examples. Comrade Bharadwaj, one of our leaders, was laid up with T. B. from 1943¹⁰ 1947. He was in the sanatoria. He was in Dehra Dun later. He was running a high fever of 104⁰. In the month of March or April 1948 suddenly the police entered his house, arrested him in his high fever, dragged him from his house to detention and a few days later he died. Comrade Dange, our leader, while he was attending the

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Bombay Assembly session, was arrested and taken to the Detention Camp. Leaving these examples, I will come to Andhra itself. They say, in Vishala Andhra we are violent people, we are wedded to violence and therefore this Preventive Detention Act or the other measures that they have taken during the last 4 years in Andhra are justified and they say that this Act should be there on the Statute Book to suppress these people who are wedded to violence. Sir, we are not wedded to violence. We are not violent people, we don't believe that everything should be done, only through violence. We want also people to live in peace, to live with neighbours on the basis of mutual co-operation and mutual service. What is it that prevents people from living in mutual co-operation, on the basis of mutual service ? It is not we who are responsible. It is the capitalists, it is the landlords, it is the blackmarketeers and the Government of these black-marketeters that is there, that is responsible. It goes on using violence to suppress Ahe people and so the people revolt. There is no use of putting that blame at our doors.

In Bezwada alone in 1948 in the month of May the Congress-organised goondas before the very eyes of the police attacked two Communist workers. The two workers' leaders in that town—Marupalli Appa Rao and Sanyasi Kana kayya—were done to death and the culprits have gone scot-free.

Sir, during that period in Andhra alone in four districts 1,000 villages were raided by the Congress regime's police and military. 1,000 villages, not one or two and agricultural labourers were beaten because they were asking higher wages. They were beaten till they were forced to say that 8 annas per day was enough as their wages, and 15 bags of paddy per year were enough for them. This is what the Congress Government have done in Andhra. 10,000 were arrested and kept in the police camps, in sub-jails for a fortnight, some for io days and released without even bringing any

charge. I want the Government to tell me what action has Government taken against those officers who were responsible for the arrest of 10,000 people without bringing any charge against them, detaining them for 7 to io days and in some cases for 15 days and then letting them off later on.

Dr. K. N. KATJU : Which year was that ?

SHRI P. SUNDARAYYA : In 1948. AN HON.

MEMBER : Where ?

SHRI P. SUNDARAYYA : In the districts of Godavari, Kistna and Gun tur. Houses were razed to the ground. The fields of the Communist workers and kisan workers were not allowed to be cultivated. Their houses were raided, every piece of furniture or uten sil broken and not only that, the rice, dal and even chutneys were mixed up and urine was poured in that. Not only this, there were cases of raping of women by responsible police officers. There was the Inspector of Police Nikodaman at Pamaru who raped Annapurnamma of Mangalapuram. This was brought to the notice of the Government, but no action was taken. There was Lak-nareddy Srinivasa Rao, the Circle Ins-pector of Rajahmundry very famous for his brutality and famous for his attacks on women in the village of Mura Manda. His actions were also brought to the notice of the Government, but there also no action was taken against this officer. And then there was the case of the Deputy Superintendent of Police Mr. Thomas

AN HON. MEMBER : Is it permissible to mention these officers ?

MR. CHAIRMAN : Avoid these names.

SHRI P. SUNDARAYYA : I am only giving a few names.

MR. CHAIRMAN : But these persons are not here to defend themselves.

SHRI P. SUNDARAYYA : But the hon. Home Minister is here to defend them, Sir.

DR. K. N. KATJU : I cannot defend the State Governments. I know nothing about these things and it is not at all fair.

MR. CHAIRMAN : As far as possible, avoid names.

SHRI P. SUNDARAYYA : Only one more instance, Sir.

SHRI GOVINDA REDDY : Sir, the hon. Member may submit these names to the hon. Home Minister if he likes, not to the whole House.

SHRI P. SUNDARAYYA : We have already submitted these things, but no action has yet been taken.

MR. CHAIRMAN : Again submit the names, he may listen to them now.

SHRI P. SUNDARAYYA : Sir, Mr. Gopalan did refer to the case of Palani-appan at Bezwada and said that for the atrocities and murders committed by him he deserved to be hanged. This statement was made nearly a year ago, but still the Government have not instituted any enquiry into this matter and still this officer occupies a responsible position in the official heirarchy.

MR. CHAIRMAN : Anyway, it is not fair to mention the names.

SHRI P. SUNDARAYYA : Can't we even mention the names of officers who have done such great atrocities ?

SHRI GOVINDA REDDY : You may mention these names to the Home Minister privately.

SHRI P. SUNDARAYYA : We have, as I said, submitted these names, but no action has been taken by the authorities and so I take this opportunity of placing these facts before the House so that the hon. Minister might at least listen to them.

DR. K. N. KATJU : Sir, this is a matter of constitutional importance.

Law and order are the primary responsibility of the State Governments, and this is a matter which should be raised and discussed on the floor of the

MR. CHAIRMAN : Yes, the Madras Legislative Assembly.

DR. K. N. KATJU : And not here.

SHRI B. GUPTA : But, Sir, law and order is undoubtedly the responsibility of the State Government. But the hon. Minister has tried to build up his own case by citing instances from the States. Therefore, it is relevant for us also to refer to certain instances that occurred in the States, though they may not be palatable to the Home Minister.

MR. CHAIRMAN : What I would request the hon. Member is that he should not mention these names, because that is not proper in this House.

DR. R. B. GOUR (Hyderabad) : But they have been committed—these atrocities. Can't we say what we say in public ?

MR. CHAIRMAN : You may do it anywhere you like, but not in Parliament.

SHRI P. SUNDARAYYA : Sir, some 300 colleagues of ours have been shot dead in Andhra alone.

KHWAJA INAIT ULLAH (Bihar) : How many did they kill ?

SHRI P. SUNDARAYYA : Three hundred of them were shot dead and the Government announced that they died in a clash, and that was utterly false.

SHRI G. RAJAGOPALAN (Madras) : You shot them down because they dared to differ from you.

MR. CHAIRMAN : Order, order. I request that the hon. Member should not be interrupted, because I expect that when you speak, you also should not be interrupted.

SHRI P. SUNDARAYYA : I can give many instances. Shri Papa Rao was arrested at village Surampalli by Palaniappan and shot dead. Shri

[Shri P. Sundarayya.]

Mrityunjayadu was arrested in Rajah mundry and after being tortured for two days was taken to Sarangdar Metha and shot dead. Komareddy Suryanarayana will bear me out in this statement. And

DIWAN CHAMAN LALL (Punjab) : Sir, on a point of order. May I know whether it is constitutionally in order to refer to these instances which are not within the competence of the Central Government ? These matters are entirely within the competence of the Provincial Governments. They are not within the cognizance of this Government and so they are not within the competence of this House. I don't know how the Home Minister referred to one or two of these cases. He should not have referred to them. But that is no reason why we should continue to be referring to these things which are not within the competence of the House.

il a. m.

SHRI B. GUPTA : Sir, I don't understand this point of order at all. There is no point of order. We are contesting the very grounds on which this measure is sought to be based and in the course of that we are citing instances, just as instances were quoted in support of the measure. We are showing how this measure has been abused in the past and how it is likely to be abused in the future. Therefore what my hon. friend here has been speaking about is all irrelevant.

DR. K. N. KATJU : But what has preventive detention to do with shooting anybody?

SHRI P. SUNDARAYYA: But these things happened, I don't know under what law. These persons were shot down. My contention is that Government after arresting these people for the purpose of detention shot them dead. That is my point. I can give instances where they have done like this.

SHRI B. B. SHARMA (Uttar Pradesh) : There is no provision in the Bill for shooting anybody.

SHRI P. SUNDARAYYA : And before we agreed to the select committee we were told that we have the right to question the very principle of this measure.

MR. CHAIRMAN : I don't deny it.

SHRI P. SUNDARAYYA : My contention is that power should no longer be given to the Government and to these Government officials who have committed these things.

I may mention to you, Sir, the case of Shri Kanchan Rao—a student worker—who was arrested when coming from his college after answering his examination papers, and then I presume he was shot dead. Government does not tell us anything in spite of repeated representations as to what happened and what they have done with him.

Then there is the case of Mallikarjun Sharma who

MR. CHAIRMAN : It is not necessary to multiply instances, Mr. Sundarayya.

SHRI P. SUNDARAYYA : I am giving only the most poignant instances, Sir.

KHWAJA INAIT ULLAH: Stories, not instances.

SHRI P. SUNDARAYYA : Sir, Shri Mallikarjun Sharma actually surrendered himself to the police ; but he was tortured and done to death. The police gave it out that he committed suicide.

MR. CHAIRMAN : But how do you know what happened ?

SHRI P. SUNDARAYYA : Sir, I make this statement with a full sense of responsibility and I am prepared to submit to any enquiry. If the matter is investigated, I am prepared to substantiate this statement of mine, and Mr. sambu Prasad will bear me out.

And then, Sir, Shri Kandi Katla vfaga Bhushan was arrested in Yanan ind then shot *deAd*. I can multiply these instances, instance after instance hat have happened in Andhra.

Now the main question to be considered is the misuse of this power that is being continued in the hands of the officials. The hon. Home Minister waxed eloquent about the great merits of District Magistrates, about their efficiency and their impartiality. I do not know what the District Magistrate concerned was doing, what the Government itself was doing when the police surrounded the village of Katur and also the village of Yalamur, stripped naked the men folk, forced them in a procession to the statue of Mahatma Gandhi and made them prostrate before the statue. Sir, this is what the Congress Government has done.

Coming next to Telangana, we know that many charges were levelled against this area. Everyday it is charged against us that the Preventive Detention Act is necessary because there are people still who did commit so many murders and other atrocities in Telangana, that even today they keep arms and are not prepared to surrender them. This is the charge that is made again and again. The Government brings these charges as the ground and justification for this black Act. Therefore it is necessary for me to say here what is the real truth. I may at the very outset say that these so-called accounts that murders and arson and loot were led by the Communists are totally false. It is false to say that the Communists started these murders, arson and loot. In 1946 when the zamindars or the Deshmukhs in Telangana who were fattening themselves on the blood of our people through begar and evictions of peasants from the land, they attacked our office in July 1946 and through their *goondas* killed our first martyr—Shri Dodi Kumarayya. The police did not come to the help of the peasants. It is true that the Nizam's Government was there. The Nizam's Government sent armies and its police. It let loose Razakars against the Telangana people. What else do you expect the Telangana people to do? The Razakars raided the villages, burnt 100 villages, killed 2,500 kisan leaders and raped 3,000 women. All these were done by the Nizam's army and the Razakars.

MR. CHAIRMAN : Mr. Sunda-rayya, 1950 is the year in which Preventive Detention Act came into force.

SHRI P. SUNDARAYYA : They are justifying the Act by reference to the continuation of trouble in Telangana.

MR. CHAIRMAN : Not the previous one, but what has been there from 1950 onwards.

SHRI P. SUNDARAYYA : Will, Sir, I will deal about incidents after 1950. The people of Telangana had to fight in their self-defence. Today, 200 of them are convicted for their fight against the Razakars. Many more are still detained because they fought against Razakars. Whatever may be the grounds that might have been in charge sheets these are the real reasons behind.

The Congress sent its armies under the plea of suppressing Razakars, but, see what actually they have done. They have brought back the landlords, seized the lands of the peasants and handed them over back to the landlords. In the first three weeks or the first month or two, there was no incident whatsoever started by the kisans of Telangana. There was no attack on the armies or zamindars. The moment the Congress armies sent the landlords, the Deshmukhs back and indulged in untold atrocities that the trouble started. I can give instances of how the Congress had carried on a reign of terror in Telangana during the last three years. 7,000 villages were raided, 15 lakh people were beaten and tortured in various manners, 1,500 of our comrades and kisan workers were shot dead and 2 lakh tribal people were forcibly removed from their abodes in forests and were made to live in police concentration camps on the outskirts of forests without proper food and shelter and 10,000 of them have died. Detenus have been taken away from jails and have been shot dead. There is the case of Rangachari and of Vederi Rajiveddi. We could not go to the Supreme Court for every case, but this case came to

[Shri P. Smdarayya]

the Supreme Court and the Government came out with an excuse that they have been handed over to the military and as they tried to escape from military custody they were shot dead by the military. Then there is the case of Ramachandra Reddi and Lakshmi-narasimha Reddy who have been arrested and kept in detention for one month. When the High Court was moved, they were taken out of the jails and shot dead and the Government came out with the excuse that they were shot dead by the guerillas themselves. Then we have got the case of Jagannatha-chari. He was arrested and was shot dead. The case is now before the Supreme Court. I am not commenting but am only narrating what has happened so far. The Supreme Court has again and again asked the Madras and Hyderabad Governments either to produce the person concerned or to prove that the person has been handed over to another Government. The Hyderabad Government says that it had handed over the detenu to the Madras Government while the Madras Government says that it has handed over the detenu to the Hyderabad Government. So much so, the other day Justice Mahajan had to remark "I don't believe these stories. You may have liquidated him. Either produce him or I have to pass my judgment on it I am helpless in the matter". These are the things that are happening. Detenus have been taken from the jails and then shot dead. Sunshala Padma Reddy was taken from the jail before the very eyes of Badam Yella Reddy who is a Member of the other House and shot dead. I can give any number of instances like this. The Minister for Home Affairs says we go to Bhatinda and other places and talk about guerillas. I think the very word guerilla has become a bugbear. When people are oppressed, they organise themselves and fight in defence of their homes, in defence of the honour of their _ womenfolk and in defence of their own very ives. If they organise themselves and Ight against the oppressors and if you

do not want to stop all the atrocities and exploitations, there is no use getting mad, getting frenzied by the very mention of the word guerillas. If you go that way, I am afraid

DR. K. N. KATJU : The word 'guerilla' was used in the speeches there.

SHRI P. SUNDARAYYA : Sir, I am afraid, if he goes that way, he will go the way of Admiral Fletcher. I would request the Minister not to go that way.

DR. K. N. KATJU : No.

MR. CHAIRMAN : He is not going that way.

SHRI P. SUNDARAYYA : We are accused of sabotaging the railways. The other day we were accused of sabotaging and being responsible for the derailment near Sulurpeta in which 19 people were killed. In the first instance, the Communist Party was never responsible for any single accident, any single derailment of the railways. The Government, in its inefficiency, had bought engines which are unsuitable to our tracks and that particular train was going at a rate of 50 to 60 miles at that bend of the rail way track. They, however,

SHRI G. RAJAGOPALAN : Engines do not remove fish plates.

SHRI P. SUNDARAYYA :conveniently put everything at the door of the Communist Party. They may do that, but people are not going to believe it. Similarly, the other day there was an insinuation that some body was arrested at Amritsar for sabotage of railways. There, a reward of Rs. 10,000 was announced. That has also been imputed to the Communist Party because we go to Amritsar and Bhatinda and make speeches and as a result of which these things happen. This is insinuation by people who are incapable and who try to put their responsibility at the door of others. There are cases where excesses have been committed by the people, for instance when 2 or 3 women were

killed in Memagdi or when the wife of Sub-Inspector of Achampit was killed. What are these compared to organised violence and organised excesses of the Government and its policemen ? People are enraged and resort to certain things which resulted in one or two excesses. Government goes on enumerating them as excuse for this Preventive Detention Act, the black Act and for setting up police camps. This is not the way to go ahead.

KHWAJA INAIT ULLAH : Bring some ways from Russia.

MR. CHAIRMAN : Don't introduce other countries now.

SHRI P. SUNDARAYYA : Mr. Nehru, our Prime Minister, has said the other day that conditions there are bordering on war, or civil war or any other war. Sir, it is true that there is a war ; but it is not a civil war and not a war in the proper sense, but it is a war by the Government on unarmed people with their armed forces.

Sir, they arrested the people and shot them dead. Prisoners of war are not shot dead like that. If you consider it is no war, then your own law says bring them to a court of law, have a trial and if found guilty hang them. But, you do not adopt that procedure. You adopt the procedure of arresting any person you like and shooting him dead. Under the international law even war criminals do not get such treatment.

Then the Prime Minister says that we still continue to refuse to surrender our arms. Sir, this is also not true. We have been offering to surrender our arms for the last nine months.

KHWAJA INAIT ULLAH : Is that so ?

SHRI P. SUNDARAYYA : It is so. We have been again and again offering to surrender the arms. We even went to the Ministers and.....

SHRI G. RAJAGOPALAN : How did you get them ?

SHRI P. SUNDARAYYA : We got them by fighting the Razakars.

SHRI B. RATH (Orissa) : Yes, from the Razakars whom you (the Congress) did not fight. (*Interruptions.*)

MR. CHAIRMAN : They are saying that they are in possession of arms which they got somehow and they are prepared to surrender them and offers were made to Government Ministers.

SHRI P. SUNDARAYYA : We do not want them, Sir. We are prepared to surrender them. We gave a list of all the arms we possessed to the Chief Minister of Hyderabad. We told them again and again that we did not want to use these arms. We are prepared to give up these arms. We will advise those persons who are carrying arms to surrender them, but tell them that they will not be arrested, that they will not be detained for years and years. But the Government is not prepared to tell that. Of course they have with drawn the warrants on me, Ravi Narayana Reddy, Basava Punniiah and others, but.....

SHRI R. P. N. SINHA (Bihar) : These are your peace terms ?

SHRI P. SUNDARAYYA : No. this is our request. If it had been a parallel Government, we would have spoken in a different manner. All this charge of running a parallel Government and all that is only an excuse to continue the repressive policy. These weapons we had, because we had to fight the Razakars and.....

SHRI GOVINDA REDDY : You are not a Government ; you are a nuisance.

MR. CHAIRMAN : You speak on the Act.

SHRI P. SUNDARAYYA : Now coming to the Act itself, my point is that the Government will find the necessity for detention to continue for all time by repeating those allegations against us, and by refuting such allegations I am disproving the necessity for the Preventive Detention Act.

MR. CHAIRMAN : Go ahead.

SHRI P. SUNDARAYYA : So what did we ask, Sir. You have withdrawn the warrants on the leaders, but you are not prepared to withdraw the warrants on those local leaders. You want to hunt them, arrest them and keep them in detention. With what face can we go and tell them : "You can rest assured ; nothing will happen to you. Please surrender the arms that you have with you". With what face can we tell them—we who have been released. They will certainly tell us : "Now that you are free, you want us to surrender our arms without any guarantee of not being arrested, without any guarantee of not being tortured." We again tell you, we are prepared to surrender the arms. Please give them a feeling of confidence that all the things of the past will be forgotten and they will be free to take to the democratic way of life. You refuse to do it and if you ask them to give up their arms and surrender themselves to you so that you can torture them, clap them in jail, they are not prepared to do that, nor are we prepared to advise them. They can continue to be in jungles and die in course of time, if it comes to that rather than be arrested and tortured in the Congress jails and camps.

SHRI R. P. N. SINHA : We will make them surrender.

SHRI P. SUNDARAYYA : You cannot make them surrender. So, Sir, these are the difficulties. We went up to the Ministers both in the Province as well as in the Centre, but the Congress Government says, when we say that we have got only 140 arms with us, the Chief Minister of Hyderabad says we have got 1,400 and the other day the Minister for Home Affairs in the Central Government said it was 14,000. Now, from where are we to get 1,400 or 14,000 arms to make the Government believe that we have surrendered all the arms ? So, this is also an excuse to continue their repressive policy on the ground that we have not surrendered our arms. Even today we are ready to surrender the

arms but please assure us that these people will not be arrested and kept in detention so that we can advise them to give up their arms.

KHWAJA INAIT ULLAH : Do you mean to say that even murderers should not be hanged ?

SHRI P. SUNDARAYA : They are not murderers. They are patriots. (*Continued interruptions.*)

MR. CHAIRMAN : Order, order.

SHRI B. K. MUKERJEE (Uttar Pradesh) : On a point of information, Sir. I want to know whether the hon. Member who is just now speaking, is supporting this piece of legislation or he is talking in opposition because the point, I gather is contrary to the first sentence he uttered. Now I understand he is supporting the measure because he refuses to surrender the arms for want of an assurance.

