

because I made the policy decisions some time about the 16th or 17th of June and we thought that it was not possible to give retrospective effect because we were making a departure. Therefore we made it applicable from the first day of the next month namely, the 1st of July 1952.

With regard to the provision of more bathrooms or other amenities, I will certainly look into that and if there are any difficulties which are being experienced by the occupants, we will try to remove them if they are found to be genuine.

So far as the question of refund is concerned, I think it is absolutely clear and I have made an announcement that these concessions will apply from the 1st July. Hon. Members will certainly get credit for the over-payments and those who are liable to be charged more will be charged with retrospective effect from 1st July.

SHRI H. P. SAKSENA (Uttar Pradesh) : Is the difference between in-session and off-session removed ?

SARDAR SWARAN SINGH : Yes, that is removed.

THE PREVENTIVE DETENTION (SECOND AMENDMENT) BILL, 1952—continued.

MR. DEPUTY CHAIRMAN : Now we will resume the debate on the Preventive Detention Bill.

SHRI P. V. NARAYANA (Madras) : Mr. Deputy Chairman, the Government would have done well on allowing the existing law to lapse in the month of October. I would like to go a step further and say that it would have been better if they had approached Parliament with a repealing Bill because in the Statement of Objects and Reasons it is said :

“The Preventive Detention Act, 1950, is due to expire on the 1st October 1952. The primary reason for the enactment of this legislation was to protect the country against activities intended to subvert the Constitution and the maintenance of law and order or to interfere with the maintenance of Supplies and Services essential to the community. Attempts to

do so, though considerably reduced in tempo, have not ceased and it is considered essential that the powers conferred by the Preventive Detention Act should be continued.”

This Bill was not drawn in consonance with the Statement of Objects and Reasons attached to the Bill. Here, according to them, such activities have considerably decreased in tempo. And again they deprive the people of their right of freedom and liberty mentioned in the Fundamental Rights guaranteed under the Constitution. They say there should be safety for the working of the Constitution. Is it on those lines, Sir, that this Act is being extended now ? Is it not in violation of the Constitution which was framed by those rulers ? If the tempo has reduced, then what is the necessity for the Government to extend this Act for a long period of two years—nay—2 years and 3 months, i.e. 27 months ? Previously it was extended by six months and prior to that by about a year and the present period of extension will be one and half times both the previous extensions put together. When the tempo has decreased it is up to the Government to come forward with a Bill giving it the lease of fresh life of 6 months or at the most one year. But instead of doing that they want to have a very long extension for a period of 27 months. The first question arises: where is the emergency here ? Even according to their statement there is no emergency. In no civilised countries in this world are such laws in existence in peace time. If war breaks out and the country is in a state of war, then I can understand the passing of such laws. But there is absolutely no emergency even according to the Government. What is the gesture shown on the part of the Government ? They could have approached Parliament with a repealing Bill and then if anything untoward happens, they can advise the President to prorogue Parliament and promulgate an Ordinance. And then their hands will be strengthened when they approach Parliament to make it a law by way of enactment. Instead of doing that, they want further to extend this for a period of about two years. I think no civilised country can brook this. My

[Shri P. V. Narayana.]

friends—some of them—have described this Bill as a black Bill and I also endorse those remarks. It is the duty of this Government under which we have been enjoying democracy for the last five years to abandon such legislation at least in future. Why can they not amend the Indian Penal Code and the Criminal Procedure Code? But in that case the courts and lawyers come into the picture. This Government has been terribly afraid of lawyers and courts and of giving proper opportunities and legal assistance to the accused or the man whom they put under detention. And here, Sir, such laws only create a lot of provocation and if some people are resorting to violent methods it is by way of self-defence and nothing else. Even now at the time of the second reading, the Government would be well advised to come forward with an amendment with respect to the period of extension at least, and I hope they will reduce it by a year and three months so as to have it extended for one year more or something like the 15th of August which is an auspicious day for us because that is the Independence Day we celebrated and this wonderful Act also would synchronise with that.