MR. CHAIRMAN : He is trying to make out that it is on account of all these suspicions that the Preventive Detention Act is brought into existence, otherwise he says there is no justification for this measure.

SHRI R. P. N. SINHA : On another point of information, Sir. Is the hon. Member speaking on behalf of the hoarders and black-marketeers ?

SHRI P. SUNDARAYYA : I am speaking on behalf of the people. The champions of black-marketeers and hoarders are on the other side of the Benches.

And now what is the policy in Telangana ? The landlords are being armed by the Congress. There are 3,550 licensed arms as against the figure which was given the other day in the Hyderabad Assembly of 1,776 unlicensed arms supposed to be with the people. The landlords are being given these arms and they are free to do what they like. This is being done on the eve of the by-elections, but the verdict of Telangana people, the

verdict of the Andhra people has been given in the General Elections and that verdict is clear.

SHRI B.B. SHARMA : But are there any landlords and capitalists left in the Telangana area ?

SHRI P. SUNDARAYYA : Yes, unfortunately, there are plenty.

Now coming to the by-elections, the Congress want to say that they have got the people's support. In the last General Elections they have been totally defeated. In the whole of the Andhra districts extending from Vizag to River Pennar, extending from the east coast to the Hyderabad border to Adilabad not even one single Congressman has won the election. So in order to win the coming by-elections, they are terrorising the people. Here I will place on the Table these cuttings which give a full account of what is happening. I have to make many other points and my time is short, so I will not be able to read them out, but I will place these cuttings on the Table of the House, Sir. We have made representations to the authorities agaoast these atrocities and we hope they will take action. Here are these cuttings, Sir.

MR. CHAIRMAN : The Minister will see them.

SHRI P. SUNDARAYYA : Sir, now I will come to the treatment of the detenus on which the Minister was so eloquent in the other House. Sir, in Hyderabad jails 175 detenus died in the course of the last three years. One hundred and seventy-five. This was the figure given by the Government itself in reply to a question here. They were handcuffed and roped. He agreed the other day that this is a fact ; not only that, but he thinks that this should be continued, in the interests of public security. They were handcuffed and roped ; and even when they were suffering from T.B. and went to hospital, they were handcuffed and tied to their beds. They were paid only 12 annas—just like ordinary criminals. This is the

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condition of detenus. Not one single detenu—there were 600 or 700 of them at one time, and Government itself has admitted that there were 600 at one time—was paid any family allowance. Javvad Razvi and S. V. K. Prasad, after being arrested, were detained in police lock-ups for one month and tortured and later detention warrant was served and when they were brought before the Supreme Court, the Supreme Court pleaded inability because of the detention order.

Sir, the hon. Member Shri Diwan Chaman Lall in his note to the report of the Select Committee says :—

"These Governments are the creation of the people's will, and therefore any attempt to subvert such Governments is no longer a patriotic duty as in the days before the achievement of independence, but on the contrary an act of treason and disloyalty to the nation."

This is what he says in defence of this Bill. His other colleague, Mr. Ananthasayanam Ayyangar, is nearer the truth than Mr. Chaman Lall. He said the other day that every Government was based on violence. It is true. I want only to add a little sentence. Every Government resorts to violence in the interests of particular classes at particular periods. That class which is economically predominant in a particular society—it is in the interests of that class that the Government of the time uses violence. The State works on the basis of violence. We hold that this Congress Government also is based on violence—but in the interests of big capitalists, big monopoly interests, big landlords and Deshmukhs, and not in the interests of the workers, not in the interests of peasants, not in the interests of vast millions of our people. And Mr. Ananthasayanam Ayyangar says that the Detention Act will continue to be in force not only for two years but, if necessary for 200 years. Sir, the Congress Government is not going to last 200 years. We know that if the Congress Government lasts that much, they will have not only this Preventive Detention Act, but hundreds of Preventive Detention Acts.

[Shri P. Sundarayya.]

Mr. Ananthasayanam Ayyangar says that it does not matter if a few friends are put inside jail, and that they are not killing them, and they will be putting them out of harm's way. I have given enough instances to show that it is not merely "putting them out of harm's way" ; they have been actually killed inside jails and outside jails.

Sir, we want to live in peace. We want to live in mutual co-operation with all people. We want to live on the basis of mutual service. But at the same time we hold that the biggest obstacles in our way for this kind of life are the present exploiters, the landlords, the big capitalists, the profiteers, and the black-marketeers. Sir, the people can never give up their right to defend themselves against their exploiters and oppressors. It is their inherent right to rise against a tyrannous Government, whatever the laws may be, whatever the preventive detention may be.

Sir, another accusation that has been hurled against us is that we are agents of a foreign Power. Again and again that charge is levelled against us, and I want to deal briefly with that question. One of the grounds of detention also relates to relations with foreign Power. What does this "foreign Power" mean ? This expression has been bandied about in season and out of season, and there is a specific clause in the Act that anybody who has any connection with foreign Powers will be detained without any rhyme or reason at the sweet will of the Minister. We have brought forward instance after instance to show that this Government is a Government which is not developing friendly relations with all countries on a basis of equality. They allow all kinds of American literature which refers to "dacoits", murders and obscenity but would not allow Soviet books to be displayed at railway bookstalls. They say they are friendly with the Soviet Union. But their Acts disprove what they say. I will

read a letter and place it on the Table. Here is a circular issued by a Deputy Secretary to the Government of India with regard to invitations to visitors to any conference from foreign countries. He says there is no objection to inviting anybody and in whatever numbers from America and Britain but there is every objection to inviting anyone either from the Soviet Union or from any of the Eastern European democracies or even from China. Here is what he says :

"Before it is decided to extend an invitation to any national of U.S.S.R., or its satellites and China, this Ministry should be consulted..."

I place this whole circular on the Table. The circular number and date is there. If the Hon. Minister denies it, let him say so. It is signed by Mr. Fateh Singh, Deputy Secretary, Government of India, on 15th December 1951.

I read this circular because of the attitude of the Government of India. We know how the Detention Act is going to be applied. If it is a relationship with American and British imperialists, it is safe. If not, we come under the category which is one of the grounds of detention, because their foreign relations will be disturbed. For the Congress Benches, the other countries are not democratic countries, because landlords and exploiters do not exist. If you say that those countries where landlords and exploiters do not exist are not democratic countries, I cannot help it, and I do not understand your conception of democracy.

That is why I oppose the clause about relationship with a foreign Power. If you can prove that anybody is an agent of an outside Power, you bring him before the court and hang him. We are for it. We do not want any foreign spies. We tell you we are patriots. We say in Soviet Union and even in China they have abolished all kinds of exploitation, and that is why we admire what they have done. But we love our country.

SHRI ABID ALI (Bombay) : Question.

SHRI P. SUNDARAYYA : You may question . your patriotism and we question your *bona fides* also. We say we love our country more than anybody else. We love our country which spreads from Kashmir to Cape Comorin and beyond to Lanka, and from Gandhar-Taxila to Kamrup.

SHRI T. PANDE (Uttar Pradesh) : We have seen your patriotism in 1942.

SHRI P. SUNDARAYYA. You have not seen our patriotism.

MR. CHAIRMAN : Order, order. Let the hon. Member finish.

SHRI P. SUNDARAYYA : We love our country. When partition came, we were very much hurt. Our hearts bled. (*Interruption**) It was the Congress which effected partition. You were responsible for partition. And then you tried to put the blame on us. Even now we dream that the time will come, and the time is not far off, when Pakistan, India, Nepal and Ceylon will be knit into a voluntary federation and once again the unity of this whole Indian continent will be achieved.

AN HON. MEMBER : What about unity with Russia ?

SHRI B. GUPTA : That is beyond your comprehension.

SHRI P. SUNDARAYYA : We love our country. We are proud of this country. We are proud of India with its hoary civilization of more than 5,000 years old. We love our country. (*Interruption.*)

DR. R. B. GOUR : Truth is pinching.

SHRI P. SUNDARAYYA : We love this land of Buddha and Asoka. We love this land of Chandragupta. We love this land where, Akbar once tried to bring about the unity of Muslims and Hindus. We love this land of Shivaji and Rana Pratap. (*InterruptionQ*)

MR. CHAIRMAN : Order, order. Let the hon. Member continue, when he is saying something sensible.

SHRI P. SUNDARAYYA : We love this land of the great warriors Samudragupta and Chandragupta. We love the land of the great things of Sethuvahana. We love the land of those who did those deeds of the past age. We love this land of art and culture. We love the land of the art of Ajanta and Ellora. We love the land of Taj Mahal.

Sir, we love the land that produced great poets like Valmiki, Kalidas, Tulsidas, Kambar, Vemona and Nautaya ; we love the land (*Interruption.*) These people, it looks, are not aware of our past. When we mention that we are proud of our past it makes them go into fits of fury, we love the land where Rabindra Nath Tagore and our own Andhra poet Guruzada Appa Rao have been born and sung the song of freedom and liberty, we love this land as our own land and we are prepared to sacrifice everything for this land. But, when we say that we love our country, we are proud of our past, it does not mean that we are wedded to the past. The past is gone. We live in 'the present and work to the future. When we say we love our country, it is not as our poet Guruzada Appa Rao Sang

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country does not mean land and terrain but people.) We love our country, we love our people, we are prepared to sacrifice our lives in service of the people.

MR. CHAIRMAN : That will do.

SHRI P. SUNDARAYYA : I am just finishing. Only two sentences.

MR. CHAIRMAN : Alright^ two sentences only.

SHRI P. SUNDARAYYA : Sir, when we took to Communism it is because we thought that it is the only way to solve the problems with which the country is faced. And we know, Sir, that the Congress Government is incapable of bringing any radical reforms. We are here and we will be here as long as the Government allows us to remain here. We have seen the

[Shri P. Sundarayya.] conditions prevailing today. The people are in misery. They are foodless, jobless, shelterless. If we can do something to bring these things to the notice of the Government, and that way at least some relief could come to our people. Leave alone radical reforms, leave alone the social revolution, if we could achieve even the smallest relief for them, then certainly we think that our coming here would be justified. Sir, we came here with a hope to find out whether there is the Nehru line of approach? Nehru not of the present but Nehru who once in 1936 captivated the minds of the people denouncing such atrocious acts of Preventive Detention. We are still trying to find out whether there is going to be that old Nehru line at least to ameliorate the wretched conditions in which our people are placed today. Or is it going to be the line of Patel, Rajaji and Katju? Sir I have to conclude now. I am not going to take clause by clause. When that stage comes I will answer so many sugar coatings which the Hon. Minister has tried to pass on here. Sir, we know we are here in Parliament to bring about some amelioration for our people and if the Government does not want us, it has got this Act from which even Members of Parliament are not exempt.

The Government will think that we are rabbits in their kitchen and they have got their kitchen knife in the Preventive Detention Act. If the Government thinks like that and wants to use these things to suppress our people, to suppress the Opposition, let the Government be aware, Sir, that it will be a mistake on their part. You may arrest some of us, you may arrest many of us, but you can never arrest all of us. So, Sir, this black Preventive Detention Bill, this poisonous and black Act cuts at the very root of our democracy. And therefore, I oppose this Act and shall say that this should be thrown out completely.

MR. CHAIRMAN : I find that a strong feeling is held on this particular matter. Mud-slinging is an art

at which two can play. I would like to invite your attention to an anecdote in the story of the Buddha. When he once went on his round and prayed for alms, a man abused him. He turned round and said "If you give me money and I decline to take the same, what will happen?" The man replied : "It will come back to me." Buddha thereupon said : "If I similarly refuse to take the abuse, it will come back to you." So that way the abuse goes back to the man from whom it came.

I therefore wish that you will allow hon. Members to speak without any kind of interruptions because you will have full opportunities when your turn comes to give all your answers. You are quite capable of doing that, whether it is from this side or that side. I am anxious that there should be full liberty of speech here.

SHRI GOVINDA REDDY : We are much obliged to you, Sir, for this.

MR. CHAIRMAN : Mr. Rama Rao.

SHRI RAMA RAO (Madras) : Mr. Chairman,

SHRI M. S. RANAWAT (Rajasthan): Will he please speak slowly so that we can follow?

SHRI RAMA RAO : I am afraid, Sir, that unless I am put under preventive detention, I cannot do that. Mr. Chairman, it is the misfortune of a batsman to have to bat often on a wicket not of his choice and specially when the bowling is googly, difficult is his position as that of Shri Sundarayya. I had prepared my notes in the expectation that the distinguished leader of the Communist Group would make some sort of philosophical, or political condemnation of the legislation before us. Instead he has turned this House into a platform of Communist propaganda and has come out with a string of blood-curdling stories which ought to give him a place by the side of Edgar Wallace. I would very much like to discuss the present question on ac

high level. Before I do so, I should like to answer some of the monstrous allegations and accusations that Comrade Sundarayya has made on this occasion.

Sir, he must not forget that I am also an Andhra. I know a good deal about Telangana. I have heard bloodcurdling stories of Communist atrocities. It is said that those who come into a law court, must come with clean hands. And have the Communists come before this House with clean hands ? We know what they have done in my part of the country. I am surprised that they want to regale the House here with this kind of fantastic stories. I do not believe a bit. I shall refer them to the English idiom "Tell it to the Marines."

The opposition to this Bill in the Lower House as well as in this has been bitter, perverse, tenacious, morbid and almost pathological. It is not my desire to get half so excited as the Communists do because I have got a very good case to make out. As I heard the Communists' arguments, I was reminded of the stories of our Indian revolutionary patriots who came before the public and the courts and said "We are innocent, we have committed no v. j. inies, we have only done a patriotic act, yet we are being tried." When Dingra was being tried for the murder of Sir Wyllie Curzon he said that he had done a patriotic act in killing an enemy of his country and he had done it in the name of Rama and Krishna and in the name of the faith of his fathers.

That was a short stirring speech. Mr. Winston Churchill pronounced it as one of the greatest utterances ever made from the dock. I had expected that the Communists would accept the moral responsibility for all that they have done and say, "Yes, we haVe done them. We belong to a country not ours. We are internationally-minded. We are wedded to international Communism—no country, no patriotism". Instead of that, they want to pretend that they are babes in wood. We are not so foolish as to believe all that.

SHRI P. SUNDARAYYA : We are what we are. We cannot be what you expect us to be.

SHRI RAMA RAO : We will then give them a thrashing. They will understand.

SHRI P. SUNDARAYYA : You will get it back.

SHRI RAMA RAO : It does not matter. I will get it back, but you will be under preventive detention. You will deserve it if you go on like this. Mr. Sundarayya said that the Communists would not mind going underground at any time, but it is my business to send my policeman to drag them overground. Those who are out of the reach of the law must be brought into the pale of civilisation and must be punished for their crimes.

He told us something about the suffering kisans. I am not unaware— party or no party— of the good work the Communists have done in Telangana with regard to land distribution. Acharya Vinoba Bhave has paid a compliment to them, for that work, but it should not have been done through such brutal and terroristic methods. If the Communists practise violence today, the counter-revolutionaries will do it themselves and what is going to happen to this country ? Police terrorism ? Yes, I do not deny it. I know an incident that happened just outside my own town, but for every such story of police counter terrorism, I have a hundred cases of terrorism by the Communists. Sir, somewhere in the middle of the war, my sister-in-law wrote to me from Chirala, a seacoast town, "If the Japanese come, what shall I do ?" I wrote to her, "You foolish woman if the Japanese come, do not get excited. I will write to the Japanese." Two years ago when I was in Patna, I received a letter from her about the Communist menace saying that they were terrorising the small villages in that area and asking what she should do. I said, "Run away", because the Japanese invader I might have been more reasonable than the Communists of Aiihra I today.

[Shri Rama Rao-]

They talk of serving the people. It is not their monopoly. The Indian National Congress has served the people for over 60 years, and it is not going to surrender this right, this privilege, this prerogative of serving the people for years and ages to come Mr. Sundarayya said, "Oh, we are privileged to do what we choose". In other words, they will ruin the country, as they choose. Let him not forget that we are here to protect the country. We are here to prevent their atrocities, because we feel that these things must not happen.

Sir, let me tell this House another story. Two years ago I was going to Bhadrachalam, an important place of worship of Rama. When the train was about to reach the station, a fellow passenger told me, "Look at that hill. Three days ago the Communists came down that hill after a warning that they were going to loot a nearby village. They were true to their word. They did it. No policeman was there." That was the regime they established. We are not going to tolerate this sort of terrorism unless we are determined to bring our Republic to ruin, and disrepute.

Sir, my friend, Sundarayya, spoke about some of the great things that the Communists are doing. It may be so, but the greatest blunder that he committed, was to say that they would not surrender their arms. They want to use them against the Government of this country. They think they are an equal power.

SHRI P. SUNDARAYYA : I said we are prepared to surrender our arms. Where did he get the information from that we would not surrender our arms ?

SHRI RAMA RAO : We are not going to accept any condition. Surrender to the Government. We want you to prostrate yourself before the Government. We are not going to allow any parallel Government.

We are here to rule and we are taking this power.....

SHRI P. SUNDARAYYA : We know it.

SHRI RAMA RAO : Then, Sir, my friend, Sundarayya was saying.....

SHRI P. SUNDARAYYA : He cannot be my friend, Sir."

SHRI RAMA RAO : But we are fellow-travellers at least with regard to Vishala Andhra. My friend was waxing eloquent over the election successes of the Communists. Sir, it is my contention that it is the lack of the Congress contact with the people, its incompetent handling of the electoral machine and the clever way the Communists managed their own election campaign, it was these factors that were responsible for the Communist successes. It is not that the people gave them a vote of confidence. The people were misled by a multiplicity... *{Interruptions.}* If you interrupt me go to the mike and speak. Let me hear you and I will bang you. Sir, they cannot take advantage of the weakness of the opponent party to reach the conclusion that they have been returned because the people wanted them. There is now an awakening in Andhra and the Communists will soon find that they will have no roof to shelter them.

SHRI P. SUNDARAYYA : Let us see.

SHRI K. L. NARASIMHAM
(Madras) : You are far away from Andhra.

SHRI RAMA RAO : I will be there. *{Interruptions from Congress Benches.}* No friendly interruptions please.

In the Lower House as well as here, a number of old quotations were dug up to illustrate that the Congress has apostatised, that it has fallen from grace, and that the very Preventive Detention Law which it was opposing some years ago it is sponsoring now. Let my friends of the Communist Party and those of their way of thinking,

of time turns and things do happen that may be dictated by inexorable necessity. We were then a revolutionary party trying to throw out a common enemy. The country was "behind us. We pursued non-violent and peaceful methods and, above all, overground methods. Now the Communist methods are different. That apart, they cannot claim that circumstances have not changed by the Congress accepting offices on behalf of the people of India who have returned it in sufficient majorities to form several Administrations. There must be a sense of proportion, a sense of history where even experienced men begin to dig up quotations from speeches of former days as if they supplied the supremest logic.

My friend, Sundarayya spoke about the right to revolt. Now, it would be unphilosophic to deny him or anybody the right to revolt under some circumstances. But right to revolt against whom? Is it against our own national Government? If you do it, we will crush you. That is our reply. We will tolerate no disobedience because the first principle of any organized State and civilized Government is that the citizen obeys and the State functions. If you deny that right, you cannot claim the production of the Fundamental Rights of the Constitution. You become outlaws to the extent you have disobeyed. We shall then treat you as we please.

SHRI P. SUNDARAYYA : Who are you ?

SHRI RAMA RAO : I represent the majority party here.

My friend was speaking about the policy of neutrality and was saying something about its faults, its failures, its perhaps illicit but inordinate tendency to put India by the side of the Anglo-Americans. I have not conceived or understood our policy in that manner. It is not for me to deny a person the right of interpretation as he likes, but so long as this country supports the policy of the Prime Minister, and so long as the Parliament

of India approves of it, we will follow it. You may differ, you may oppose it but as citizens of this country and not as ambassadors of a foreign power.

I have heard a discourse from Mr. Sundarayya about the democratic way of the life. I was very happy to hear that he had discarded the Russian or Communist way of life. It would be good if the spirit of democracy that is pervading this country permeates even the Communists, for then our democracy would be safe.

Again and again the Prime Minister has been saying, and I would say it again, that this Bill is not intended only for the Communists if they really believe they are so guilty, but to attack dacoits and black-marketeers, to assure the passage of essential supplies and above all to prevent counter-revolution.

12 noon.

Mr. Chairman, I would now proceed to that part of the speech which I had wanted to make, if Sundarayya had not provoked this long diversion on my part. For the purpose of this debate I was reading Harold Laski, the political prophet of the century. He is fond of quoting a famous sentence of Pericles, which reads 'The secret of liberty is courage'. If ever there was a Bill brought before a Parliament to which this applies, it is this. We have the courage to maintain law and order in this country and to that extent put down lawlessness. Formerly when the Government of India—I mean the Anglo-Indian regime brought forward such legislation as this, it was trembling, it was muttering apologies, it was mumbling all kinds of assurances that the Bill would be properly administered, that under it people would not suffer unnecessarily and all that. We are in today a comparatively advantageous position of having been charged by the people to govern and govern well.

Harold Laski has said that the alternative to democracy is the concentration camp. Well, my friends of the Communist Party who probably consider Harold Laski as a far and

[Shri Rama Rao.]
distant fellow-traveller would surely
remember.....

SHRI P. SUNDARAYYA : We don't claim Harold Laski as a distant fellow-traveller.

SHRI RAMA RAO : I suppose you don't read him. I read him. I was quoting "The alternative to democracy is the concentration camp."

Aw. HON. MEMBER : That is what you are doing.

SHRI RAMA RAO : You will end up there if you don't behave. This Bill embodies and epitomizes the sacred doctrine that the authority of the State must be balanced against the liberty and freedom of the individual. It gives security and protection to persons who are harassed by men who don't believe in our State, in the doctrine, the dogmas and the principles for which our State stands. If I am asked to justify this measure I would do it in the famous phrase of Cicero—"Sallus populi suprema est lex"—the good of the people is the chief law and if the Communists believe that the Congress does not represent the people of this country, let them challenge it at the next election and throw it out. Meanwhile let us all go on with these laws.

I am surprised that the Communists claim the protection of the laws and at the same time speak about a declaration of war on the State. Yes, you declare war, what then happens ? Remember another Roman maxim—I will put it in plain English—'Laws are silent when guns begin to boom'. If you attack me, I attack you, life for life, tooth for tooth, nail for nail. I am here to defend my rights and so long as the State is there to protect me.....

SHRI P. SUNDARAYYA : Only the States start doing these things earlier.

SHRI RAMA RAO : The State was trying to do it earlier—that is another point my friend brought up and I am going to answer it. I will say this to the Reds 'Don't start trouble against the State unless you are absolutely certain that you are going to succeed. It is said that a war is not lost till the final battle is won. You may fire as many rounds as possible but we are winning round after round, in the elections and in a hundred other things.' Take your chance. But one thing is clear and that is, if you begin to claim the protection of the law, you must make sure that you are within the rules of the law. If you declare war, then we suspend the laws and act against you as rebels and outlaws.

Sir, Dr. Katju has spoken at great length about the ins and outs of this legislation and it is not for me, a layman to try to explain the provisions of this Bill. But I would say this in answer to the Communists' argument that the ordinary law would be sufficient to deal with the emergency. What ! Have the great Communists shrunk to such narrow proportions that the ordinary law would be enough for them ? Sir, is it possible to catch panthers with rat traps ? The panthers that roam the jungles of Telangana ? Am I to take a rat trap and ask them to please get into it ? They will surely not do that, and I must use the proper method and the language they understand.

Sir, I now proceed to another aspect of this question raised in the minority report of the Select Committee. I suppose Mr. Chatterjee raised it and also some others who are not of the Communist persuasion. We talk a lot about Anglo-Saxon jurisprudence ; but I say we must also have the Anglo-Saxon mind for it. We must imbibe it and cultivate it in our lives. In democracy it is liberation, in Communism it is liquidation. The Home Minister referred in his speech to the 1926 general strike in England and the remarkable speech of Sir John Simon, a speech which is one of the greatest in history, not because it contains anything that a literary man would care to read, but because it contains a profound doctrine that to organise even a

civil resistance of the kind of a general strike would be perfidy against the State and the State would be quite justified to use its machinery to stop it. I want those who quote every time the example of the United States of America and of the United Kingdom to remember that. If we want the privileges of Englishmen we must also accept the responsibilities and duties Englishmen accept.

Sir, the general argument against this legislation is that there is no national emergency at present. I shall attempt to answer it. It is a doctrine of Clemenceau that peace is only war pursued by different means. This is cynical, but it is realistic. The general communist theory is that there is eternal class conflict in the world and one class of one country must sympathise with the similar class of another country. That is to say, spiritual, creed and ideological loyalties cut across the borders of countries and this inevitably results in the fifth column, whether one likes it or not. If a man is an honest Communist, he must be a fifth columnist and he cannot be.....

SHRI P. SUNDARAYYA : Just as a
•Congressman cannot but be a fifth columnist of America or England.

SHRI RAMA RAO : For the simple reason that he is an Indian and he can be nothing else than an Indian. But an Indian Communist can be anything.

SHRI B. GUPTA : What has happened to this Journalist ?

SHRI RAMA RAO : Sir, I was speaking about emergency. It comes to this. If there is international communism operating everywhere, then every State has the right to protect itself punitively or preventively ? That is entirely its own choice. Here we have decided to do it by a preventive legislation. To that extent there is no justification for the present opposition to it. Once there is the right to protect myself, then how I protect myself is entirely my responsibility.

While on the subject of emergency; may I quote, to the best of my recollection, a judgment of the Supreme

Court of the U.S.A. handed down about fourteen months back where in the doctrine of "actual and present danger" was discussed. Of course, there was a dissenting minority of judges but on the whole, under that judgment, it would be possible to pass preventive legislation. If I am wrong, I should like to be corrected; but that is my impression.

SHRI B. GUPTA : Sir, may I correct the hon. Member with your permission ? The judgment of Justice Douglas did not put it that way at all. It is not a case of preventive detention at all.

SHRI RAMA RAO : May be, and that is why I said I was not sure. But I would rather read the judgment at home and find it out than accept the opinion of my friends there.

The Home Minister casually referred to the near-war situation. This is a very important matter. We cannot ignore the clouds that gather round us. If there is conflict between Russia and others, then immediately there will be trouble for us from our Reds. It is the business of statesmanship to foresee danger, to foresee an emergency, a catastrophe.....

SHRI P. SUNDARAYYA : Are you saying that India is going to be at war with Russia ?

SHRI RAMA RAO : I never said that. Let my hon. friend first understand English. My country has a policy of its own in foreign affairs and that policy is one of dynamic neutrality in war or peace. I thought my hon. friend knew it.

If there is a near-war situation, what are we going to do ? Would we go about making a fire-brigade after a fire has broken out ? Would one, on the other hand, keep a brigade-ready ? In any State the policeman must be there whether there is a thief or not.

There is, then, great danger of counter-revolution. Let us not forget the history of Franco Spain after the First World War. Let us not forget Hitler and the Nazis, the Black Shirts and Mussolini. As against that, do not

[Shri Rama Rao.]

forget the present Russian occupation of Eastern Europe—of course our comrades would call it emancipation, but I don't believe it. Look at NATO, the rearmament and the infringement of national sovereignty under the scheme of European Defence. It is not easy for a Dutchman or a Swiss or a Norwegian to give up a part of his national sovereignty and enter into a comity where freedom of action is lost if he does not feel himself in secure.

Sir, I do not want to say much about the faith and doctrine of the Communists. I would quote what C. E. M. Joad has said about the failure of Communism in Russia itself. I would tell our friends here that they should be careful about what they are saying and hoping for. I am reading from his book—" Problem of Socialist Theory ".

"Violent changes promote violent reactions. In Russia where the revolution was guided throughout by the doctrine of Marxian Communism, it appears that through the revolutionary party still retains power, the main principles for which they stood have come in practice to be abandoned."

I will read it again, Sir :

"Violent changes promote violent reactions. In Russia where the revolution was guided throughout by the doctrine of Marxian Communism, it appears that though the revolutionary party still retains power, the main principles for which they stood have come in practice to be abandoned."

And then he says :

"State capitalism and private landlordism, bourgeois property-owning and private trading are the chief features of the situation in Russia today; with the result that the structure of society now bears as little relation to the teaching of Marx as it did in the pre-revolutionary era. There is no dictatorship of the proletariat in the present, and no prospect of the 'withering away' of the State and the coming of a free society in the future."

SHRI B. GUPTA : May I know the name of the author ?

SHRI RAMA RAO : C. E. M. Joad.

SHRI B.GUPTA : Beg your pardon ? I thought it was Miss Mayo.

MR. CHAIRMAN : It is a book by C. E. M. Joad.

SHRI RAMA RAO : I read on :

"In these circumstances, there seems to be good grounds for believing that the policy of gradual reform advocated by revolutionary socialism is likely to secure advances of a more permanent, albeit of a less startling character, than the methods of the revolutionary and class war."

Sir, this measure before the House deserves the fullest support of every citizen of this country because it is intended to protect our infant democracy. It is intended to keep down people who mix up their methods, legal and illegal, coming to Parliament and at the same time doing something illegal outside and also do everything possible to injure the new State. This measure deserves the support of every patriot because we believe that this country will play a conspicuous part in the future of the world. It will do its best to prevent wars. I firmly believe that it would be possible for us to bring about unity and understanding between the nations, so that it would be easy for us to go on with our great experiments at home, experiments of social economic and sociological character of a far-reaching range.

I would, therefore, support this Bill and, in doing so, request my young friends of the Communist Party to read what the Prime Minister has said recently in appealing for support to-the Bharat Sevak Samaj :

"We can, to some extent, measure our resources, or most of them. But, it is very difficult to measure the biggest of these resources—that we have, that is manpower. It makes great things. Unless we utilise this manpower and unless we can produce that temper in our people, there will be lots of difficulties in getting things done. We cannot do anything really big."

Therefore, we have to look to our people, go to them, discuss with them and work with them. I ask my young friends to give up their evil ways, return to the path of sanity, reason and righteousness.

SHRI B. GUPTA : You can read it out.

SHRI RAMA RAO : Some of the Communists are good organisers ; some of them are impatient idealists and mos

of them are excellent workers. Let them turn their hands to constructive work.

Sir, we have been hearing a good deal about the ideals and standards of England and Englishmen. May I quote, Sir, a few lines of Tennyson so beautifully sung and as well known to the students of English literature as expressing the idealism of that race ?

"A land of settled Government, A land of just and old renown, Where freedom slowly broadens down, From precedent to precedent."

(MR. DEPUTY CHAIRMAN in the Chair.)

SHRI H. C. MATHUR (Rajasthan): Mr. Deputy Chairman, this recent Bill perhaps had generated a lot of heat in the House of the People as well as outside and I thought we will be able to give a calm, cool and sober consideration to this Bill. As a matter of fact, Sir, I thought in the case of such a controversial and important measure, after it is passed by the House of the People, a little time may elapse so that we will be able to get out of the high tide of debate and discussion which has been raised there. It was so obvious to me, Sir, when the hon. the Home Minister spoke that he had had the effects on him of the rough time that he had had in the Lower House. The trends that have been adopted here in this House, make me doubt whether we will be able to give a cool and deliberate consideration of the principles in various respects of this Bill. It would be unfortunate if we come with preconceived notions, pre-determined ideas and with a prejudice this way or a prejudice that way. Well, Sir, that counts very much if that sort of prejudice is on the side of Government. If the hon. the Home Minister is pre-possessed of a particular attitude, a rigid attitude and he is not prepared to admit fresh discussion, fresh information, it becomes very difficult for us. My observation, Sir, is prompted as a matter of fact by what the Home Minister himself said while talking to the Provisional Parliament in respect

of this very Bill. I read out a few words of what he said then : " The Opposition exists to talk and I look forward to hearing a lot of opposition speeches, but in our own heart of hearts we know that there is nothing in it ". If, in his heart of hearts he knows that there is nothing from the opposite side to come and if he is not prepared to listen or be influenced or have an open mind, I do not think, Sir, we are here to talk and talk without being sincere or serious about it. I hope the Home Minister would kindly make his position clear regarding the attitude of the Opposition. As a matter of fact, knowing him as I do, to be an essentially good man, I refuse again to believe that he really meant that'.

DR. K. N. KATJU : Meant what ?-

SHRI H. C. MATHUR : That the opposition exist only to talk and talk and that in his heart of hearts he knows there is nothing in it. He does not believe that there is anything in the opposition. If that is so, parliamentary discussion and debate would be reduced simply to a mockery.

SHRI GOVINDA REDDY : Give us something, then.

SHRI H. C. MATHUR : Wait a little; don't be impatient. As a matter of fact, I also ask for a better understanding from the Congress friends. You will remember, Sir, only the other day when I spoke, I took particular care to avoid citing any instance or giving any example. I did that simply, Sir, because I wanted to avoid any reference to any individual or any personality. But most unfortunately

MR. DEPUTY CHAIRMAN : I suggest the hon. Member may come to the point. He is losing time in these preliminaries.

SHRI H. C. MATHUR : Well, Sir, the whole thing is this. When immediately I was followed by another from the Congress bench he started accusing the Party to which, he thought, I belonged and when he was told that I belonged to no party, he started imputing motives to me that I must be hankering after something and.....

SHRI H. P. SAKSENA (Uttar Pradesh) : But, Sir

MR. DEPUTY CHAIRMAN : Order, order. Please sit down.

SHRI H. P. SAKSENA : I withdrew my remarks, Sir.

SHRI NARENDRA DEVA (Uttar Pradesh) : Obey the Chair.

SHRI H. C. MATHUR : He withdrew his remarks he made against the party, but not the personal aspersions and insinuations which he cast against me personally.

SHRI H. P. SAKSENA : I never did that. Believe me.

MR. DEPUTY CHAIRMAN : May I ask the hon. Member to continue his speech.

SHRI H. C. MATHUR : Well, Sir, we can.....

MR. DEPUTY CHAIRMAN : Please come to the subject.

SHRI H. C. MATHUR : We can argue and we can debate and if necessary we can even use strong language, but I do not think there should be any occasion for us to cast personal aspersions. It is not in that spirit that we can carry on the debate. Of course, it is a great injustice to us, but they do greater injustice to themselves when they talk like this.

SHRIMATI SHARDA BHARGAVA (Rajasthan) : Sir, how is this all relevant ?

MR. DEPUTY CHAIRMAN : Why not you come to the subject ? You have already taken 10 minutes for all these preliminaries.

SHRI H. C. MATHUR : Have I, Sir?

MR. DEPUTY CHAIRMAN : Please go on with the speech.

SHRI H. C. MATHUR : Well, Sir, coming to the Bill proper, I do not propose to say much about the principles of this Bill because I feel it is

agreed on all hands, it has been agreed by the Government, the Home Minister and the Congress friends that this is an obnoxious Bill and that this Bill can be justified only in times of emergency. As a matter of fact, I think the Home Minister himself has said that he is not happy about it. Nobody feels happy about it ; nobody likes it. In fact, everybody would feel happy if this could be scrapped. They think that the conditions in this country of ours at present are such that in the interests of the safety, security and stability of the country we require this piece of legislation. So, Sir, the question is really this. Are we really living under such conditions, are the conditions in the country such that an extraordinary measure of this type is warranted ? When the hon. the Home Minister gave the history of this Bill, he said that this Bill was passed within four hours when the hon. Sardar Patel presented it before the House. But, Sir, if you go into the speech of the hon. the Home Minister, he made it perfectly clear that this was absolutely a temporary measure and that this temporary measure was necessitated because of the most extraordinary and astounding things going on in the South, in Telangana and Hyderabad and he wanted it for only one year. At that time the conditions in the country were such as were reported by him and then in spite of those difficult conditions prevailing at that time, he wanted the Bill only for one year, while it is now being extended for 27 months. And it was a very extraordinary way in which the Home Minister explained that. He says that he has made an amendment to the Bill and that amendment would mean that the detenu would not be kept for more than one year. It is a very extraordinary argument. I cannot understand it ; I was really surprised. That may be all right in respect of an individual detenu. You detain him but he has got to be let out after one year, but the Bill continues and you continue to have the right to arrest other persons under it. It was only under very extraordinary circumstances and for extraordinary reasons that we wanted this particular power to be given to the Government so that they may deal with

that extraordinary situation. Now, it is definitely going against the very spirit of the motive with which this enactment was brought on the Statute Book. I cannot understand this, Sir, when conditions in the country were much worse, much more abnormal, then we wanted this enactment only for one year. Again they came up and said they wanted it for another year. What is the reason? If this was the intention to go on perpetuating this Act with this excuse that you are not going to detain a person for more than one year, they can very well have it for all time, because you detain a person only for one year.

Apart from that, Sir, three points have got to be looked into. The first thing is whether conditions in the country are so abnormal that Government should be given this extraordinary power to deal with the situation; the second thing is, Sir, if that extraordinary power is to be given to the Government, does the enactment which is before the House require any further amendment, any further improvement. Then the third thing is whether the power, which has been given to the Government has been grossly abused. If the power has been grossly abused, it certainly is the duty and responsibility of this House to put a stop to it or to take such measures that there can be no further abuse of such power. Now, Sir, if the Preventive Detention Act is to stay, if we find that the conditions in the country are such that the Government must be given if we find that in the interests of stability, safety and security of our country, such a measure is expedient, I am sure nobody here would deny that power to Government. I for one would wholeheartedly support it. Individual liberty, individual freedom, is there already, we all know that. We all know the meaning of it and we attach great significance to it. But certainly the security, safety and stability of the country is of far greater importance and nobody can deny that power to the Government. If the situation is such that it cannot be controlled by ordinary measures, certainly Government must be armed with this power, and if necessary there may be

even greater power. And in extraordinary circumstances you can even resort to martial law. Nobody denies it. As far as the present Bill is concerned, I at once concede that if the Preventive Detention Act is necessary to meet extraordinary circumstances, the legislation which is before the House hardly admits of any further improvement in favour of the detenu. It would be dishonest not to recognise that the Home Minister *suo mom* made very effective amendments in this Bill before he brought it before this House. And now, as has been clarified before this House, the Advisory Board has got the power to call for fresh evidence. I think it leaves very little to be desired.

But, as I submitted, the only question is: are the conditions in the country such that we must have this enactment? I feel that the Home Minister has failed to satisfy the House that the conditions in the country are such that we want this enactment. We have got no extraordinary sources of information. We depend upon what we hear, we depend upon what we see, and we depend on what we read in papers, and we definitely feel that there is nothing very extraordinary. We are not at all living in abnormal time. We are traditionally and temperamentally a peaceful people. The recent elections have definitely proved that we are a peaceful people. Many of us here expected a lot of trouble, and a lot of riots, a lot of head-breaking and murders during the course of the elections. But nothing of the kind happened.

SHRI GOVINDA REDDY : Calculations went wrong.

SHRI H. C. MATHUR : We read in the papers that conditions are perfectly peaceful. "The Hindu" mentioned that even in the South the conditions were perfectly peaceful and for about four or five months there has been nothing to call for any special action. This Act was in the first instance brought into existence only for one year in order to bring conditions to normal. Now that conditions are normal and we are able to control them, I cannot see how we are wiser than the.

f Shri H. C. Mathur.] two preceding Home Ministers in asking, not for one year's extension only, but for a much longer time.

Reference has been made to Rajasthan. Even the Prime Minister thought it necessary, when he came to the rescue of the Home Minister in the Lower House, to make a particular reference to us. What he said about Rajasthan was this :

"Even in the last elections in Rajasthan and in Saurashtra men were killed openly by Jagirdari elements so that they might not vote for the Congress. It was openly said in posters that he who voted for the Congress would be killed and dozens of people were killed."