They say that people have resorted to violence and all that. But in fact it is the Congress that has started this trouble by setting fire to several police-stations and railway stations and removing fish-plates and killing so many innocent people. They resorted to violence. Mahatma Gandhi did not approve of those violent methods resorted to by the Congress. But what did he do? Did he reprimand those leaders who were responsible for such acts? Did he remove some of them from the Congress? No, never. In private something might have taken place with which we are not concerned. Apart from Gandhiji who was not officially connected with the Congress, the Presidents of the different Congress Committees have issued statements and they are all parties to that. In respect of the Communists also when top-leaders were arrested or detained or when warrants were issued against

them they went underground. When the Government are very anxious to arm themselves with such legislation, the other people must have some arms at least to protect themselves and it is by way of self-defence that they are collecting arms. Even Gandhiji said "Violence is preferred to cowardice." Naturally by way of self-defence, to protect themselves they might have to use violence at times, which was also approved of by Mahatma Gandhi, Sir.

If there is some disorder in Saurashtra or Telangana, why should this Act operate all over India? There are so many parts of India where there are no violent activities. So it is meaningless to apply this Act over the entire area of India. Even Mr. Chaman Lal accepted that these people resorted to violent activities only in Telangana. It was only last year. He read out from some book, the correctness of which is not above question. He said that between June last year and January of this year there were violent activities. Before the elections came, something must have happened, but for the past few months there are few such activities. That party has now chosen the policy of entering the legislatures and they have come in sufficient numbers both at the Centre and in the States, and now they want to act in furtherance of this legislative programme. But if the Government will not allow them to do that, they may again resort to violence. It is in the hands of the Government to prevent them from doing it. It is in the hands of the Government to see that these people voluntarily give up their violent activities. I am not connected with the Communist movement. Under this Act the District Magistrate and the Additional District Magistrate can detain any person, even innocent persons like myself. If I am independent, if I make speeches against the Government, the District Magistrate will be angry with me and he may issue a warrant to detain me.

The denial of legal assistance to the detenu is something I am unable to understand. I think, Sir, the Advisory Board should give all facilities to

the detenu for having legal assistance to make his representation. There is absolutely nothing wrong in that, and I hope the Government will accept this amendment at the second reading.

Lastly, a word by way of personal explanation Mr. Ranga referred to the zamindari abolition in Madras. Yes, Sir, when the Zamindari Abolition Bill was on the anvil of the Madras Legislature—I was then a member of the Madras Legislative Assembly—I opposed tooth and nail the payment of any compensation to the zamindars, because they were merely agents. Termination of an agency requires only one year's notice, and so they are not entitled to any compensation. With these words, I oppose this Bill.

SHRI N. S. CHAUHAN (Uttar Pradesh) :

श्री एन० एस० चौहान (उत्तर प्रदेश) : उपसभापति महोदय, जिस नज़रबन्दी कानून पर कल से बहस हो रही है उसकी मैं तारीफ़ करने खड़ा हुआ हूँ। साथ ही साथ अपने गृह मंत्री महोदय से प्रार्थना करता हूँ कि इस कानून पर कड़ाई से अमल करें। यहाँ पर कई तरफ़ से इस कानून के ऊपर एतराज़ हुए हैं खास तौर से बर्गवादियों की ओर से। कोई इनका बुनियादी तरीक़े से विरोधी है और कोई किसी दूसरे कारण से विरोधी है। कुछ समझते हैं कि अभी वक्त नहीं आया कि ऐसा कानून बनाया जाय। परन्तु मेरा निवेदन है कि देश के शासन की बागडोर आपके हाथ में है, अतः आपको यह देखना है कि देश के अन्दर कानून और व्यवस्था कायम रहती है। देश की ज़िम्मेदारी आपके ऊपर है और आपको कड़े हाथों से उसकी रक्षा करनी है। आज देश की क्या अवस्था है। जिधर देखिये, डाके पड़ रहे हैं, कत्ल हो रहे हैं। शहरों को छोड़िये, देहातों के लोग परेशान हैं। तेलंगाना और हैदराबाद को छोड़िये, उत्तर प्रदेश जहाँ कि इतना अच्छा शासन है और जो कि तना सुशासित राज्य है, उसमें भी खासकर देहातियों में घोर