This statement has been made by the Prime Minister on the floor of the other House. I am a humble man. But I consider it my sacred duty and responsibility to challenge that statement. Let the Home Minister substantiate it, not with dozens of instances, but let him give the House even half a dozen cases or even one case of murder in Rajasthan where a person was killed because he desired to vote for the Congress. I am not asking for substantiation : I will accept his statement if when he makes a reply he says that A, B or C was killed for that reason.

SHRI BARKATULLAH KHAN (Rajasthan) : What about Bankte ? And what about the murder of the proposer of Parashuram ?

SHRI H. C. MATHUR : I definitely refuse to take any cognizance of what my hon. friend says. I say that it had absolutely nothing to do with the elections. I will quote something to refute it. These are not my words. Here is something which the Rajpramukh of Rajasthan said at the time of the inauguration of the Rajasthan Legislative Assembly. I will read out an extract from that Address :

"Before however proceeding with that account I should take this opportunity of expressing my great pleasure at the satisfactory manner in which the general elections in Rajasthan have been conducted. You will agree with me that on the whole the elections, the first to be held on an adult franchise basis in India, were conducted with fairness, impartiality and an awareness of its great significance. For this,

credit is due both to the general public who demonstrated a remarkable degree of intelligence in understanding the election procedure and to the services who on the whole administered the election law efficiently and impartially throughout this great experiment."

The Rajpramukh considered it very necessary to go out of his way and mention this fact that nothing untoward happened during the elections. I will go a step further. In fact there was no complaint of any murder. There was only a passing complaint from the Leader of the Congress that there had been intimidation, and even in the midst of the elections an inquiry was conducted. To conduct that inquiry no less a person than the Regional Commissioner of Rajasthan was sent to the spot. And, if I am not wrongly informed, the Regional Commissioner, Mr. Bhide, submitted a report to the Government of India that if there was anything to be said, it was to be said against the Congress and not against any one else. I would request the Home Minister to lay that report on the table of the House and the House will know much better than if I argue and place my view before it. If you do not want my opinion, here is the Rajpramukh, and here is the man appointed by you who goes there and makes a report ; and he even made a statement to the Press that there was nothing of the kind to complaint about. At least some reports of murder must have been filed in courts and chalans produced in which it was stated that murders took place. But it cannot be said that simply because murders have been perpetrated, the reason was they wanted to vote for the Congress. Rajasthan is a most unfortunate State. I claim I am a humble man. I do not claim to be as patriotic as our Prime Minister or the Home Minister. I do not even claim that I am more democratic than they are. But I certainly claim that I love Rajasthan more than they do, and I certainly know Rajasthan better. What has happened in Rajasthan ? Our Home Minister was talking about chaos and about bloodshed and about murders. Let us recollect what happened at the time of partition in Rajasthan ? I am not talking of two places ; as a matter of fact, in Bharatpur and Alwar the ad-

ministration itself was responsible for what happened. I am talking of Jodhpur, Jaipur and Bikaner, and I am talking about Udaipur. I was then in Jodhpur State. Jodhpur State, as hon. Members know, is in 'an unenviable position. It is a border State, the border extending over a long line, about 250 miles.' And the first impact of the refugees was on Jodhpur. Hundreds and thousands of Sindhis came to Jodhpur State. We were sandwiched between Sind on one side, where they were fomenting trouble, and Ajmer-Merwara on the other, which was a Centrally Administered Area. Loot, plunder and massacre went on. The refugees who came to India passed through Jodhpur State. Now, Jodhpur State was the only State which had a form of transport—the Jodhpur Railway, and that was the only transport which conveyed the whole mass of refugees. We had refugees from this side and we had refugees from that side. And I claim that not a single untoward incident happened throughout that State. You are talking of lawlessness in Rajasthan. Where was lawlessness in Rajasthan in those days when India was shaken completely? We had perfect peace there. I remember, a gentleman who happened to be the Minister in Sind came to Jodhpur and wanted to take care of Muslims there. He met me and I told him "Please go out from here. We know how to maintain our people." We have about 25 per cent, of the population of Jodhpur as Muslims. I would like to know if they can point out to me one single instance where even one Muslim was hurt. And you are talking about lawlessness in Rajasthan. I would tell you what the trouble is there in Rajasthan. This Preventive Detention Bill is not going to help you. The trouble in Rajasthan is absolutely different. I will tell you that.

Sir, as you know, Rajasthan constitutes of 20 Indian States. We have States big and small. The bigger States were very well administered and I take pride in submitting to you that we had people like Mirza Ismail and Maharaj Singh to administer those

States. We were proud of our States. Now we have not got even half the amenities which we had provided to the people. We have not added two schools during these 5 years.

MR. DEPUTY CHAIRMAN : Please speak on the Bill.

SHRI H. C. MATHUR : I am speaking on the Bill, Sir, by saying that this Preventive Detention Act is no remedy for Rajasthan. The remedy of Rajasthan lies somewhere else. You must understand this position. What is the use of having this Preventive Detention Act?

As a matter of fact everybody knows that in these princely States the national movement was never permitted to grow. The rulers had their strongest hold in these States and they kept down any national movement. So what happened? I feel, Sir, that it was also the policy of the National Congress to go slow in the Indian States. They as a matter of fact wanted to go very slow in the States. Their policy was to go very slowly in the States. So, Sir, the national movement was not as a matter of fact encouraged and only fifth-rate people joined the Congress what they used to call 'Praja Parishad'. Well, at the time of integration you removed the Princes. Very well. There is no complaint about that. And you removed these enlightened and experienced administrators like Mirza Ismail and Maharaj Singh and Irwin and the like. That way you created a very great vacuum and you had nothing to fill that. That is the trouble of Rajasthan. You had absolutely nothing to fill that vacuum. As I told you we had fifth-rate people in the Congress. You cannot fill that big vacuum which was created by the removal of old and established authority. It is good to remove them. I do not say for one moment that you should not remove them.....

SHRI B. K. MUKERJEE : On a point of order, Sir. Are we discussing the Administration of Rajasthan or the Preventive Detention Bill? My hon. friend is now dilating on the subject of

[Shri B. K. Mukerjee.] Rajsthan instead of this Preventive Detention Bill, I shall be glad if you give a ruling on this point.

MR. DEPUTY CHAIRMAN : Incidentally he is making out a case that the Preventive Detention Bill is no remedy for Rajasthan. You may not hammer on this point much further. Please go on the main purpose.

SHRI H. C. MATHUR : Sir, this is the main thing as to what is the remedy of the trouble in Rajasthan.

MR. DEPUTY CHAIRMAN : That is not the question. Only the principles of the Bill are to be discussed. I think you have said sufficiently about the point. So you may proceed further.

SHRI H. C. MATHUR : I shall accept the ruling of the Chair. I would like to ask as to why was it considered necessary by the Hon. the Prime Minister to make a mention about Rajasthan ? I have got my point here and my submission, Sir, is this. We are here going to decide whether the Preventive Detention Act is necessary or not. The point made out by the Home Minister and the point stressed by the Prime Minister was this that there are chaotic conditions in Rajasthan. It was just to influence the mind of the Houses here by saying : " Oh, look here. Here are the conditions and in such conditions if we are not going to have a Preventive Detention Act, how are we going to rule the country ?" And, Sir, the minds of our people here are influenced by such a person as the Prime Minister of our country. As I submitted, it is our misfortune that our Prime Minister should make such fantastic statements about which there is no basis and which have got no bearing to facts. As I already said, this is my point. So it is entirely relevant to this Act and this Act alone.

MR. DEPUTY CHAIRMAN : Please go to the next point. You have said sufficiently on this point.

SHRI H. C. MATHUR : As a matter of fact that point has not come. I was

just mentioning as to what is the real trouble of Rajasthan.

MR. DEPUTY CHAIRMAN : I am sorry I cannot allow any further, discussion on this point.

SHRI H. C. MATHUR : Alright, Sir.

SHRI J. R. KAPOOR (Uttar Pradesh); I am not interrupting, Sir. But I am trying to understand. Have there been no troubles in Rajputana ?

MR. DEPUTY CHAIRMAN : Let the speaker go on.

SHRI H. C. MATHUR : That is a very relevant point which has been raised.

SHRI J. R. KAPOOR : I am never irrelevant.

SHRI H. C. MATHUR : It is a very relevant question. He wants to know whether there is law and order in Rajasthan. *There is no law and order in Rajasthan. There is lawlessness in Rajasthan and that is the most important point.* Why was there no lawlessness at the time of Partition ? I was going to explain that. The Congress was hopelessly defeated there. Immediately when Hiralal Shastri was installed in the chair, there was a Resolution of no confidence.

SHRI V. G. GOPAL (Bihar) : Is this not going into the Rajasthan debate ?

MR. DEPUTY CHAIRMAN : Please speak on the Bill. Reference can only be incidental. It cannot be the main thing.

SHRI B. RATH : On a point of order, Sir. When the Prime Minister and the Home Minister have referred to Rajasthan in order to support the Preventive Detention Bill, is it not desirable that the House should hear what the actual situation in Rajasthan, in Hyderabad and in other places is ? That has been referred to so emphatically by the Prime Minister and the Home Minister.

MR. DEPUTY CHAIRMAN : There is no point of order. The House has heard sufficiently on that point. You may resume your speech.

SHRI H. C. MATHUR : Yes, Sir, I submit to the Chair and I pass on to the other points. My only submission is that I hope no advantage will be taken by any subsequent speaker, because I have not been able to unfold the full facts. If any reference is made, I should be given an opportunity to reply.

I will next come to the question of the powers which the Government is being granted under this enactment. When there is a chance of a gross abuse of power, it is definitely the duty and responsibility of this Parliament to take necessary steps. When such Acts are being administered, it is very natural that there may be a case here or a case there where there has been abuse. I would like to know, Sir, how many people were arrested under the Preventive Detention Act. I am not asking for figures before 1951. I am asking for information of cases after June 1951. I am not going to talk about individual cases. I will be satisfied that conditions in Rajasthan are satisfactory, that this measure is being properly administered there, even if the hon. the Home Minister says that of the total number of arrests made, at least 50 per cent, were upheld by the Boards. Let it be even 25 per cent. If the Board has upheld even 25 per cent, of the cases. I will be generous to concede that there is nothing wrong. Particularly when we arrest those people who have been elected to the legislature, we take a very great responsibility on ourselves. In Rajasthan, so far as I know, 3 persons were arrested. Two of them went to the High Court and the High Court straightaway released both of them, passing certain remarks against the executive itself, and the third person did not go to the High Court. He went to the Advisory Board and the latter released him also. So, this is the net result. Whether this will constitute an abuse of the power granted under this enactment or not, I will leave it to the good sense of the House. Three persons were arrested. Two were released by the High Court, with remarks against the executive, and the third was released by the Advisory Board. 34. c. s. D.

- DR. K. N. KATJU : Will the hon. member please read those remarks against the executive. I interrupt because I know it is all wrong. There are no remarks like that.

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

MR. DEPUTY CHAIRMAN : I hope you will take responsibility for the statements you make.

SHRI H. C. MATHUR : Yes, Sir.

MR. DEPUTY CHAIRMAN : Is the hon. member going to take some more time ?

SHRI H. C. MATHUR : Yes, Sir.

MR. DEPUTY CHAIRMAN : The House will meet again at 3 p. m., 3 p. m. to 6 p. m.

The Council then adjourned for lunch till three of the clock.

The Council re-assembled after lunch at three of the clock, Mr. CHAIRMAN in the Chair.

SHRI H. C. MATHUR : Mr. Chairman, Sir, I was just telling about the detention of 3 elected representatives to the Legislative Assembly in Rajasthan. While mentioning about these 3 persons, I said that two of them were released by the High Court and the hon. Home Minister said that according to his information no censure was made against the Executive Officers by the High Court. I looked into the newspaper cuttings with me and I could not trace the one dealing with these three cases. I could get a very brief item of news reporting the decision wherein the detention order has been characterised as "unwarranted". So I would only limit my remarks to this extent. The fact all the same remains that in the case of all the three of them it was found that the detention order

[Shri H. C. Mathur.] was not good and they had to be released and again I ask the hon. Home Minister to say in respect of the other detenus, out of the total number of persons arrested if even in the case of 25 per cent, of such cases the Detention Orders could be upheld by the Board. If it is not so, the irresistible conclusion is that there is a large abuse of the powers given under this enactment. I asked the Rajasthan Government if they could tell us in respect of these persons arrested under the Preventive Detention Act as to how many of them were responsible for violence. For two months I had no reply in spite of my 3 reminders. I wanted to collect this information from the Central Government and very prompt was the reply from the Central Government. I enquired how many of the Communist detenus could be held responsible for the violence and the reply from the Central Government is that they have not got this information. My submission is that if even we don't know, regarding the people whom we have arrested under this Act, as to how many of them are responsible for violence, I don't know what material there is before us. And is it not then a fact that our information is very slender and in certain cases, very misleading, as I pointed out in the case of the statement made by the hon. Prime Minister? I questioned that statement on the basis of the Rajpramukh's address and the report of the Regional Commissioner and said that the hon. Prime Minister has been unnecessarily misled to make the statement which had no basis. I hope we are not going to be influenced by the impressions created by such a statement in the House, as I submit, we have got very little material before us which would satisfy the House on the basis of which we could come to a decision that the continuance of this enactment is very necessary. We have been told that almost all the States have recommended that this enactment is necessary and must be continued. Well, we must have all the respect for the reports of the various States but I think it would have been much better and it would

have been more appropriate if we had been told what is the material before the State Governments on the basis of which they came to this decision. Otherwise we are, in spite of the fact that we have all the respect for what they say about it, we are almost surrendering our judgment to the decision or the conclusions arrived at by them. If we had the material before us, we could have judged on the basis of that material. As we all know, what happens is—it is only human—that once you are armed with extraordinary powers, it becomes very difficult to give them up and naturally our Home Minister is guided by the reports from the States and he naturally has reason to believe that when all the States responsible for the maintenance of law and order submit such reports, we must go by that. But as I submitted if this House is to give the matter real consideration, the House should exercise its own discretion and it should get the necessary material and evidence and then come to a conclusion, because as I submitted, it then becomes very handy. When you have the extraordinary powers, you don't want to give it away, and sometimes the power having been there and being used by you all the time, you come to believe as a matter of fact consciously or unconsciously that you cannot do without that power. It is just like the case of an addict. As a matter of fact he believes that he cannot do without that drug and he must have it because he has been using it and it is handy and he feels that it helps. As a matter of fact it does not. Without all this material, without any reason we are asked to consider this. Even when we had the enactment and even when the conditions were much more normal, the authors of this Act never thought that it was expedient to have it for more than one year and now to have it as if we want it for all time, I say there is very little justification brought before this House.

There is one thing which I have not been able to appreciate and come to a proper conclusion, regarding what Communist friends said here. Harrowing tales of oppression and tyranny

were narrated by our friend Shri Sun-darayya here this morning. Now, if all these stories are true, then I do not know what action the Government have taken in this matter. Even if five per cent, of it only is true, drastic action was called for. But this is what I am not able to understand, and I hope some subsequent speaker will make it clear. Congress Governments are there all over the land. It is not in Madras or Hyderabad that you have the Congress Government. It is there all over the country and the poor people are there in all the States. Then I do not know why these incidents of oppression and tyranny are restricted to these particular selected areas. Since we have the same Government all over the country, with the Congress people thinking in one particular line, with their attitude towards the poor and the downtrodden working in a particular direction, these so-called oppressions and tyrannies should be common throughout the country. We would like to have a fair explanation of it which may help us to appreciate the arguments that have been advanced.

In conclusion, I submit that in view of all that I have submitted, in view of the gross abuse of the Act of which I have given facts and figures, and in view of the necessary information not forthcoming, in spite of our very best respect for the person of hon. Minister, it becomes impossible for me to support this measure.

SHRI NARENDRA DEVA : Mr. Chairman, the whole question before us can be conveniently considered in its two aspects. The first is the larger question, namely, the question whether in the present circumstances of this country, it is at all necessary to place a measure like this on the Statute Book. Secondly we have to consider, assuming the need and necessity for enacting a measure like this, whether the Bill that is before us does contain adequate safeguards for the person to be detained, and further we have to find out whether the possibility of any obnoxious and vexatious interference with the liberty of the person has been reduced to the minimum.

I would take up the larger question first—the question whether there is any need for enacting a measure like this, a measure which impairs the personal liberty of the subject. The general principle is that it should be restricted, abridged and curtailed only when there is absolute necessity for it. It was in this context that some of us referred the Government to the British practice and to the British principle. We asked them to draw upon the British experience, to draw upon British principles and to follow their procedure and their principles. Before I deal with this question in detail, I would like to refer to two matters of a cognate nature. I am pained to find that the Prime Minister accuses some of us for entertaining the idea that liberty is absolute. I am not of that view and I have never stood for or upheld the view that liberty is absolute. Liberty is not absolute. Total liberty would mean the negation of liberty. It would mean inequality; it would mean anarchy and no sensible man would ever advocate a proposition like that. Every penal law, every punitive measure, every rule, every regulation does, in some manner or other, curtail and abridge the liberty of person. There is no doubt about it. Therefore, I would submit, Sir, that when we ask the Government not to enact a measure like this in peace times, when we ask them to reserve it for war-time only when war is either imminent or has actually broken out, or when there is internal commotion in aid of a foreign power, it must not be taken to mean that we think of liberty as absolute. But more serious charge has been brought by the Prime Minister against some of us. I do not know against whom it was really directed. I hold no brief for all the opposition groups. They are strong enough to defend their own position. But so far as I am concerned and so far as the Socialist Praja Party is concerned, which I have the honour to represent in this House, I do not hesitate to say that it is a very serious charge. The charge is that our concept of liberty is 19th Century concept of Britain. And as every word that falls from the lips of the Prime Minister deserves our earnest attention, I have

[Shri Narendra Deva.] to be carefully examined. Although there are some fundamental differences between us both in matters of policy and principles, still I do retain the same old respect and affection for him. Therefore, I thought within myself whether it was really true that I had become a backward number, that I had lost all touch with the realities of the situation, with the spirit of the times, that I had lost that quality of youth of which I was so proud. I thought over this matter with some seriousness. I asked myself whether my thinking had become static, whether my social and political thinking is still conditioned by formula and categories of thought which had become effete by afflux of time. I exercised a little self-criticism. I exercised a little self-introspection. But with all respect to the Prime Minister, both as my comrade in arms of old days and as the Prime Minister of this great country, I say with great respect to him that on a re-examination of the whole question, I think that I cannot be accused of entertaining any such idea. I know how to move with the times; I know what are the needs of my people. I have got that quality, that art which enables me to recondition my thought to new situations, to new conditions of life in this country so that new philosophies and new ideas may be in a position to fulfil new needs and satisfy new aspirations of my people. I know, Sir, that the concept of democracy has not remained static. It has been transformed during the last fifty or sixty years and the main basis of that transformation, so far as I can see it is that the political question today has become the social question. The one great effort of the nineteenth century was to separate economics from politics; but that effort has broken down today and therefore the concept of liberty has completely changed. While on the one hand it tries to expand the liberties of the masses of the people, it tries to contract the liberties, the so-called rights, of the vested interests. I hold with Laski that in the present era of revolutionary changes, no liberty can be maintained unless the nation is prepared to alter the very basic foundations of its way of life. When

we ask this Government to introduce fundamental social changes, to remove the great social and economic inequalities, the learned Home Minister tells us that we should wait patiently for these reforms, that they would come in good time and that the present was not the time for them. Sir, I make bold to say that with this attitude of mind, there can be no progress in this country and liberty in my humble judgment is in real jeopardy, because the Government is not moving fast enough with the times, is not trying to translate into action the new concept of liberty. Liberty has to be watched and this House is considered to be the watch-dog of the liberties of the people and it is the duty of this House to whom the Ministers are answerable to be vigilant in the defence of the civil liberty of the people.