आतंक व परेशानी है। और यह परेशानी और क्यों बढ़ गई है? खास तौर से इसलिये कि जो कत्ल हो रहे हैं और जो डाके पड़ रहे हैं, वह सब सनाय विरिवा तत्वों और उनके द्वारा हो रहे हैं जिनमें कहीं कहीं राजनैतिक दलों का भी सहारा होता है। ऐसा इनका कारण है कि कुछ हमारे राजनैतिक दल निराश हो गये हैं। अभी जो चुनाव हुआ, उसमें उनका पूर्ण पराजय हुई। अतः पराजय के कारण उनमें निराशा है और उस निराशा में, डेस्पेरेशन (desperation) में यह पोलिटिकल (political) पार्टियाँ एंटी सोशल एंटीमेट्स (anti-social elements) को, समाजविरोधी तत्वों को सहारा देने लगी हैं, जिसका प्रमाण राज्यों के बहुत से मंत्रियों ने राज्य की असेम्बलियों में दिये हैं और केन्द्रीय सरकार के पाम भी उसके बहुत से प्रमाण होंगे। यह एक ऐसी अलामत है, जो देश के लिये बहुत खतरनाक है। यह हमें पूर्ण अराजकता की ओर ले जा सकती है। आज कुछ व्यक्ति व्यक्तिगत स्वतंत्रता के नाम पर इसका विरोध कर रहे हैं, ऐसे व्यक्ति जिन के यहाँ व्यक्तिगत स्वतंत्रता कोई चीज़ नहीं, और जो कि सैद्धांतिक रूप से भी उनके यहाँ नहीं मानी जाती है। मैं अपनी सरकार की पूरी इज़्जत करते हुए यह कहना चाहता हूँ कि यदि वह इन फर्जी नारों से दब गई, उसने इस कानून पर ठीक से अमल न किया तो यह समझा जायेगा कि वह अपने फर्ज़ को अदा नहीं कर रही है। आज हम देखते हैं कि जो लोग व्यक्तिगत स्वतंत्रता के नाम पर और नागरिक स्वतंत्रता के नाम पर इस कानून का विरोध कर रहे हैं वे आज कैसे कैसे काम कर रहे हैं। मैं आपको एक मिसाल बतलाता हूँ। अभी हमारे यहाँ अलीगढ़ में कुछ एम० पी० जे० (M.P.s) गये थे अलोग्ड यूनिवर्सिटी में भी उन्होंने लैक्चर (lecture) दिया, पब्लिक (public) में भी उन्होंने लैक्चर दिया। श्री गोपालन जो कि कम्यूनिस्टों के नेता हैं उन्होंने भी भाषण दिया और उन्होंने हिन्दू मुसलमान जज़्बात को वहाँ बहुत भड़काया।

SHRI B. RATH : (Orissa) It is not a fact. I was also there.

SHRI N. S. CHAUHAN :

श्री एन० एस० चौहान : It is a fact उन्होंने कहा कि उर्दू का गला घोंटा जा रहा है।

DR. R. B. GOUR : This is correct.

SHRI N. S. CHAUHAN :

श्री एन० एस० चौहान : एक कम्युनिस्ट भाई कह रहे हैं कि सही नहीं है और दूसरे कह रहे हैं कि सही है।

DR. R. B. GOUR :

डा० आर० बी० गौड़ : मैं यह कह रहा हूँ कि उर्दू का गला घोंटा जा रहा है, यह सही है।

MR. DEPUTY CHAIRMAN : Order, order. Let there be no interruptions.

SHRI N. S. CHAUHAN :

श्री एन० एस० चौहान : तो किसी जगह पर रिफ्यूजीज (refugees) का नाम लेकर, कहीं महाराणा प्रताप का नाम लेकर, शिवाजी का नाम लेकर एक खास तरह के आदमियों की हमदर्दी अपनी तरफ लेने की कोशिश की जाती है और दूसरी जगह दूसरी तरह की बातें कह कर गड़बड़ करने की कोशिश की जाती है।

खैर, कम्युनिस्ट भाइयों की बात छोड़िये। अब हमारे दूसरे मित्र और है सोशलिस्ट (socialist) महाशय। वे भी आज कहीं पर कहते हैं कि रेड दीज राशन गोडाउंस (raid these ration godowns), मिलों को रेड करो और सत्याग्रह करो। क्या यह सत्याग्रह है। गांधी जी का भी नाम लेते हैं और रेड करने को भी कहते हैं। क्या रेड करने के लिये उत्तेजित करना सत्याग्रह कहा जा सकता है? लेकिन आज यह हमारे मित्र बड़ी परेशानी में फंसे हुए हैं। बेचारे न तो कम्युनिस्ट ही हैं और न कांग्रेसी ही हैं, न वायलेंस

(violence) को ही मानने वाले हैं और न नान-वायलेंस (non-violence) को ही ठीक तरह से मान पाते हैं। ऐसे बीच में फंसे हुए हैं कि इनके लिये अकबर इलाहाबादी का एक शेर मुझे याद आता है :

“मुजक्कर होते ही होते,

मुअन्नस होते ही होते।

जनाब आली मुखन्नस हैं,

न हीयों में न शीयों में ॥”

इसलिये हमारे सोशलिस्ट महाशयों का तो यह कायदा हो गया है कि कभी इधर कहेंगे तो कभी उधर।

मैं इस बारे में अधिक नहीं कहना चाहता हूँ। इतना जरूर कहना चाहता हूँ कि जो सोशलिस्ट भाई गांधी जी का नाम लेते हैं, सत्याग्रह का नाम लेते हैं और रेड (raid) कराना चाहते हैं, वे बड़ी अजीब परस्पर विरोधी बात करते हैं। हमारे कम्युनिस्ट भाई तो दूसरी बिना पर एतराज करते हैं और कहते हैं कि यह काला कानून है और उनकी नज़र में बगैर ट्रायल (trial) के डिटेंशन (dention) होना ही नहीं चाहिये, वे तो हमारे संविधान को ही (charter of slavery) यह गुलामी का खरीता कहते हैं तो उसके अनुसार बनाये हुए कानून क्या कहेंगे, इसलिये उनसे तो मुझे कुछ कहना नहीं है। लेकिन हमारे सोशलिस्ट भाई जो यह कहते हैं कि यह तो ठीक है कि नज़रबन्दी होनी चाहिये लेकिन यह डिटेंशन का कानून, नज़रबन्दी का कानून उसी वक्त होना चाहिये, जब कि इमर्जेंसी (emergency) हो। मैं कहता हूँ कि आज इमर्जेंसी नहीं है तो क्या है? आज क्या स्थिति है, अन्न की कमी है और राजनैतिक दलों के लोग जनता को उकसाते हैं कि चलो गोदामों पर धरना दे दो, गोदामों को लूट लो। एंटी सोशल एलीमेंट्स डकैती कर रहे हैं, चोरिया कर रहे हैं, वे लोगों का क्रूर कर रहे हैं। मैं इन

बातों में ज्यादा जाना नहीं चाहता, क्योंकि जो आंध्र, हैदराबाद और तेलंगाना के मित्र हैं उन्होंने बहुत कुछ इस बारे में कह दिया है। इसके अतिरिक्त हमारी अंतर्राष्ट्रीय स्थिति है वह भी बहुत खराब है। आज इजिप्ट में क्या हो रहा है, ईरान में क्या हो रहा है, पाकिस्तान में क्या हो रहा है, तिब्बत में क्या हो रहा है, ब्रह्मा में क्या हो रहा है ? चारों ओर घनघोर घटाये आसमान में छा रही हैं, और आज गिद्ध, चील और कौवे मंडरा रहे हैं, जो कि चाहते हैं कि जैसे ही मौका मिले हिन्दुस्तान की आजादी के नव जात शिशु को हड़प जायें। तो क्या यह इमर्जेंसी नहीं है ? इमर्जेंसी कानूनी ढंग से, जिस तरीके से कि हमारे संविधान में कहा गया है, एक खास हालत में होती है, जब कि लड़ाई हो जाय या किसी राज्य में विद्रोह हो जाय। कानूनी ढंग से और संविधान की धारा के अनुसार यह तो संकटकाल होता है, वैसे साधारणतः इमर्जेंसी हर वक्त रहती है। अगर कहीं गड़बड़ हो, किसी को पकड़ना हो तो उस वक्त भी इमर्जेंसी है यों तो जो वैसी इमर्जेंसी (संकटकाल) है उन को हमारे प्रेसीडेंट (President) डिक्लेयर (declare) करेंगे, लेकिन छोटी मोटी गड़बड़ को संभालने के लिये भी काफ़ी अधिकार सरकार के पास होना चाहिये। हमारे सुन्दरैया साहब ने उस दिन डा० कुंजरू को इंटरप्ट (interrupt) करते हुए कहा था कि इमर्जेंसी प्रेसीडेंट न डिक्लेयर करें बल्कि पार्लियामेंट (Parliament) डिक्लेयर करे। मेरा कहना है कि जिस वक्त इमर्जेंसी हो जायेगी और पार्लियामेंट का सेशन (session) नहीं हो रहा होगा, तो उसको फौरन बुलाना पड़ेगा और उस वक्त भी हमारे कम्प्यूनिस्ट दोस्त इसी प्रकार कह सकते हैं कि पार्लियामेंट को यह अधिकार नहीं होना चाहिये कि इमर्जेंसी डिक्लेयर कर सके, इसके लिये तो प्लेबिसिट (Plebiscite) होना चाहिये और यह मालूम करना चाहिये कि इमर्जेंसी डिक्लेयर की जाय या न की