But, then, as the majority of the House has decided not to do so I think the sacred duty to now hold aloft the torch of liberty in this country, now falls into the privileged few of the Opposition. When there is gloom and darkness surrounding all round, few of us can stand forth and say that if you want to defend liberties, liberty can be saved not in this manner. In the name of security if you take away one freedom after another, the security itself would be forfeited. That is how I think, Sir, and, therefore, it is exceedingly painful to hear speeches from the lips of the Prime Minister, one after another, that ideas and principles which were sacred to us before our liberation, when we were fighting for the cause of the country's freedom, those ideas which were cherished by our people, which formed part and parcel of our being, have become outmoded and we have no longer any use for them. And, Sir, at least I was not prepared to hear from him that our concept of liberty also was of the 19th century Britain, and not the modern concept. But then there is not one single concept which is followed in the world today. The concept of liberty differs from country to country. There is England; there is United States of America and when we say that the spirit of the

English principle should be followed in this matter, we are told that India is not England. Our learned Home Minister told us this morning that England is a small country ; its size is small; its population is small! In contrast to Britain, India is a big country, of big size and with a very large population. I do not see, Sir, how it makes a difference with respect to the matter that is before us. The matter before us is whether liberty of the subject should be respected by us or not and whether his person is sacred or not at least in peace time. That is a simple question. Another argument that was advanced by the Home Minister in this respect was that British people are a disciplined people and he gave an illustration of this and said that on the eve of the general coal strike in 1926 Lord Simon said something which went home to the people and the strike was withdrawn. I say, Sir, that if it is really true that such liberties can be maintained and preserved only if the people are disciplined, I say, India would take many many years before its people become disciplined. Why do you ask us then to extend the life of this measure for 2 years only. Why not make it a permanent measure. Again various categories of people seem to be affected by this measure. The Prime Minister enumerated the test—first the communists, second the blackmarketeers and profiteers and then the goondas, dacoits, anti-social elements and then the Jagirdars of Rajasthan. The communalists are also included in the test. I would like to take them one by one.

We have, in the minute of dissent said that the law of the land should be enough to meet the situation as against the blackmarketeers, profiteers and the communalists. If the law is not sufficiently drastic and stringent, it should be made sufficiently drastic and stringent. I have never heard of any country which has enacted such a law to meet the menace of the dacoits or the goondas and to meet the menace of the blackmarketeers and profiteers. In England also, there was an Emergency Act enacted in the year 1920.

It was aimed against such class of people, the profiteers and the blackmarketeers in order to maintain supply of commodities which were essential for the life of the community. There, Sir, they do not try to detain such people under an extraordinary piece of legislation. The Home Minister this morning—referred to the dealings of the Government against blackmarketeers and he expressed a surprise that some of us had got a soft heart for them. There is nothing of the kind in the matter and since under Preventive Detention Act the detenu will not be brought before a court to stand his trial, I have my own fears in the matter. These rich people with big money bags would escape the law. They would never be detained. That is my fear and that is why I say, Sir, that a separate measure should be enacted to meet this menace in order to ensure to the community supply of commodities essential for life.

So far as communalists are concerned, I would not have referred to that unhappy incident which disturbed the communal harmony of the city of Delhi, but since a direct reference has been made to it by the Home Minister this morning, I have to take notice of it. I say, Sir, it is very unfortunate that the riot took place, that there was bloodshed, that there was commotion in the city and that communal harmony was disturbed but, I would like this House, Sir, to take all the facts into consideration and then form an opinion of its own. Sir, inter-communal marriages are not as uncommon today as they were once. People are getting used to them and I know, Sir, that nobody would take notice of such marriages if they are quietly celebrated. But, those persons who arranged this marriage—I was going to say, who wanted to organise this marriage—were not evidently satisfied that no notice should be taken of it. They wanted that full notice should be taken of it. They wanted to use the marriage as a publicity device. They wanted to broadcast it, to advertise it because they wanted the world to know and to recognise their services in the cause of social reform. They

[Shri Narendra Deva.]

are ardent social reformers burning with a desire to arrange such marriages with the idea of establishing national solidarity and also with the idea of promoting communal harmony. I am of the opinion, Sir, that such marriages are rather the outcome and the result of communal harmony. It is not like this that we are likely to promote communal harmony by promoting such marriages. If you want to promote such marriages, do so, by all means, but you would be sacrificing the happiness of those two individuals at the political altar of self advertisement and the advertisement of the cause, if you were to use it as a publicity device. Who does not know that when mass conversions took place and those who organised them cared more for publicity than for those people, for the spiritual comfort of those people there was bound to be communal riot and communal trouble? The Home Minister himself told us of the psychological condition, of the abnormal mental condition of the vast number of refugees who reside here. Consider, Sir, the mental condition of a refugee whose girl is going to be married without his consent, without his knowledge in the City of Delhi where hundreds of thousands of refugees reside. You want to give wide publicity to the marriage and you are out for trouble and then, when that trouble takes place, you blame others for disturbing communal harmony. I think Sir, on the strength of this instance a case has not been established for the inclusion of communalists in this measure. Is it not a fact, Sir, that the last General Elections have demonstrated unmistakably and abundantly that communalism in this country is on the downward trend? It could not get the support of the masses. There is no danger from communalism in this country today and if there is any danger, Sir, to our secular political life, to our free political life, it is due to casteism and not to communalism, I should say. In my humble judgment, so long as the outstanding questions between India and Pakistan are not settled to the mutual satisfaction of both the countries, we shall have such

sights again and again in times of crisis and turmoil. Therefore, Sir, if you want to make use of this extraordinary measure to suppress the communalists in this country, you will have to place it on a permanent basis on the Statute Book. I think, Sir, no case has been established so far by the hon. the Home Minister and the Prime Minister which might lead us to agree with them that this Act should apply to communalists. We must not forget the social fabric of Indian society. We are divided into castes; we are divided into religious communities with their narrow and sectarian outlook. That is a hard fact of Indian history; you cannot get over it. You will have to recognise it. We all stand for a secular State and I admire the steps which the Prime Minister takes to retain the character of that State as secular, but unless life is secularised by science and technology, unless reason is enthroned in place of superstition and supernaturalism, I do not think secularism has got a bright future in this country. It is a plant of slow growth. We are striving in that direction. We shall come to that stage when India will become in the full sense of the word a secular State, but merely by repeating slogans, things cannot change in a day; you cannot change the past; you cannot blot it out of existence by an Article of the Constitution. You will have to take so many steps to promote national harmony. You will have to eliminate those causes which lead to communal disharmony and disequilibrium. You will have to take all measures which would ensure national solidarity in this country. A country that is divided amongst castes, amongst communities, can be welded together into one single nation only when you have certain common symbols, certain common objectives to fulfil, and instead of moving in that direction, instead of trying to take those measures, those healthy, salutary measures, without which there can be no secularism in this country without which communalism cannot be suppressed and eradicated from the body politic of this country, we are trying to suppress it only by enacting such punitive measures.

I shall now take up the other category i.e. of the Communists. Is it not known to the Government—if they have made a clear and correct analysis of the last elections they must be knowing it—that people have voted in large number for those who have suffered for their cause. Is it not known that persons who had been imprisoned and who had been detained for long periods without having been given an opportunity to stand their trial in a court of law, have become martyrs, have been ibolised by the people? Have not millions of people voted for them? It is an important question to ask. "Would you like the situation to continue?" If you want the people to think calmly of the programmes and policies of different parties and then to make their choice, you will have to take out this measure from the Statute Book. I am surprised, Sir, that the Home Minister—not in this House, of course, but in the House of the People—said that when he goes to villages, people do not talk about this Statute; they do not talk about this Act, the Detention Act. Is it not, Sir, within our recollection that some members of the House of the People moved an amendment to the effect that the Bill be circulated for eliciting public opinion? Who opposed it? It was the Home Minister who opposed it and the amendment could not be carried, and still he says that since the people do not talk about it, it should mean that the people are in favour of the measure. He knows that the masses are illiterate they are steeped in ignorance; they are doomed to a life of poverty and penury; they are overwhelmed with the problem of sheer survival and he still expects them to think in terms of liberty. The idea of liberty cannot enter into their lives. There is not a modicum of culture in them; they have no leisure. It is only when their material wants are satisfied, it is only when their economic sufficiency has been achieved, they will begin to think like us—educated men—in terms of liberty. They will then realise that liberty is really necessary for self-culture, for the development of a personality. But although the villagers

may be ignorant about it, they are not so ignorant as he presumes them to be. Their participation in the national struggle under the Indian National Congress has quickened their political consciousness. They are shrewd people. Newspapers go to villages. Although they are illiterate, they are fond of knowing all that is going on in this country. Many persons in villages must be aware of the fact that such a measure is under discussion in the Houses of Parliament and although, Sir, many of them may be ignorant about it, the hang-over from the past continues. As in the past they followed blindly those who suffered for them, who did not care for the lathi-charges and prisons of British Rulers, who entered jails with a smile on their faces, who took part in the underground disturbances of 1942 to make the rule of the foreigner impossible in this country, they will respect those people who will espouse their cause today, their petty causes, and will invite suffering upon themselves, through imprisonment, through detention. I say, Sir, so long as this artificial situation continues, this artificial glorification of people who are ready to suffer for them will continue for years to come. And those parties will receive more and more votes of the people who suffer more and more for their cause. That is a hard fact of Indian history and must be recognised.

Now, Sir, our Home Minister has told us that India is not England; that India is a vast country, but so far as the observance of forms of procedure goes, he is scrupulously careful, he is meticulously careful, that the forms of procedure of the British Parliament should be followed here. And did he not, Sir, pull up Dr. Shyama Prasad Mukerjee one day in the House of the People when he referred to the Prime Minister by name rather than by his official designation. He is so meticulously careful about these little things. He wants that the pageant of the British Parliament should be maintained here in all its glory and splendour. But when we appeal to his commonsense, to his trained, experienced lawyer's sense and judgment

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and request that he should follow the British principle and practice and reserve this measure for war-time and not introduce it as a peace-time measure, he tells us that India is not England, I am afraid that in order to retain our liberties we shall have to wage a constant struggle. It was England who showed the path to other nations and it was not an easy path for them to tread. By hundreds of years of continuous struggle they achieved those freedoms ; they got those values which they prize most today, and if we, unfortunate people as we are, have still to fight, even in the time of our national Government, for our democratic rights, there is no wonder at it because, Sir, by tradition, by sentiment, we are not a democratic people.

The only fact which is in our favour is that we are a peace-loving people and there is still hope for this country that democracy will flourish and prosper. Otherwise, Sir, Indian life is based on a hierarchy of castes; it is based on inequalities—social and economic.

Therefore, it is an uphill task for us to establish democracy in this country. I am very sorry to say so and I say it with a sad heart that most of our friends on the other side only pay lip homage to democracy; there is no sincere desire to achieve a positive faith in democracy. We had use for it only so long as were fighting against the British. Now after achievement of our freedom when we ask this Government to introduce a certain measure they do not like, are simply told that as now we are free, as we have a national Government, as this Government has been installed by the will of the people, for a period of five years there is no use for such a measure and in the House of the People the Home Minister said that people should be law-abiding, that there should be no talk of *Satyagraha*, no talk of fasts, no talk of strikes and that if people are law-abiding and do not violate orders under section 144, there would be no need for this legislation, and he again

said that this legislation has become necessary because we had abandoned our traditions and had adopted foreign doctrines and foreign paths. With great respect I ask him to enunciate the basic principles of the ideology he subscribes to. What is that ideology? He wants to delude us by appealing to our past traditions and past doctrines. And as a sample of it he referred in the House of the People to a case of fast-unto-death undertaken by a sincere and pious man for the prevention of cow-slaughter, and he told us that that revealed the genius of the Indian people, and he told us further that it was by adopting such methods, by undergoing suffering oneself and not by inflicting suffering on others, that Gandhiji led the nation to victory and after victory, gave freedom to this country.

All that it comes to is this, that those people who do not agree with this Government in all that it does, should sit quietly and with folded hands for a period of five years. Then at the end of five years they get a chance to seek the verdict of the people, and then alone will they be able to take their places here if the people want them to do so. We have to behave like good boys. That is what he wants us to do. And yet he quotes Gandhiji in support of what he says. I recollect, Sir, having had a conversation with Gandhiji, the Father of the Nation. He told me that the weapon of *Satyagraha* was to be used not only against foreign domination, but it could be legitimately used against one's own indigenous and national Government if there was a clear case for its use. I cannot forget those words. They are fixed in my memory. I seek solace in them. I do not for one single moment deny that those people who are dissatisfied with the acts of the present Government, who hold different ideologies, who want to transform the character of the Government, who want to give it not only political but an economic significance if they want to seek these changes, these fundamental changes, if they want to alter the very foundation of the way of life in this country, they must abjure violence.

I agree with the Home Minister on this point. But when he goes a step further and says that all non-violent struggle should be barred, that there should be no strike however peaceful it may be, however of free volition and will it may be, and when he asks us further not to take to *Satyagraha* because a national Government is there like a benevolent sovereign, then I say that it is not possible. If this were to happen, this country would become a graveyard. The peace that he wants is the peace of the graveyard and not the peace of the living. So long as India's genius is there, so long as she remains true to the spirit of the past and tries to imbibe the best that is in others, India will not refrain from taking all necessary non-violent steps in achieving the goal that we have set before us. And if that task is hindered or prevented, I warn the Home Minister that those who today stand for non-violence, those who today have abjured violence, those who want to follow peaceful methods like *Satyagraha* as taught by Gandhiji—if they do not get free room for such experiments and actions, take it from me, they will turn to the path of violence. And I warn the Home Minister to beware of the consequence of this and not to tell us again and again, in season and out of season, as is the case with so many of our leaders, that there should be no talk of *Satyagraha* and no talk of fast. He eulogises a fast-unto-death, which I regard as non-violent coercion, which is, in my opinion, worse than the use of violence. I am opposed to fast-unto-death. Fast as a method of purification may be necessary. But fasts unto death to gain a political objective, I regard as coercion of the worst type. But my learned friend in his speech made on the floor of the other House praised a sincere and pious person who had taken a vow to fast unto death. How does it promote communal harmony, I ask in all humility and with all respect? I ask this straight question, and I want a straight answer from the Home Minister.

There are a few more points to which I would like to refer. The Home Minister has told us that we should not follow

the path of foreign countries, that we should not follow foreign ideologies and that we should follow our own tradition and our genius. But he has not been kind enough to expound his own theory. This very morning he told that India was united, that the whole country was united for the first time in its history, and that the Indian republic of this size had not existed before, and that it is not like the tiny republics of the Buddhist period. He says that he is faced with new problems and new responsibilities. I ask him whether it will be possible for him in the light of old doctrines and old traditions to solve the new problems and to discharge the new responsibilities with any measure of success. It is mere rhetoric. I may be pardoned for making this remark. But no amount of rhetoric can delude us. I may be pardoned for saying that if we are to follow our old traditions and our old doctrines, we should not refrain from reconstituting the present artificial administrative provinces of India on a linguistic basis. We should decentralise political and economic power if we were to be guided by the traditions of the past. If we were to be guided by the traditions of the past, we should seek unity in diversity. But what does the Home Minister want us to do? He wants that we should praise the Government of the day. He wants us to be good boys, to be law-abiding citizens to have no other ideologies so that there may be unity in all ranks. He has invited us to join hands with him in blessing this Act. I am afraid that this unity will encompass our death, and I am not prepared for this death-embrace. I am of the opinion that freedom, if it is not true to itself, will perish. That is the saying of a great man and we should not forget it. He tells us, Sir, that he was not present in the Constituent Assembly when article 22 was being discussed. It is indeed our misfortune that he was not there. He has also told us, that the Drafting Committee consisted of great lawyers of this country. I have great respect for the class of lawyers so far as it goes. But their thinking is static. They do not think and they cannot think in terms of our changing needs and situations.

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They cannot think, in terms of new need and aspirations of the Indian people. They have no idea of the changes that have been introduced abroad and they are not in touch with the people and therefore they cannot know what is passing in their minds, what is passing in their hearts. The drafting of our Constitution, Sir, was entrusted to such a body of people. It would have been much better if some laymen who knew very well the needs and impulses of our people were put on this committee and the lawyers could have been asked to give a proper form to that draft. But nothing of the kind was done. He is so meticulously careful, Sir, as I have just said, about the observance of the procedure in the House of Commons but so far as I know, Sir, this Constitution of India is only a revised edition of the Government of India Act of 1935. And this is due to the fact that on the Drafting Committee we had lawyers of eminence, lawyers of mature judgments, but out of tune with their times and one could not therefore get a better result of their deliberations. When I asked him, Sir, to adopt the spirit of the British principles, he said that India is not England. It has been seen, Sir, that he wants to confine the Indian soul in the British body and that Indian soul is not of that epoch when India's soul was uncontaminated, unsullied by foreign influences, when there was a flowering and outflow of Indian culture, when India had reached an immense heights of civilisation culture, when India went out in search of the infinite of immortality, of fearlessness, when India defied kings and gods and when India defied death itself. He would not talk of glorious India of ours but he would adopt that Indian soul which has been sullied and corrupted by J Anglo-Indian influence during the period of their administration. So far as ' Fundamental Rights are concerned, this Government will borrow them from abroad from modern Constitutions but when we want them to reserve ! it as a war-time measure and follow I British practice they rather draw I upon experiences of Anglo-Indian Administrators of India. They are afraid I

of following the British practices and as I said , Sir, in the very beginning, this concept of democracy has altered, and changed its character in recent years and it is different with different countries.

So far as the last War goes, Sir, you know that it was on the issue of fas-c ism versus democracy and democracy ultimately triumphed and since it has triumphed, it has become fashionable for all people to adopt its name while emasculating it in the process of adoption degenerating it and vulgarising it. It has been done in many countries of Eastern Europe and I may congratulate the Government for once finding itself on the threshold of the Soviet camp, of the camp of countries of Eastern Europe. They have got a similar provision like this in their Constitution for peace-time also. And perhaps the Prime Minister, when he castigated us for subscribing to the concept of liberty of the 19th century England, had in his mind some of these Constitutions. But England and U.S.A. are not the only countries where a high regard for personal freedom has been observed.

Take the case of France. The Communist Party in France is very strong. Civil liberties of the people were largely curtailed in the course of the last War, but the regime of administrative internment has disappeared today for France. They stand in grave peril in the event of a war taking place in Europe and yet they have thought fit not to abrogate the personal liberty of the subject in peace-time. I can cite many more instances of European countries where no such peace-time measure exists in their Constitutions or in their Regulations, I, therefore, request most humbly my hon. friend the Home Minister to reconsider this matter in this light. I do not question the right of this House, to enact a measure of this character. But I have referred to British practices and have drawn his attention to the fact that it was only a war-time measure, so that he may think twice and thrice before enacting a measure of this character.

He has not satisfied us that an emergency does exist within the country. I know it is nowhere written in the Constitution that you must satisfy the country, the House that an emergency exists, that a crisis has arisen. But in view of British precedents, - the American precedents which provide so many adequate safeguards, where these measures are reserved or war-time only, I naturally, thought that the Home Minister would very kindly go into the matter with care and perhaps come to the conclusion that this was not the time to introduce a measure like this. He becomes a very pathetic figure, when he refers to what happened in the time of Sardar Patel, what happened in the time of Rajaji. He says that this House is unkind to him. He said that this House passed this measure in the course of four hours in the time of Sardar Patel and again he tells us that in Rajaji's time it did not take more than two days.

. SHRI H. N. KUNZRU : No, no.

SHRI NARENDRA DEVA : It perhaps took about three or four days. But the time that is being taken on this occasion is much longer and that is his grievance, Our sympathies are with him. But he must thank himself for this situation.

When Sardar Patel came before the House, he placed before the House a full picture and if that picture was true and there was no reason to say that that picture was incorrect, almost the whole House supported him, in the adoption of that measure and when Rajaji came and wanted to revive it by extending its time limit by another year, he placed certain facts and on the basis and strength of those facts he wanted the House to support him in extending the life of that measure. But our learned friend Dr. Katju comes before us and wants to have it both ways. He wants his Government to take credit that the situation has been continuously improving since 1950. He wants us to believe that a very large number of detenus has been released and the number of detenus still in prison today barring those who are in Hyderabad is very insignificant and small and if we ex-

clude the number of blackmarketeers and various other categories from this list, the number would be very small indeed. With this statement of the situation coming from such a responsible and great authority like the Home Minister of this country, how does he expect this House to support him in extending the life of this measure not only by one year but by two years, I would very much respectfully say, that he should have taken us into confidence, taken the whole House into confidence, placed all the facts and figures before us and satisfied us that there is a real emergency to justify such a measure. Then we would have been the first to support him. But he has done nothing of the kind.