जाये। इमर्जेंसी पावर्स (emergency powers) ऐसे झमेले में जाने के लिये नहीं हुआ करती हैं, जब ज़रूरत होती है तब इस तरह की चीजें तत्क्षण की जाती हैं। मैं समझता हूँ कि आज दोनों प्रकार की इमर्जेंसी है और यह आवश्यक है कि ऐसे कानून को बनाया जाय और जल्द से जल्द बनाया जाय और बहुत ज्यादा कानूनी झमेले में न पड़कर ऐसे लोगों को, जो हमारी आजादी के विरुद्ध काम करते हैं, हमारी शांति-व्यवस्था के विरुद्ध काम करते हैं, उनको फौरन पकड़ा जाय और जेलखाने में डाल दिया जाय। मैं समझता हूँ कि यह तो बहुत ही सामूली सी चीज है। वह शिकायत करने वाले हमारे मित्र, जो कि दूसरे आदर्शों को मानते हैं, उनके आराध्य देश में यदि ऐसी स्थिति होती, जैसी कि हमारे देश में आज है, तो न मालूम वहां क्या होता।

एक दूसरी चीज जो हमारे सोशलिस्ट मेम्बरों ने कही वह यह थी कि कानून बनावे लेकिन सेफगार्ड्स (safeguards) रखे जो सेफगार्ड्स उन्होंने रखे हैं उसके बारे में हमारे गृह मंत्री ने पूरे तौर से बतला दिया है। लेकिन एक बात मैं उनके ध्यान में ला देना चाहता हूँ। कि जो यह सोच रहे हैं कि राज्य सरकारों को वह लिखना चाहते हैं कि डेटेन्यू (detenu) को रिप्रेजेंटेशन (representation) के ड्राफ्ट (draft) करने के लिये वकीलों की सुविधा देनी चाहिये, उसके बारे में वह सतर्क रहें। क्योंकि मैं जानता हूँ कि हमारे कम्प्यूनिस्ट मित्र स्वयं वकीलों से ज्यादा योग्य हैं। उनको तो वकीलों की आवश्यकता नहीं है। अगर एक बार उनका ड्राफ्ट हो गया, तो फिर दूसरी बार वह वकील को बुलायेंगे और कहेंगे कि गर्वामेंट को मैं दूसरा एक रिप्रेजेंटेशन देना चाहता हूँ। इस तरीके से वह बाहर की दुनिया में अपना सम्पर्क स्थापित कर सकते हैं और अपने आन्दोलन को बराबर जारी रख सकते हैं। इस बात की एहतियात रखनी चाहिये। वर्गवादियों ने अपने विरोध-

[Shri N. S. Chauhan]

मे साथ साथ और भी सेफ़गार्ड्स का जिक्र किया है, जो सेलेक्ट कमेटी की प्रोसीडिंग्स (proceedings) में है। उसमें कहा गया है कि एलाउंस (allowance) मिलना चाहिये, इंटरव्यूज (interviews) होने चाहिये। इंटरव्यूज के बारे में तो मेरा वही एतराज है जो कि वकीलों के बारे में है। वह इसका भी उसी तरह से फ़ायदा उठावेंगे। जहां तक मुझे मालूम है, मद्रास में तीन रुपया रोज़ मिलता है और मेज कुर्सियां व अन्य सुविधायें भी मिलती हैं.....

SHRI B. RATH :

श्री बी० रथ : गोलियां भी खाने को मिलती हैं।

SHRI N. S. CHAUHAN :

श्री एन० एस० चौहान : गोलियों का काम किया जाता है तब गोलियां मिलती हैं। गोलियां मुफ़्त की नहीं हैं। वह गरीब जनता का पैसा खर्च करके बनाई जाती है और वह वैसे ही मुफ़्त में किसी को खाने को नहीं दी जाती है।

देखिये, हमारे मित्र और क्या सेफ़गार्ड्स चाहते हैं। वह कहते हैं कि non compliance of order should not be made an offence एक विचित्र चीज़ है, यानी जो आर्डर गिरफ़्तारी का निकलता है कि तुम हाज़िर हो उसकी अगर खिलाफ़वर्जी की जाय तो जुर्म नहीं होना चाहिये। मैं तो यह समझता हूँ कि जब ताज़ीरात हिन्द बना था उस वक़्त यदि हमारे ये, महाशय एतराज करने वाले होते, तो एक तरफ़ तो यह कहते कि ठीक है जिसने क़त्ल किया है उसे फांसी की सज़ा होनी चाहिये और दूसरा प्रतिबन्ध ऐसा भी लगाते कि अगर कोई फांसी की सज़ा न लेना चाहे, उससे इनकार करना चाहे

कि हम फांसी की सज़ा नहीं खाना चाहते, तो उसे यह अधिकार होना चाहिये। अगर इस प्रतिबन्ध को मान लिया जाय कि non-compliance of order should not be treated an offence तो फिर इस कानून का अर्थ ही क्या रहता है। हमारे काटजू साहब देश के एक बहुत बड़े वकील हैं वह ही इस बात को समझें, और भी यहां बहुत से योग्य से योग्य व्यक्ति हैं वे सब इस बात को समझें कि इस को मानने के बाद फिर इस कानून के माने ही क्या रहते हैं। इसके अतिरिक्त यहां पर यह प्रतिबन्ध भी वह चाहते हैं कि आर्डर (order) डिस्ट्रिक्ट मेजिस्ट्रेट (District Magistrate) के जरिये से नहीं होना चाहिये बल्कि मंत्री को पास (pass) करना चाहिये। मैं कहता हूँ कि इसमें उनकी सुविधा है क्योंकि मंत्री तो पार्टी का आदमी होता है डिस्ट्रिक्ट मेजिस्ट्रेट ऐसे लोग हैं जो किसी पार्टी के आदमी नहीं हैं। जिला मेजिस्ट्रेटों के अविश्वसनीय होने का आपका ख़ास कारण यही तो हो सकता है कि वह कांग्रेसी मंत्रियों के मातहत कार्य करते हैं, यानी आप कारण रूप मंत्री का तो विश्वास करना चाहते हैं किन्तु इन ज़िला मेजिस्ट्रेटों का नहीं। मेरा तो अपना यह तर्ज़ुबा है कि हमारे जो आजकल के डिस्ट्रिक्ट मेजिस्ट्रेट हैं, वह निष्पक्ष हैं और बाज़ हालतों में तो वह कांग्रेसी विरोधी भी देखे गये हैं। ऐसी दशा में यह कहना, कि ज़िला अधिकारी कांग्रेसियों के असर से उसका ग़लत प्रयोग करेंगे और वह उसी तरह से कार्रवाई करेंगे जिस तरह से कांग्रेस वाले चाहेंगे, कितना ग़लत है। उनके आदर्श भी बहुत ऊंचे हैं, वह भी देश-सेवा की भावना से अपना कार्य करते हैं। उन पर किसी भी तरीके से यह आरोप लगाना कि वह निष्पक्षता से काम नहीं लेंगे, ग़लत बात है।

हमारे मित्र जो सामने बैठे हैं, इस कानून को काला कानून कहते हैं, पायज़न्स और ब्लैक

कानून (poisons and black Act) कहते हैं ठीक हैं, वह कहें। मैं तो यह कहता हूँ कि मि० सुन्दरैया ने कल अपने इंटरप्शन में यह कहा था "Tooth for tooth and nail for nail and so black Act for black Acts."