I would now come to the examination of the provisions of this measure so far as safeguards are concerned. We are thankful, to our Home Minister for his accommodating spirit, for his acceptance of some of these amendments that we had the honour to move and support. He has been very kind to us and has tried to understand our point of view and has tried to meet us half way in some matters. We must be thankful to him for these small mercies.

4 p. m.

I hope, Sir, that this accommodating spirit will continue to be displayed this House as well and he will be pleased to accept a few more amendments. He has not placed this House under any obligation. If anybody is under the obligation of the hon. the Home Minister in this matter, it is the House of the People, because only a very few amendments were accepted in the Select

Committee ----- small amendments, not of much consequence ----- but he has given certain assurances and accepted certain amendments in the House of the People which do provide certain safeguards for the subject, and I congratulate him and I pay him my humble tribute for this accommodating spirit, and I want, that more of that spirit be displayed in this House in the course of the next four days when this ' Bill will be discussed in this House and

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when amendments will be moved and considered. He has suddenly turned against his own class, the class of lawyers. He says there is not use for them. Instead of being helpful in the administration of justice, they are a hindrance. I request him, Sir to abolish this class and nobody would feel more happy than myself if the class of lawyers is abolished in this country, but so long as that class exists and so long as their services are considered to be valuable for certain purposes, I do not see any reason why this request of ours which follows the British precedent, should not be accepted. It is not a request that the accused should be allowed to be represented before the Advisory Board by a lawyer; that simple request is that he should be given the assistance of a lawyer of his choice in the preparation of his case. That is the practice which was followed by the British even in times of war, and I see no reason why this small concession should not be given to the accused here. It is very difficult, Sir, for a man who is involved in a case to look at the whole matter dispassionately it is very difficult for a layman to marshal facts, and if the matter is really complicated from the point of view of law, he does need the assistance of a clever and astute lawyer like my learned friend Dr. Katju. What then is the harm in allowing him to do this ? I therefore, request my hon. friend to accept this proposal and oblige us once more by admitting that, if, in the opinion of the Advisory Board, an accused person should get the benefit of the assistance of a counsel, this concession should be allowed to him for the preparation of his case. I do realise, Sir, that a lawyer will not be able to function properly if there is no proper atmosphere for him if rules of evidence have no application there. My hon. friend Dr. Kunzru andl had therefore, urged this simple proposal that an accused should be allowed the assistance of a lawyer not in the court, not before Advisory Board, but for the preparation of his case, if, in the view of the Advisory Board it was necessary that such assistance should be rendered to him.

Then , Sir we had also asked but without success we could not persuade the

Home Minister to accept it-----that certain particulars should be furnished to the accused person, that if a person who has been detained is brought before the Advisory Board, the Advisory Board should have the right to furnish certain particulars to the detenu for the preparation of his defence, for the preparation of his representation which he is allowed under the Act to make to the Advisory Board and to the Government. I see no reason why this cannot be done. The hon. Home Minister quoted a paragraph from article 22 that all such particulars as are prejudicial to public interest should not be disclosed. I do not say that all facts should be disclosed to him. I have gone a step further and said that those facts should be supplied to him without disclosing the source or the identity of persons from whom information had been obtained. I also agree that if certain facts are of such a nature that they would themselves lead to the identity of the informant, they may also be withheld. But I see no reason why those particulars whose disclosure might not be prejudicial to public interest should not be supplied to the detenu, as was the case in England even during the time of war. These are the two or three amendments which I would commend to the notice of the Home Minister and I hope he will give his best attention to them and would see if it is possible for him to accept them. I would not take more of your time, ST.

I said in the course of my speech that if in the name of security, freedom is attacked security itself will be forfeited. If the Government, if the Congress party wants to fight other ideologies and other political groups who don't subscribe to their ideology, the way to fight them successfully is-not to put them behind prison bars but to fight them by truth reinforced by reasoning. The Home Minister appealed to us in the name of unity to less his measure. May I, in the name of the same unity appeal to him to withdraw it? May I take this opportunity to appeal to the Government to try to develop

a general will and hammer out a common policy with respect to those fundamental questions about which unanimity is possible. Foreign policy is one such matter, the issue of Kashmir is another. Introduction of any extraordinary legislation for safeguarding national security is another such matter and if the Government had been of the opinion that it was useful to develop such a common general policy in as many respects as possible, it should have, before introducing this measure in the Parliament, taken the leaders of the various political groups in Parliament into confidence and consulted them. If this Bill had come before the House in an improved form and if adequate safeguards had been provided in the original draft of the Bill as a result of mutual consultations between Government and leaders of political parties, you would have seen that the whole atmosphere would have changed. You would have received voluminous support both from inside and outside the House. The Home Minister has told us that there is trouble in Telengana, that there is a crisis there, that abnormal situation prevails in Saurashtra and Rajasthan and when we request him to introduce these measures in those States, he points out to us that there are constitutional difficulties. I am not a Constitutional Pandit and therefore am not in a position to say anything as regards the validity or otherwise of his contention but I do hope that my learned friend Pandit Kunzru who is an experienced parliamentarian will be able to tell us whether there does really exist any constitutional difficulty with respect to this matter. If we are satisfied that that constitutional difficulty is there and it cannot be overcome in any other manner, we may not be as critical of this Act as we would otherwise be.

DIWAN CHAMAN LALL : Every word, Sir, that the hon. Member has just spoken must be listened to with the deepest respect and I listened very carefully to the whole of his speech. But I am entirely at a loss to understand why after all the consultations that have taken place in regard to which he himself was a party, I

namely in the Joint Select Committee, after all the talks that have taken place in regard to this matter and all the discussions that have taken place in the other place of which he and all of us are fully aware, why after all this, he should find it necessary to ask for an other leader's conference in order to discuss the merits and demerits of this measure before coming to a conclusion whether he should

SHRI NARENDRA DEVA : I have not made such a request.

DIWAN CHAMAN LALL: The hon. Member's request is that this conference should have met beforehand. Well, the method of dealing with such a matter as this is not to call a public meeting of the leaders. The best method is to have a joint select committee and that is what has happened here. My hon. friend had ample opportunity in the Joint Select Committee to discuss the principles of this measure and ask the hon. Minister for all the necessary details in regard to which he has been so anxiously waiting, and in which, according to him, he was finally disappointed. Now, my hon. friend, may or may not be right in thinking that the details if placed before us might have led us to a further conviction of the necessity for this measure. But I hope he was present here this morning and listened to the speech made by the leader of the Communist group. I would say that if that speech did not convince my hon. friend of the necessity of this measure, nothing that the Government could say would have convinced him. I shall prove to him and I hope I shall have the honour of convincing him that there is ample justification for the measure that the hon. Minister has brought forward.

I regret to say that there has arisen a necessity to bring in such a measure as this. We are all old hands at parliamentary business. We have had occasion to deal with such matters not only during the days of independence but also during the days of our subjection to British rule. None of us looks upon any extraordinary legislation of this kind with any enthusiasm.

[Diwan Chaman Lall.]

We look upon it with a great deal of regret, that there should be conditions in our country which would compel us constitutionally to bring in measures of this nature, to rob any man of his liberty without due process of law. I do not say that this is not according to due process of law, but there is this distinction between what is being done and what could be done by means of a trial in an open court. There can be no denial of the fact that there is a vast distinction and when my hon. friend Pandit Kunzru and my hon. friend Acharyaji pleaded for a loosening of the strings with which this measure is tied up, they are really asking not for detention but for open trial. We must recognise this distinction and this difference. If we are convinced that the open courts and the ordinary law of the land are insufficient to meet cases of this nature—I take it that the hon. Members and other Members who were on the Joint Select Committee accepted the principle underlying this measure—then there can be no question of making this measure such as would make it comparable with a trial in an open court. It is better to recognise this distinction first of all that no cross-examination can be allowed and secondly that there are certain parts of evidence which are available both to the executive and to the Judges appointed on the Advisory Committee which cannot be placed, before the detenu or before anybody else ; and valid reasons exist for that. Now, if that is the position and it is a very vital distinction between an open trial and a so-called trial under this measure, if the necessity exists, then, you cannot plead for cross-examination, for lawyers examining details of the evidence, for production of witnesses and so on and so forth. If you want an open trial then, you abolish all this ; you do away with this. But, having accepted the principle underlying this measure, you cannot go back now and say " We must have an open trial ". If you are convinced of the necessity, then you have got to have a measure of this kind and

may I say, Sir, that a measure of this kind is not at all an extraordinary thing. Most Governments, whether they are independent or whether they are under subjection, have utilised laws of this kind in order to protect their security. Take, for instance, countries which are supposed to be behind the Iron Curtain. I do not know of any country which does not have laws of this kind, laws enabling them to detain persons. There may be a little variation here and a little variation there. Take Poland, for instance, and you see this in article 21 of its Constitution.

SHRI H. N. KUNZRU : East European countries.

DIWAN CHAMAN LALL : I did not follow my hon. friend's interruption.

SHRI H. N. KUNZRU : Eastern Europe.

DIWAN CHAMAN LALL : Well, it is also the eastern side of this House which took up this matter, that is to I say, my hon. friend, the Leader of the Communist group and surely my hon. friend, Pandit Kunzru knows that my hon. friend of the Communist Party is a supporter of Governments, of that particular kind. He objects to this kind of measure here but supports those behind the Iron Curtain, or the Eastern European countries as Pandit Kunzru would like me to call them.

SHRI P. SUNDARAYYA : As far as my knowledge goes, Eastern Democracies do not have any law of detention. Sir.

DIWAN CHAMAN LALL : My hon. friend should read article 21 of the Polish Constitution. In the Select Committee, I tried to draw his attention to it. My hon. friend knows perfectly well that this is so also in the country to which he has made a reference, a great country and I am a great admirer of Soviet Russia. Here in India under a democracy he is permitted to

sit here in Opposition. I would like to ask how many members of the Opposition there are in the legislature there ?

SHRI P. SUNDARAYYA : There everybody supports the Government.

DIWAN CHAMAN LALL : Supports. That is what exactly I would like to ask my hon. friend to do, support their own Government. But, they do not support their own Government. I shall deal with my hon. friend's activities in a minute and I shall ask for the reasons why he does not support his own Government and why he supports slogans which are alien to us, which are foreign to us, which are not indigenous to us and activities which are alien, foreign and anti-Indian. I shall deal with these matters in a minute.

TH5s measure, Sir, has really three aspects. There is the historical aspect; there is the constitutional aspect and, if I may be permitted to say so, there is the material aspect or the substantive aspect of this problem. The main question as you yourself very ably put it in one sentence during the course of this debate when there was an interruption is this : 'Is there a necessity for a measure of this kind or not and, if there is a necessity, then what type of measure is really humane and would do justice to the needs of the case as well as to the needs of the detenu ? That is the main question to be answered.

Now, historically speaking, there are three dates that we may keep in mind. There is 1928—1929, when the British Government brought in a Public Safety Bill. My friends probably have looked into the debates on that measure. I myself took a fairly prominent part in that debate and I opposed tooth and nail the measure that was brought forward by the British Government. It was a measure designed to deport foreigners from this country who were found to be undesirable and the procedure adopted was somewhat on the lines of this Bill, though not entirely.

There were very radical differences. A man was allowed to go before a Board of three Session Judges. He was given a bare statement of the charge against him and he was allowed to make a representation and thereafter, if the Board decided, he was deported. This was designed to operate against the predecessors of my hon. friends. They happened to be two Englishmen—Phillip Spratt, a very ardent advocate of Communism in India who has now renounced Communism and Mr. Bradley who was one of the finest Communist Staff Officers that I have ever seen in my life. Now we opposed that measure. Why did we oppose it ? We opposed it from this point of view that it was an alien Government which did not have the sanction of the people behind it. We said we have the sanction behind us of our people and it was our right, our patriotic duty to see to it that an alien Government which was ruling over us should be subverted and destroyed and any measure which hindered us from doing a thing of that nature we were opposed to. We said quite frankly we did not believe in violence. We believed in the principles of Mahatma Gandhi and well, when I said that I was interrupted, as I was interrupted just now, by another member, by Sir Victor Sasoon who asked me : " What steps would you take to subvert the Government ? " I said, no violent steps would be taken because violence is not our creed and I said, "The hon. Member will know when the time comes ". Now there is a vast difference between that situation and the situation today. We have achieved our independence. Do not be misled into thinking by what was pointed out by my hon. friend over there this morning who said regarding the Communist Party: " We are the people. " Far from it. The Communist Party is not the people of India. We have the right to say we are the people of India. Look at the complexion of this House ; look at the complexion of the other House. Look what happened when millions marched in line to vote for the Nehru Government. The Nehru;

[Diwan Chaman Lall.] Government is the Government of the people. It has been installed by the people. Now, in order to subvert a Government of that nature—the Government of the people—in order to subvert it, not by legitimate and honourable means which are open to you, under the Constitution, but to subvert it by violence, by every trickery that you can think of, by every subterfuge that you can call to action, surely no legitimate Government of the people would be prepared to permit a thing like that and it would not be a patriotic duty, but it would be treachery, rank treachery to the nation. (*Interruption by Shri P. Sundarayya*.) I do not know what my hon. friend says ; I wish he could speak a bit louder.

SHRI P. SUNDARAYYA : You are a dying force ; we are a growing force.

DIWAN CHAMAN LALL : Well, I have not the slightest doubt that my hon. friend, when he says that really believes that they are a growing force, but unfortunately they are growing in the wrong way. They are not growing into legitimate sons of the soil. They are developing and adopting illegitimate means. They are not growing into honourable men who are supporters of their own nation but they are becoming traducers of their own nation. Now I do say that it is not the right way to subvert this Government. I say that it is therefore necessary for my hon. friend to remember that he cannot possibly claim the right to speak for the people. Even if he is growing into the people, growing into the control of this nation—which, of course, he is not—but even if he is growing into it, he must, at any rate, stand by the principles of the Constitution to which he has sworn allegiance and by virtue of which he is here sitting in his seat. He swore to uphold that Constitution and what do we find, Sir ? To our great horror, to our great disgust, to our great disappointment we find this that far from standing for that Constitution, they are adopting every method they can in order

to upset and destroy that Constitution. If my hon. friend over there (pointing to the Home Minister) desires to keep powers in his hands in order to prevent my hon. friend acting as instigators of this movement to destroy the Constitution, well, do we want to have a general leaders' conference in order to decide whether we should give him this authority ? I submit that that is not a practical proposition. What is practical is this. If there is evidence and information in the possession of the Government to the effect that a movement of this nature certainly exists and that by utilising a preventive measure you can stop the evil from growing and can stop activities of a harmful nature from taking place, then in that case I submit that if there is a people's Government in power, it is our right to support that Government, because the security of the State, and certainly the security of India in its world situation as it is today, is of paramount importance.

I do not desire, of course, that in supporting the safeguarding of the State, in keeping that object in view, we should do any injustice to any individual. I am very glad, therefore, that my hon. friend and the Government of India accepted one little suggestion that I made in my note in which I said that the measure should be reviewed after 12 months with a view to its amendment. It was necessary to accept this. There are many charges of misuse of this power, and I suggested that the use of this power should be strictly watched during the next-12 months and such action taken as may be necessary in the interests of those who are deprived of their liberty under this measure. An hon. Member got up and asked—I think it was my hon. friend over there, Mr. Gupta—whether there is a constitutional mandate for a measure like that. I was really surprised at my hon. friend's question, because any one who has read the Constitution would know that the Constitution provides for a power of this nature. Let my hon. friend refer to the Constitution. We have got article 246 dealing with various Lists. There is List I, there

is List II, and there is List III. List I is the Union List, List II is the State List. And List III is the Concurrent List. Now, if you look at List I, you will find that entry 9 reads:

"Preventive detention for reasons connected with Defence, Foreign Affairs, or the security of India; persons subjected to such detention."

These are the legitimate subjects for legislation by the Centre. Now, look at List II, entry 27 :

"Production, supply and distribution of goods subject to the provisions of entry 33 of List III."

Any legislation which affects the supply, distribution and production of goods is within the competence of a State. Now, look at List III—Concurrent List. It is very important. Entry 3 of that List reads :

"Preventive detention for reasons connected with the security of a State, the maintenance of public order, or the maintenance of supplies and services essential to the community; persons subjected to such detention."

The Constitution gives the authority explicitly to go ahead with legislation of this kind, and not only to go ahead with legislation of this kind, both through the State and the Centre, but there are certain provisions in article 22 of the Constitution which are important in regard to the mandate that my hon. friend was talking about.

SHRI B. GUPTA : Sir

MR. CHAIRMAN : Order, order.

DIWAN CHAMAN LALL : My hon. friend will have ample opportunity: if he will exercise a little patience and show less ebullience it will be helpful to him.

Article 21 lays down that no person shall be deprived of his life or personal liberty except according to procedure established by law. Then, when we come to article 22, there are certain safeguards laid down. A person who is arrested and detained must be produced before a magistrate within 24 hours. Then, there can be no detention in custody without his being informed of the grounds of his arrest. I may draw attention to this provision. I want to

compare now what the Constitution has said in articles 21 and 22 and what the actual position is with regard to this measure also under the Constitution. Now thirdly he shall not be denied the right to consult or be defended by legal practitioner of his choice. Further it says that these safeguards shall not apply to a person who is arrested or detained under any law providing for preventive detention. Here is the mandate of the Constitution. The safeguards are there. These safeguards are there. But they shall not apply to any person who is detained under any law providing for preventive detention. My hon. friends are asking the Home Minister to go behind the Constitution itself and have the Constitution amended. The Constitution has given the Government a mandate to go ahead with this particular type of legislation and do away with the necessary safeguards for a very valid reason. Now preventive detention is also visualised in the Constitution under sub-clause (4) of this very article. According to that if a man is arrested according to the constitutional provisions, then he cannot be detained for more than three months unless an Advisory Board of High Court Judges or who are qualified to act as High Court Judges says that there is sufficient cause for such detention and further that no detention can be beyond the period of three months laid down by Parliament. Such a person is detained in accordance with the provisions of any law made by Parliament under sub-clauses (a) and (b) of clause 7. Now clause 5 is rather important. The grounds shall be communicated as soon as may be. And Government shall afford to him the earliest opportunity of making a representation against the order. Now according to clause (5) of article 22 the detenu is permitted to receive a communication as soon as may be stating the grounds on which the order has been made and he has to be afforded the earliest opportunity of making a representation against the order. But clause (6) says that there shall be no disclosure if the authority passing the order of detention considers it against public interests to disclose any particulars. Now here is the provision

[Diwan Chaman Lall.] and a very valid reason for that provision which says that if the authority, namely, the authority passing the order, considers that the disclosure would not be in the public interest, then no material is to be disclosed. But Parliament may provide as Parliament is now providing for detention beyond three months and the maximum period of that detention and the persons who may be affected is provided by this law of detention. Now, Sir, let us have a look at the position in the present measure in view of what I have stated. Two safeguards have been taken away but the other two safeguards have been provided, i.e. as soon as it may be, he must get the communication stating the grounds and he is permitted to make a representation. But now what have we done in regard to this particular measure? We have gone much beyond what is contemplated under those clauses that I have referred to just now, to this extent; first of all the grounds must be communicated to the detenu and also material particulars.

Now another important innovation has been introduced. Formerly if the Board desired that the detenu should come before it to plead his case, then they could send for him. But now a right has been given to the man to come before the Board and argue his case and to defend himself before the Board and to challenge the grounds that have been given to him and the particulars that have been placed at his disposal. It is a very valuable right.