SHRI P. SUNDARAYYA : It is not what I said. It is what Mr. Rama Rao said.

SHRI N. S. CHAUHAN :

श्री एन० एस० चौहान : अगर आपने बीच में नहीं कहा था तो ठीक है। इस तरह से आप लोग काले कानून की बात करते हैं, मगर आप उसके मतलब को नहीं समझने की कोशिश करते हैं। इस बिल का रूप चाहे आपको काला लगता हो, किन्तु इसके अन्दर जो भाव है, वह बहुत ही ऊँचे और पवित्र है। आप लोग एक शख्स, जो जेलखाने में जाता है, उसकी आज़ादी, लिबर्टी (liberty) की तो बात करते हैं। उस शख्स की आप बात करते हैं, जो कि सारी जनता को इन्स्टीगेट (instigate) करता है जिसके जरिये हजारों लोगों की जानें खतरे में पड़ जाती हैं और करोड़ों लोग परेशान हो जाते हैं। आप ऐसे एक व्यक्ति की जान के मुकाबिले में लाखों मासूमों की जानों की परवाह नहीं करते इसलिये इस तरह के लोगों को बचाने के लिये और उनको बढ़ावा देने के लिये ही इस कानून को, जिसको तुम काला कानून कहते हो, विरोध कर रहे हो।

(Time bell rings.)

श्रीमन्, मुझे पहले कभी बोलने का मौका नहीं मिला, अतः एक दो मिनट और अधिक चाहता हूँ, इसके बाद मैं स्वयं खत्म कर दूँगा। यहां पर हमारे विरोधी पक्ष के लोग यह कहा करते हैं कि डेमोक्रेसी (democracy) को खत्म किया जा रहा है। मगर मैं उनसे पूछना चाहता हूँ कि हमारी सरकार ने कौन सी ऐसी कार्रवाई की है, जिससे कि डेमोक्रेसी को खतरा हो गया है। डेमोक्रेसी के माने यह होते हैं कि लोगों

को भाषण देने की सुविधा हो, लिखने की सुविधा हो और संगठन की आज़ादी हो। मगर आज आप लोगों को सब तरह की वैधानिक सुविधायें प्राप्त हैं। किन्तु आप अपनी पितृभूमि की ओर नहीं देखते जहां कि न कोई आज़ादी से बोल सकता है, न लिख सकता है और न संगठन बना सकता है। वहां चुनाव किये जाते हैं, किन्तु विरोधियों को खड़ा होने नहीं दिया जाता है। क्या यह प्रजातन्त्र है ?

मैं हाउस (House) का ज्यादा समय नहीं लूंगा। मगर मैं एक बात अवश्य कहना चाहता हूँ कि आप जो लोग किसान और मजदूरों के रहनुमा बनते हैं, वह बात गलत है। आपका यह कहना कि क्योंकि आप भूमि सम्बन्धी रेडिकल रिफ़ॉर्म्स (redical reforms) चाहते हैं और मजदूरों की हड़तालों की स्ट्रगल (struggle) का नेतृत्व करते हैं, इसलिये आपका दमन होता है, यह सर्वथा मिथ्या है।