Thirdly, look at the constitution of the Advisory Boards. The constitution of the Advisory Boards is such that none of us could really object to such a tribunal being set up. A High Court judge or one who is qualified to be a High Court Judge is to be the Chairman and the other two also must be qualified to be Judges or who have been Judges or who are Judges. Now again this tribunal is not confined to the material particulars or to the grounds of detention.

Again, this tribunal is not confined to the materials that are placed before it. This tribunal can ask for further materials. As was explained in the other House, my hon. friend has already accepted the suggestion, a very good suggestion it was, namely that if the Board desires to ask for other material, that material shall be placed before it. If the Board asks for any persons to be present, that individual also through the appropriate Government, will be asked to come before the Board. I take it that this is correct. My hon. friend, Pandit Kunzru, interrupted my hon. friend the Home Minister this morning to ask him to explain that was meant by the modification now made to Section 9 Sub-section (i)(a). This reads :

"The Advisory Board shall, after considering the materials placed before it and, after calling for such further information as it may deem necessary from the appropriate Government or from any person called for the purpose through the appropriate Government or from the person concerned, and if in any particular case it considers it essential so to do or if the person concerned desires to be heard, after hearing him in person, submit its report to the appropriate Government within ten weeks from the date of detention."

There is ample safeguard in this particular provision, safeguard for the individual, safeguard in respect of the evidence that is placed before the Board.

Another point was raised by my friend from Rajasthan who made a very good speech—I did not agree with it but it was a well-delivered speech. He said that he did not understand why the Detention Act itself should continue till 1954, while the detenus cannot be detained for more than twelve months. I cannot see how he cannot understand a simple proposition like that. What has happened is this : In the interests of the detenus, the Government have come to the conclusion, with the assistance of most of us, that the detenu shall not be detained for more than twelve months, no matter whether the Act goes on for a longer period than that. At the striking of that hour which concludes the twelve month period, the detenu has to be

released, in spite of the fact that the Act itself may be still in existence. No further action against the detenu for the second time can be taken on the same evidence that was placed before the Board before. If the man has to be detained again, then there must be fresh material before he can be detained. I submit that this is an ample safeguard against any misuse of the authority of the executive against the liberty of the individual with regard to the grounds that have been utilised for purposes of detention.

Then, Sir, reference was made to delay in issuing the final decision of the Government. The Government must refer the matter to the Advisory Board within 30 days. While referring the matter to the Advisory Board, the Government must also place before the Board the grounds of detention and the detenu's representation against it.

(Shri H. C. Mathur rose to interrupt.)

DIWAN CHAMAN LALL : I do not want to give way to my hon. friend. No change has been introduced here.

SHRI H. C. MATHUR : This is not the point that I raised at all. He has not answered to my point.

MR. CHAIRMAN : The Home Minister will answer. Why should he answer ?

DIWAN CHAMAN LALL : I can assure my hon. friend that I have a very good memory. He has a very short memory. My hon. friend would remember that what I was referring to was this that no material change has come about. If a detenu is arrested, then the officer arresting him should submit such material, documentary material as may be necessary in his opinion having a bearing on this matter. Now; material having a bearing on the matter has to be submitted.. He gets no choice.

He cannot for instance, select that material which is unfavourable to the detenu. He must submit even that material which is favourable to the detenu.

The Act is valid upto 31st December 1954. I have dealt with this particular constitutional aspect of it, I have dealt with the historical aspect of it and with your permission, I will deal with some thing which ought to have satisfied my friend the Acharya about the validity of the steps Government have taken. I want to qualify that I want everyone to remember. I myself and most of us abhor extraordinary legislation of this kind. We would be the first to object to it if the safety of the country were not involved, if the situation, both world situation and our internal situation, were not such as to make it necessary to have such powers in hand—and I hope they will never be misused—in order to see that the safety of the country is not damaged. I must refer to the hon. friend who spoke on behalf of the Communist party. First of all he said the people are synonymous with the Communist party. We are the people

SHRI P. SUNDARAYYA : I did not say that.

MR. CHAIRMAN : That point has been cleared up about the growing and dying and the rest of it.

DIWAN CHAMAN LALL : I was just reminded of the story which my friend DR. Anup Singh told me while we were talking. This reminds me of what he said. President Roosevelt...

MR. CHAIRMAN : He never made that statement.

DIWAN CHAMAN LALL : Then I need not worry about it. I must say that he missed a very good story.

MR. CHAIRMAN : You may reserve that for another occasion.

DIWAN CHAMAN LALL : A few swallows don't really make a summer but they can make a terrible amount of noise and when that noise

[Diwan Chaman Lall.] is accompanied by the noise of a sten gun and the noise of a bomb bursting, then the millions who are peaceful in this country would be betrayed if their Government did not sit alert and take action. When the terrible story of what happened in the last 2 years is" > related, we are asked 'What has Government been doing ? Has the Government made up its mind to govern ? It must govern or go.' It is a serious enough position.

Now, I ask my hon. friend a direct question. Has he abjured -violence ? Has his party abjured violence, I want to ask him.

SHRI P. SUNDARAYYA : My position has been made very clear in the morning. Most probably the hon. Member was sleeping at that time.

DIWAN CHAMAN LALL : This is another trick of getting out of answering the question. May I ask my hon. friend whether the Communist party has abjured violence ?

SHRI P. SUNDARAYYA : Has Government abjured violence ?

MR. CHAIRMAN : The hon. Member cannot ask another Member questions like this.-

DIWAN CHAMAN LALL : I will not ask directly this question. Well did I get the answer ? The answer is 'No'. The answer is—has Government abjured violence ? Therefore, if Government has not abjured violence, we have not. It is one of the objects of my hon. friend's Department to utilize violence in order to preserve law and order in this country. Therefore they have not abjured violence since the Government have not abjured violence. I want the House to remember what the hon. Member said this morning. He said : " It is only a small part of the truth that this Act is going to hinder us." Remember the significance of this remark. The party has not abjured violence and it is only a small part of the truth that this Act is going to hinder them.

But let me tell my hon. friend that the object of this measure, is to hinder my hon. friends and their party from acting in the manner they have acted in the past.

SHRI P. SUNDARAYYA : I don't.....

DIWAN CHAMAN LALL : I repeat that that is the object of this measure but to that I shall come in a few minutes. But after listening to my hon. friend's speech of this morning the House would have seen how very necessary it is that this important measure should now go through. If anybody had two minds on this point, after listening to him, he would have only one opinion now. I am quoting the very words of my hon. friend, words that he used in the course of his speech this morning. He said : "We do not believe that everything should be done by violence".

SHRI P. SUNDARAYYA : I want to protest. He is again and again mis quoting

DIWAN CHAMAN LALL : I am quoting what he said this morning.

MR. CHAIRMAN : There is great confusion here on this point. Government uses force and not violence. There is difference between *himsa* or violence and *dcrnda* or force.

DIWAN CHAMAN LALL : That shows what an advantage it is not to have merely lawyers dealing with this matter but to have a world renowned philosopher also to deal with the matter. But I was not worried about the Government's position, philosophical or legal. I was merely worried about the statement made by a colleague of mine on the floor of this House. This colleague of mine has made this statement. I quote verbatim word for word, and this is what he said, "We do not believe every thing should be done by violence". Therefore, you do believe that some thing should be done by violence and if you believe that.....

SHRI B. GUPTA : Yes, we have the right to use violence. If somebody comes to break my head I can protect myself by using violence.

MR. CHAIRMAN : Tomorrow, Mr. Gupta.

DIWAN CHAMAN LALL : Do you want any further evidence ?

AN HON. MEMBER : He wants them to be at large.

SHRI B. GUPTA : Even the Criminal Law allows it. In order to protect my life or if a man threatens to commit rape on my daughter or sister, that is provocation sufficient to justify the use of violence in defence.

MR. CHAIRMAN : That is enough.

DIWAN CHAMAN LALL : " I will be delighted to hear my hon. friend when he speaks on this measure. Meanwhile let me just tell him that one answer at least I have obtained. After a little hesitation and avoidance of the question that I put to them, has come this direct answer, "Yes, we do believe in violence". This is sufficient to make the House decide whether there is need for a measure like this or not. After hearing this, does anyone still hesitate ? Does anyone doubt the fact that here is an organised party in India which openly believes in violence ?

SHRI S. MAHANTY (Orissa) : But why don't you ban it ?

DIWAN CHAMAN LALL : We are generous. We are allowing our friends not to go underground.

MR. CHAIRMAN : No conversation here. You get along.

SHRI S. MAHANTY: Sir,

DIWAN CHAMAN LALL : I am not giving way.

MR. CHAIRMAN : Mr, Mahanty, please sit down.

DIWAN CHAMAN LALL : Now, it is totally false to say that the Congress party started the violence and the murders and when the hon. Member makes that statement, it is a most dangerous and serious thing.

SHRI P. SUNDARAYYA : It is totally wrong to say that we started the violence and murders.

DIWAN CHAMAN LALL : If my hon. friends think that the Government of India or the Government officials indulged in these acts of violence, then surely the law courts were open to them. Constitutional methods were open to them. May I take it that they decided not to depend on the usual constitutional method of meeting a challenge of this- nature and if the officials adopted these methods, they also decided rather to adopt similar methods of murder and violence rather than the constitutional methods ?

SHRI P. SUNDARAYYA : It was only this morning, Shri Rama Rao spoke of a tooth for a tooth and an eye for an eye.

DIWAN CHAMAN LALL : This is a very serious thing.

SHRI P. SUNDARAYYA : Tooth for tooth and eye for eye, that is the principle.

DIWAN CHAMAN LALL : I am coming to that, in a minute ; my hon. friend need not be anxious to insist upon unnecessary interruption, I shall come to it in a minute.

Now, Sir, this morning Mr. Sundarayya said that there was no attack for 3 months on the part of the people and it was only after untold atrocities were committed by the Army that they started it. Now, Sir, I must make a formal protest here against this violent language being used against the valiant and brave soldiers of our Army. They are some of the finest men in the world

SHRI P. SUNDARAYYA : You refuse to believe realities.

DIWAN CHAMAN LALL :... and my hon. friend made this charge. What is the implication of this ? The implication of this is that you took up the challenge and you indulged in a series of murders and violent acts of all sorts and description. That is the implication and then you come here and you whine and squirm and you ask for the withdrawal of this measure.

SHRI P. SUNDARAYYA : We never whined and squirmed.

MR. CHAIRMAN : I think it is not necessary to show so much passion.

DIWAN CHAMAN LALL : I was speaking louder rather than in passion. I am not carried away by passion.

SHRI B. GUPTA : Lamentations of a dying horse.

DIWAN CHAMAN LALL : There were a series of interruptions from this side and in order to drown those interruptions I raised my voice.

Now, Sir, if that is the position, who are the people who are instigating all these acts ? Obviously, it is an organised thing. It is admitted now that it is an organised thing ; then there must be people who are instigating these people. Are you going to sit quiet and not take any action when you know that they admit all this ? Mr. Sundarayya said that he would be prepared—he was talking about the surrender of arms—to advise them to surrender arms. This is a serious statement made by my hon. friend. This means this only that he is perfectly aware as to who have got the arms ; he knows who the people are who are hoarding these arms and they" are under his control.

SHRI P. SUNDARAYYA : Yes.

DIWAN CHAMAN LALL : And he is prepared to advise them. That means that he is instigating them. Are my hon. friends over there going to sit quiet and allow this instigation to go on unhindered, damaging the security of this country ? With these serious admissions in the present post- >

tion of law and order, are we to resort to a leaders' conference in order to decide what action we shall now take ? I do submit, Sir, that we must look at realities in the face. This is a serious position and we have to look at the position from the point of view of the safety of India in view of the admissions that have taken place.

My friend said "there were excesses on the part of the people but what were they compared to the excesses of the police ? People got enraged." Now, is that not a complete justification for this measure ? If people can get enraged and get out of themselves and commit all these violent deeds and indulge in the instigation of violent deeds, is the Government not to prevent such instigators, take such measures as to prevent such things happening ; and if they cannot do so under the ordinary law, are they to be denied the law which the Constitution itself—a Constitution to which they swore allegiance—permits them to utilise ?

SHRI P. SUNDARAYYA : We also swore that we will change the Constitution, by constitutional process.

DIWAN CHAMAN LALL : I have not the slightest objection to my hon. friends changing the Constitution by constitutional means. My objection is to their attempting to change the Constitution by violent means. What they are attempting to do is something that is illegal, something that is unconstitutional, something that is against the oath that they have taken. *(Interruption by Shri P. Swidarayya)*. If they deny their oath, I have no objection.

MR. CHAIRMAN : Order, order. He said by constitutional process.

DIWAN CHAMAN LALL : Well then, he has gone to the next step. I hope wisdom has dawned upon my hon. friend and I hope he will take the next step also and will abjure violence. He says " we will change the Constitution ". But how, by keeping on illicit arms, sten guns, bombs, by keeping machine guns and all these things ?

It is all very well for my hon. friend to say that he is advising all these murderers, all these men who are in possession of these illicit arms and that they will obey his word. Why are they holding on to these things ? To change the Constitution by the use of these arms, bombs and machine guns. Bombs are not like marbles that children can play with. They are serious things in the hands of dangerous men and these dangerous men ought to be prevented from in stigating the use of these weapons. And look at the mentality of my hon. friend. When the Government takes steps to protect itself, the Government is called a Government of War Criminals. As far as the question of parallel government was concerned.....

SHRI B. GUPTA : That is a shop-soiled argument.

DIWAN CHAMAN LALL : these are not peaceful times. With a parallel Government we would have talked differently, this is what my hon. friend said this morning. But does he know why he talks differently now ? Because the Government did take action against them ; the Government did smash up that organisation ; the Government drove them underground and the Government confiscated what they had. Let me remind my hon. friends as to what has been happening during the last few months. Here is a statement of serious incidents committed in Telangana during the month of January 1952 :

Loot	1
Attacks on police parties	1
Exchange of fire between the police parties and the Communists .	4
Arms and ammunition recovered by the police :	
Guns	3
Iver
1	
Slabs of T. N. T. (most dangerous explosive)	5
Gun Cotton slabs ...	5
Detonators	400
Cartridges	48
-Gestentner cyclostyling machine . . .	I

Now, Sir, in February there were :

Serious incident	I
Attacks on police parties . . .	I
Arms and ammunition recovered :	
Guns	13
'Chembu' Bombs (I do not know what Chembu Bombs are) ...	6
Detonators	213
Blasting gelatine slabs ...	19
Blastin gelatine ioo	
Radio dry battery	I

Now, Sir, I need not weary the House with long statements like that. Right up to the last month, things were continuing and arms were being seized.

SHRI P. SUNDARAYYA : May I know from which paper he is reading ?

DIWAN CHAMAN LALL : I am reading from an official report. In regard to this matter, let me read another report. Here is another statement showing the violent activities in the Hyderabad State from July to December 1951. I will place these reports on the table of the House. These figures are based on the reports of the Central Intelligence Bureau. Now serious incidents were July—76; August—62 ; September—47 ; October—ioo ; November—46 and December—ir. Murders. July—22 ; August—12 ; September—15 ; October—8 ; November—1 and December—nil. Attacks on Police and Military. July—6 ; August—9 ; September—18 ; October—32 ; November—18 and December—7. Attacks on village officials—20 ; 21 ; 8 ; 38 ; 8 ; nil. Loot—in December 1951—3; Total: 342 serious incidents ; 58 murders ; 90 attacks on police and military ; and 95 attacks on village officials and three cases of loot.

5 p.m.

DR. R. P. GOUR : They should all be placed on the Table of the House, so that we also are given an opportunity to give our figures and incidents of their crimes.

MR. CHAIRMAN : Order, order-

DIWAN CHAMAN LALL : Whatever is the constitutional procedure in regard to these matters will be followed in the House. (*Interruption.*)

SHRI P. SUNDARAYYA : They are your facts.

MR. CHAIRMAN : Order, order. May I remind hon. Members that this is not a debating society ?

DIWAN CHAMAN LALL : May I suggest that what my hon. friend is asking for is this. He said : " How can we surrender arms without a guarantee of no arrest, no torture and no jail ?" It is a most extraordinary request to come from a great Communist leader who can by a gesture of his hand call for the surrender of all the arms. My hon. friend here referred to the murder of Curzon Wylie by a Punjabi called Dhingra in 1909 or 1910. It was a reprehensible act. I do not believe in these things. Howsoever patriotic the motive may be, such actions are reprehensible. But when Dhingra was tried, he said to the judge when he was asked, " Have you anything to say ?"— " May I be born again and again of the same mother, to be able to do the same deed again and again." Here, what do they say ? " Give us a guarantee before we surrender arms. Do not arrest us. Do not send us to jail. We are afraid of torture." No. He was a brave Punjabi. He said a brave thing, and he behaved bravely. May I remind you that Mr. Churchill, the present Prime Minister of England, when he referred to this particular incident in those days,—my memory comes back to me—said that Dhingra was a greater patriot than Caractics ? This is what the present Prime Minister of England said. Did that man say, " I would be prepared to surrender arms if you give me a guarantee that you will not arrest me, if you will not put me in jail, if you will not torture me ""

SHRI P. SUNDARAYYA : The hon. Member is again distorting what I said. I did not say that.

j DIWAN CHAMAN LALL : The action Government, have taken is probably not strong enough. They have not been dealt with probably strongly enough. And the justification for this measure is that they should be dealt with from every side until this particular matter is brought to a conclusion and the safety of India is assured.

Hon. Members have been utilising the weapon of propaganda. Let them utilise that. But when they utilise it to try and destroy this Constitution of ours, this republic of ours, by these foul means, the Government must arm itself with such powers as will prevent my hon. friends from inciting those people to these foul deeds.

May I now say a word regarding another matter that my friend dealt with ? He says he is a patriot. I have not the slightest doubt about it.

SHRI P. SUNDARAYYA : Thank you.

DIWAN CHAMAN LALL : He says he loves the Taj. I suppose he means the Taj Mahal. He also said he loved Tagore. He knows that Tagore loved Gandhi. Why was my hon. friend silent about his love for j Gandhiji and his ways ? He said he knows that Gandhiji loved Nehru. But he was most significantly silent about Nehru. He was eloquent about the Taj. He was eloquent about Tagore. Why was he silent about Gandhiji ?

SHRI B. GUPTA : Because you I are an example of what a disciple of Gandhiji is.

SHRI P. SUNDARAYYA : I did I not want to praise Gandhiji lest Congress members exploited his name more.

DIWAN CHAMAN LALL : No, Sir ; that is not the reason. The reason why they did not want to praise Gandhi is because he stood for non-violence and our friends do not stand for non-violence. (*Interruptions*)

MR. CHAIRMAN : Order, order. Let the hon. Member proceed.

DIWAN CHAMAN LALL : If my hon. friends have no love for the leaders of the country who brought them independence, they should at least have a little love for the country in which they are born, bred and of which they are part and parcel. Let them love India at least.

SHRI P. SUNDARAYYA : We love India more than you do. (*Interruption*).

DIWAN CHAMAN LALL : They have said that they are concerned with the conditions of the common people of this country. Let them therefore love the country as a whole and not resort to methods which compel the other side to bring forward such measures. If they do not resort to such methods, there would be no necessity for bringing forward a measure like this.

Now, Sir, I think I have almost done with him. Now a final word I should like to say about my hon. friend and that is this. I think, he was probably in school or in a college, when I founded the All India Trade Union Congress, which is a proud possession of the Communist Party today, the first central organisation of the working classes in India. I have tried my level best that both parties, the Communist and the other ones should agree as far as these things are concerned. But unfortunately I was not able to succeed in this effort of mine and I do not see any chance of success now in view of the speech that has been made by my hon. friend today.

Now I shall certainly say that I have had a great deal to do with the very subject which is close to the heart of my hon. friend Mr. Sundarayya. (*Interruptions.*) It is necessary that my hon. friend should realise that the best interests of the working classes can only be safeguarded by action taken in a legitimate manner and not by this manner which brings so much suffering. Even Dr. Syama prasad Mukerjee the other day admitted the

fact that he would be prepared to give the Government all the assistance that is necessary in order to forward their cause provided he was convinced about the justification for this Bill. I hope that by now my hon. friends, after what I have said, are fully convinced of the necessity of this measure.

Lastly I would like to say something in regard to a very small matter regarding what they called guerillas. My hon. friend Mr. Sundarayya said 'Do not get into a frenzy'; I could not first catch it properly; but afterwards I understood that he had pronounced the word 'frenzy'. Well, Sir, I have got here a document issued by the Hyderabad Government printed at Hyderabad. It makes a reference to the guerilla struggle. I will quote from the document. It says :

"For such tactics-303 rifle is the most effective weapon by which the enemy at a distance of hundred yards can be killed. This is known in English as 'sniping'. This sniping system was adopted by the guerillas throughout the world."

The next sentence is rather important :

"The Russian guerillas are known prominently for such tactics. It is widely known that the Russian women guerillas by name Ludmilla killed hundreds of Germans with a rifle. If you attain good practice in this tactics you can kill hundreds of the army. To attain perfection you will practise aiming at an object at a distance of 700 or 800 yards."

Still another :

"Throw grenade through the windows and over the walls, and if opportunity permits, set fire to the house. The enemy should be attacked at every stage and at every place, on the road, on the railway lines,"

My hon. friend said they are not responsible for derailments which were due to the purchase of the wrong type of Engines. There is a certain amount of derailment in politics due to the purchase of the wrong type of ideology.

"The enemy should be attacked at every stage and at every place, on the road, on the railway lines, on paths leading to their camps, at the camps, etc. so that the enemy gets disheartened everyday.....Take up arms and unfurl the Red flag and sing the song of Soviet Children."

[Diwan Chaman Lall.J

Not of Indian children. This is the background, Sir, of this measure. I submit, Sir, I have said enough to convince hon. Members of the necessity for this measure, the most regrettable necessity for a measure of this nature. This measure will be enforced till 1954 and I submit that this measure has tried to avoid hardship to the people who are affected by it. I hope my hon. friends will co-operate in bringing about such a state of affairs in this country- that a measure of this kind is no longer necessary or make it easy for it to be withdrawn, because individual liberty is precious to each one of us and we would hate individual liberty to be curtailed in any manner except for the purposes of the safety of the State.

SHRI H. N. KUNZRU : Mr. Chairman, I need not assure my hon. friend, the Home Minister, that I listened as attentively as I could to every remark that he made this morning. I admired the ability and lucidity of his speech but I felt when he was speaking that he was speaking as an advocate, as a member of that class, the class of lawyers, for which he has no respect now. I doubt whether, had it not been for his experience as a lawyer and advocate, it would have been possible for him to present the Government's case in the manner that he did this morning. But, Sir, while I admired him for his gifts, it struck me that it did not occur to him even once that those who were not satisfied with the Bill before the House had something to say that deserved his serious consideration. He was impatient of criticism. He wanted no reference to British precedents. He wanted us to confine our attention to the situation in India. Now, Sir, while we are prepared to be practical, while in our idealism we are not prepared to allow the country to go to dogs, it does trouble us that a principle that we have believed in all our lives seems to be departed from. I think that however convinced the Home Minister might have been in his own heart of the necessity, may, the urgency of this measure, he should have

done something to show that he cherished those principles by which we swore in the past. His forgetfulness of this elementary but important fact was a source of great surprise to me. It seemed to me to be the main reason for the differences that still exist between the Government and those who are not satisfied with the Bill. Sir, my hon. friend, Diwan Chaman Lall, supported everything that there was in the Bill and wondered why anybody should not be content with it when important changes had been made. May I say to him and to my hon. friend the Home Minister who has spoken today as a practical man that had anybody ventured to criticise the Preventive Detention Act in 1950 he would have been charged with having no regard for the realities of the situation. That was my faith in 1950. When I ventured to point out the careless way in which the Executive had used the powers conferred on it by the Act, Sardar Patel, for whom I had a great admiration, was seriously offended and asked me whether people whose avowed object was to subvert the Government of the country were to be let off, were to be allowed to work their own will and destroy all that the lovers of democracy held sacred. Yet, within a few months, in accordance with the suggestions left by Sardar Patel, the Act was amended in 2 or 3 particulars. When we pointed out the severity with which the Preventive Detention Act was being used in 1950, we were criticised for the encouraging revolutionary elements. But next year when the Act was changed by the Governments themselves in accordance with some of the suggestions, then those suggestions that had been summarily rejected before were regarded as something to the credit of the Government. Now, Sir, take the Bill for which my hon. friend the Home Minister is responsible. It goes further than the Act of 1951. My hon. friend was sore this morning that nobody recognised the improvement effected by the Bill over the existing situation. Sir, if any assurance of mine can assuage his ruffled patience, may I assure him that I fully acknowledge the care that he has bestowed upon the measure and

the effort that he has made to bring it into accord with the sentiments of all those who support democracy. But will he expect me when I say, this, not to be satisfied with what he has done and not to have the temerity to make any further suggestions ? I am sure that he will not be so unreasonable to take up the position that nothing that he has not accepted is a matter of any importance or cannot be safely accepted. I shall give a few instances in a few minutes. But I should like to deal first with another matter to which he referred with no little impatience. He said that we referred to British precedents, but we failed to recognise the difference between British and Indian conditions. We never failed to recognise these conditions and the proof of this is that in peace time, we are giving Government that power of detention without trial which was accorded to the executive in England only in wartime. Can we show, Sir, a more convincing proof ? Does he want from us a more convincing recognition of the difference between British and Indian conditions? It is most unreasonable of him to ask that if we recognise that there is difference between India and England we should make no suggestions that have not yet found favour with him.

Now, speaking on this, let me point out to my friend that in spite of his being sick of British precedents, • tired of those who referred to them the suggestion that he made with regard to the re-examination of the whole thing a year hence has been borrowed by him from a British Act.

DR. K. N. KATJU : I never thought of that. I have never seen such an Act.

SHRI H. N. KUNZRU : Well, the suggestion was first made in the other House by Mr. N. V. Gadgil and I have good reason to believe that Mr. Gadgil was fully familiar with the procedure laid down in the Extension of the Emergency Powers Defence Act, 1939. In section 11 of that Act we have it stated :

"That the Act shall continue in force for a period of one year only."

And the proviso says :

"Provided that if at any time while this Act is in force an Address is presented to His Majesty by each House of Parliament praying that this Act should be continued in force for a further period of one year, from the time at which it would otherwise expire, His Majesty may by Order-in-Council, direct that this Act shall continue in force for that further period."

Hon. Members can see for themselves the similarity between the method proposed in that British Act and the suggestion made by the Home Minister for reviewing the position a year hence. Sir, I should like to examine the position of the Government in this Act a little closely. The Act is to remain in force till December 1 1954, ^{DU13} Government will place a resolution before both the Houses which will enable them to reconsider the whole situation so that Government might know whether Parliament was in favour of the continuance of the Act or not. It is obvious, Sir, that so long as the present composition of the two Houses of Parliament continues, there is not the slightest fear of either House asking for any change in the Preventive Detention Act that would not be acceptable to Government. But, if any changes were suggested by the House, obviously with the previous approval of Government, how can it be given effect to ? It can be given effect to only • by the amendment of the Act. Again, Sir, if the House is of opinion, obviously with the previous approval of Government, that the Act need no longer be continued, Government will still have to bring forward a new Bill for the repeal of the existing Act. If any , suggestion for a change is at all acceptable to Government, legislation will be necessary. Then why not limit the period of the Act to a particular period, to a year, as was suggested to Government in the Select Committee and allow the Houses to review the whole position then ? I may be asked what the difference between the two procedures is. The difference is this : in the one case, if the procedure suggested by my hon. friend,

[Shri H. N. Kunzru.] the Home Minister is followed, Government may not seriously apply their mind to the need for improving the Act. But, if a new Bill is placed before us, I am sure that their point of view will change. Apart from this, it may be that the discussion in the House may induce them to accept or to agree to a change here and there. It has happened in connection with the existing Bill. While the Bill was under discussion in the other House, in spite of the changes made in the Bill, two changes were accepted, one of which was important. That related to the power given to the Advisory Board to send for anybody through the appropriate Government if it felt that he could give information that would be of some use to it in determining the guilt of a detenu. Now, Sir, these opportunities would not be available if the procedure suggested by my hon. friend were to be accepted. Even, Sir, if it were to be said in the Act that a resolution would be placed before the House next year, it would probably not be of much use. I do not know whether the Supreme Court would hold such a provision to be valid, but even assuming its validity, it would not be of much use from the point of view to which I have ventured to draw the attention of the House. Now, surely, if we ask my hon. friend, the Home Minister, still to agree to a time limit of 12 or 13 months, are we trying to do anything detrimental to the cause of law and order in this country ? However convinced he may be of the soundness of the measure that he has laid before us, he can not claim that what he has done in the Bill is the last word on the subject.

And now, Sir, I should like to say a word or two about the area in which the Bill should be enforced. When the suggestion was made to him, my hon. friend the Home Minister pointed out as he pointed out this morning, that if the suggestion were followed, the result would be a reversion to the want of uniformity that existed before the Preventive

Detention Act was passed. He pointed out that as Preventive Detention was, for reasons connected with the security of the State, the maintenance of public order or the maintenance of supplies and services essential to the community, was a concurrent subject, the only result of confining the Act to certain States would be to give freedom to the other States to pass their own laws. Now he deprecated this and pointed out that nobody wanted that the States should again have their own Acts with their different procedures and so on. I recognised the force of his argument, but the hope when we made this suggestion was that the Government of India, if it agreed to this suggestion, would at the same time advise the State Governments that in its opinion Preventive Detention should not be resorted to in the States to which this Act did not extend,

and I had little doubt that, their advice would have been treated with the consideration which it deserved. It is true that no advice given by the Government of India could detract from the power that the State Governments constitutionally enjoy to pass laws with regard to Preventive Detention for the reasons I have already mentioned. But considering the complexion of the State Governments, it was, I think, reasonable to suppose that any advice given by the Government of India, after a full examination of the situation, would have been disregarded by any State. If, however, my hon. friend is not prepared to accept that course and still wants that the Act should remain in force throughout the country, he can have his own way. At the present time it appears from the statistics that I have obtained that the Act has

been principally used in four States — Bombay, West Bengal, Hyderabad and Saurashtra. It has, to some appreciable extent though not to a large extent, been used in three other States. In the rest of the States the total number of detenus, I believe is only 18— I am speaking only of those detenus who were arrested on the ground that their acts were or might be prejudicial to the

security of a State or the maintenance of law and order or the maintenance of essential supplies and essential services. You will see that in these circumstances it was not unreasonable to make the suggestion that we did to the Home Minister. Let me say again, however, that if he does not want to accept the suggestion, he can have his own way.

, But we can expect him to advise all those States, and some other States where the Act has been sparingly used, to see that if possible its use is dis-
 , continued.

I shall now deal with two other points to which I attach some importance. It is clear from the minutes of dissent appended to the Select Committee's report that a minority in the Select Committee suggested certain safeguards in order to enable the Advisory Board to be in a better position to come to a decision than they would be under the procedure accepted by the Select Committee. None of those suggestions were acceptable to the Home Minister. But as a result of the discussion in another place he agreed to an amendment, the effect of which, according to the explanation that he gave this morning in reply to a question of mine, would be to enable an Advisory Board to call witnesses if it thought it desirable to do so. I congratulate him on having accepted this suggestion. Neither Acharya Narendra Deva nor I suggested to him that an absolute right should be given to a detenu in this respect ; what we suggested was that it should be left to the Advisory Boards or to the Chairman of those Boards to take certain kinds of action if they thought in the circumstances that it would be desirable to do so. And what were these suggestions ? The suggestions were that witnesses should be allowed to be called with the approval of the Board, that a detenu should be allowed to have legal assistance, he should be provided with legal assistance in the preparation of his case for presentation to the Board with the approval of the Board, and that in addition to the grounds of -detention such further particulars might

be supplied to the detenu as were in the opinion of the Boards or their Chairman sufficient to enable a detenu to make a representation to the Board.

Now, Sir, with regard to the last suggestion, the Home Minister read out clause (7) of article 22 of the Constitution which lays down that Parliament may by law prescribe the procedure to be followed by an advisory Board etc. Now, Sir, we are not ignorant of what the article 22 of the Constitution lays down. But I venture to point out, although I am not a lawyer and my hon. friend the Home Minister was at one time an eminent lawyer although he might think all that now as an unpleasant fact, that the language of article 22 does not make it obligatory on Parliament to prescribe this procedure. The language is not such as to make "may" mean "shall". I shall point out in support of my argument something that the Government themselves have done notwithstanding the clear language of clause (5) of this article. I shall not read out the whole of clause (5) but only the words to which it is necessary for my purpose to draw the attention of the House. These words are : "shall afford him the earliest opportunity of making a representation against the order" i.e. the order of detention. But here, Sir, my hon. friend the Home Minister has agreed to the insertion of a provision to the effect that the period during which a detenu is to be informed of the grounds of detention shall not be more than five days. Now surely here in connection with this procedure I would ask my hon. friend the Home Minister whether it is not possible in view of this for Parliament to prescribe such things as it attaches importance to itself and then say that certain other things would be left to the discretion of the Advisory Board. Even if he says that this cannot be done, my next question will be whether he cannot in this law say that by rules provision may be made for the procedure to be followed in respect of certain matters. I am unable to see why this course is not acceptable. He gave another reason for

[Shri H. N. Kunzru.]

not accepting the last suggestion, i.e. allowing the Chairman of the Advisory Board to furnish the detenus with such additional particulars as might in their opinion be sufficient to enable the detenus to defend themselves. He read out to us clause 5 which lays down that "the authority making the order shall as soon as may be, communicate to such person the grounds on which the order has been made." He seemed to me to say that in view of clause 5 of article 22 no law of Parliament could give the Advisory Board authority to furnish any particulars to a detenu. Now, I want to know from the Home Minister what the present position is. Supposing the grounds of detention are communicated to a detenu and he represents either to the Board or to the Government that the grounds are so vague that he does not know what he should defend himself against, or that the grounds are so inadequate that he cannot properly defend himself, will the Government or the Board be able to supply him with further particulars or not? If Government can supply him with these particulars, or if they can permit the Boards to supply any further particulars that can safely be disclosed, I do not see any obstacle, any serious obstacle, to the acceptance of this suggestion that the Boards should be allowed, notwithstanding the communication of the grounds of detention to a detenu, to provide him with certain other particulars which might in their opinion enable him to defend himself better. I do not think that such a procedure will either destroy the purpose for which the Preventive Detention Act was passed or compel the Government to release any information which it considers contrary to the public interest to disclose. Now, Sir, I come to the other two suggestions, viz. with regard to the calling of witnesses and the provision of legal assistance in the preparation of detenus cases. I shall say nothing about the first, because the Home Minister has after mature reflection, accepted that suggestion.

He is not willing, however, to accept the second suggestion. I do not understand why he should not accept it, if the provision of legal assistance is, as I have already said, dependent on the Boards, if it is for the Boards to decide after getting the detenu's representation or even after questioning him in person, whether the detenu is so illiterate or so discursive or so nervous as to be unable to present his defence with his own unaided efforts. At the risk of offending the Home Minister I shall refer again to the British precedents of which he is tired. He has taken the trouble to acquaint himself with the views held by Mr. Morrison who was Home Secretary during the war. May I point out to him the statements made by Mr. Morrison with regard to the provision of legal assistance for the purpose referred to by me. He said more than once and for the last time I believe in 1943, that British subjects who were detained would be allowed to consult lawyers of their own choice in preparation for the presentation of their defence. The Home Secretary in England did not occupy a very easy position and England was involved when the emergency powers Defence Act was passed, in a war. Yet a responsible Government, conscious of the serious dangers with which it was faced, conscious of the risk to its very existence, gave this facility, allowed the Advisory Committee to give this facility to the detenus. Why should my hon. friend the Home Minister then see anything inconsistent with the purpose of the Preventive Detention Act, in this suggestion of ours? While on this point, I should like to ask for a little clarification from the Home Minister. When speaking on this subject in another place the day before yesterday, he used language which seemed to indicate that he had not closed his mind on this subject. But what he said did not make his meaning clear beyond doubt. Although it is not customary to read from the proceedings of the other House during the same session, the matter is so important that I hope that you will show me some indulgence in the.

matter. The quotation that I make will be a very brief one. The Home Minister, after dealing with the dangers that might arise if lawyers were allowed to represent detenus before the Advisory Board said :

"If all these papers are given to the lawyers then there is no secrecy left at all. It may be said that when the grounds of detention are given to the detenu, or when the *Habeas Corpus* petition is filed, then the grounds become public, and so we may ask the State Government to see whether it would not be proper in individual cases to allow the detenu to interview his legal adviser in order to enable the lawyer to prepare the representations in his behalf in proper language and in suitable form. At that stage there is no secret material disclosed to him. But when the matter comes before the Advisory Board, then the panorama becomes very wide and there may be a lot of secret information and the legal advisers may create various difficulties, etc. etc."

Now, I would like him to tell us what he exactly meant when he said that the Central Government might ask the State Governments to see whether it would not be proper to give legal assistance to individual detenus in the preparation of their defence. Was he only putting forward the views of others, or had he accepted that view himself and come to the conclusion that as at this stage at which the legal adviser would assist the detenu no secret information would have been disclosed, he would ask the State Governments to provide legal assistance in suitable cases ? If what he meant was that he would give this advice to the State Governments, then there would be no material difference between him and me. I should still wish that the Boards were given this power, for they would be in a better position to decide whether legal assistance was called for than the State Governments, as they would examine the detenus, as they would consider the representations of the detenus, they would obviously be able to form a sounder judgment than the State Governments can. If, however, my hon. friend is not prepared to go so far but tells us that the words that I have quoted mean that he would ask the State Governments to give legal assistance in suitable cases, I shall not quarrel with him.

6 p.m.

Sir, there are some other features of the Act that call for examination but I do not think that it is necessary for me to do so at this stage. I have very reluctantly examined some of the provisions of the Bill before us and the suggestions that were made in order to deal with the rather artificial points that the Home Minister raised this morning. We have by joining the Select Committee, Sir, accepted the principle that Government should be given, for the present, power to detain persons without trial. He should, therefore, feel assured that we are not, directly or indirectly, to make the Act incapable of achieving its purpose. My hon. friend, Diwan Chaman Lall, said—and I am using his own words "loosing the strings with which this measure is tied up", and he said that we were virtually asking for an open trial. I ask the House, I ask all the Members, including the Members of Diwan Chaman Lall's party, to say fairly whether in any of the suggestions made by my friend Acharya Narendra Deva or by myself there has been any attempt to defeat the purpose for which the Preventive Detention Act was passed or whether there was any suggestion that laid us open to the charge that we had asked for an open trial. It is obvious, Sir, that people would be detained without trial because they would be detained on suspicion. We could not therefore, having agreed to join the Select Committee, ask for an open trial. My hon. friend, Diwan Chaman Lall could have felt sure of that. But, if he is really under a misapprehension and was not led away by his own oratory, I hope that what I have said will satisfy him. The suggestions that my hon. friend Acharya Narendra Deva and I have made have as their purpose only the provision of certain essential safeguards which would reflect credit on the Government and not create a loophole through which any really guilty person might escape.

MR. CHAIRMAN : There is a suggestion here that we meet in the afternoons from 3-30 to 6-30. Do we sit from 3 to 6 or 3-30 to 6-30 Which suits you better ?

SHRI H. N. KUNZRU : I think, Sir, it should be 3 p.m. to 6 p.m.

SHRI K. SURYANARAYANA : 3 p.m. to 7 p.m., Sir.

SHRI H. N. KUNZRU : No. no.

SHRI K. B. LALL : Sir, if we sit from 10 a.m. and continue up to 7 p.m.—of course,

MR. CHAIRMAN : It seems to me that the majority view is for a sitting from 3 p.m. to 6 p.m.

HON. MEMBERS : Yes.

MR. CHAIRMAN : The House stands adjourned till 8¹⁵ a.m. tomorrow.

The Council then adjourned till a quarter past eight of the clock on Saturday, the 9th August 1952.