मैं आप लोगों से यह पूछना चाहूंगा कि आप लोगों की विचारधारा में किसानों का क्या स्थान है ? आपकी विचारधारा के अनुसार तो किसान एक छोटा पूंजीपति होता है। आपके यहां किसानों का सर्वनाश निश्चित है। आप लोग तो स्ट्राइक (strike) कराने वाले और गैर-जिम्मेदारान काम कराने वाले हैं। क्या इससे मजदूरों का भला होगा। इंसान गलत बात को शीघ्र मान लेता है, सही बात कठिनता से भाती है। ज्यादा तेज़ शब्दों में गैर-जिम्मेदारी की बातें करने वाले ज्यादा अच्छे लगते हैं। जिस तरह से किसी रेल के डिब्बे में एक आदमी तो लोगों से यह कहता है कि बेटिकट (without ticket) रेल में चढ़ जाओ और दूसरा आदमी कहता है कि बगैर टिकट जाने से देश और राष्ट्र को नुकसान होगा। ऐसी दशा में लोगों को ऐसे व्यक्ति की ही बात अच्छी लगेगी, जो कि बेटिकट चलने की सलाह दे रहा है। इस समय वह यह नहीं सोचेंगे कि

[Shri N. S. Chauhan.]

इससे अन्त में देश को हानि होगी। इसी जहनियत को एक्सप्लॉइट (exploit) करके आज कम्युनिस्ट लोगों को उभाड़ लेते हैं। इसके यह मानी नहीं कि लोग समझदारी से उनके साथ हैं।

(Time bell rings.)

मुझे तो बहुत सी बातें अभी और कहनी थीं। सन् १९४२ के बारे में.....No. 88

[For English translation, see Appendix II, Annexure No. 88.]

SHRI KISHEN CHAND (Hyderabad) : Mr. Deputy Chairman, I rise to oppose this Bill on moral and political grounds. I am surprised to find that for the last one and a half days we have been hearing such harrowing tales of misery, of loot, of arson and of murders that one begins to wonder whether there is a revolution in the making in this country. Diwan Chaman Lall gave us a picture of atrocities and of misery everywhere. Let me, however, submit that the hon. Home Minister let the cat out of the bag when he told us that there are only 300 detenues, except for Telangana, in the whole country. In a country of 360 millions there are 300 detenues and we are so mortally afraid of these 300 detenues that we think the heavens are going to fall down and there will be riot all over the country. Sir, if there is murder, if there is arson, if there is loot, there are the laws of the country for you to deal with them. If anybody commits these crimes he can be hauled up and he can be punished. There are laws against these things. No Member of this House is asking for the abolition of the Criminal Procedure Code or the Penal Code. They continue to remain there. But this one is a preventive Act which means that the person has not committed a crime, but is likely to commit a crime. The Government or the officer concerned thinks that the person may commit a crime. There comes this element of guessing, the element of suspicion. If it was a case of the commission of a crime, I would be the last person to come and

oppose this Bill. Here the Government or the officer suspects that a crime may be committed. Well, even then, if there were ten thousand or twenty thousand people in detention, we might think that it is a great number. But the hon. Minister has pointed out that there are 300 districts in our country and there are 300 detenues. Each district has roughly a population of 12 lakhs of people. This means one man in twelve lakhs and it is said that he is going to bring in a revolution. I am surprised at the way the Congress Government is getting funky. They are afraid of one man in twelve lakhs—the Congress that fought the mighty British Empire. I would be the last person to believe for a moment that the same Congress is afraid of one man out of twelve lakhs and should think that he would bring revolution in this country.

Sir, we have got to think magnanimously and be a little generous in politics. We have got to think that only one party has not the monopoly of patriotism. All the Members who have come to this House have come with the determination that they want better conditions of life in this country and everyone of them wants to help in the bringing about of these better conditions in the country. So I would beg the Congress Members to be a little more charitable to the other side of the House. There is a saying in one of the plays of Gilbert and Sullivan that every man who is born in the country is either a little more liberal or a little more conservative. It is a question of different degrees. There is no difference of opinion about attaining the ideal of democracy, the ideal of a welfare state.

Some hon. Members may say that the Communists have committed atrocities. I do not deny it. But the Congress Members will also have to admit that those people are also fired with the same enthusiasm and love of the country. They are young men and if they were misled and committed some atrocities, the Congress Members should have come forward and shown generosity and tried to lead them on the right path. As has been pointed out by some hon.

Members, in 1920, when Mahatma Gandhi led the non-co-operation movement, there were plenty of atrocities. Europeans were killed and martial law was declared. Mahatma Gandhi said it was a Himalayan blunder.

AN HON. MEMBER : When ?

SHRI KISHEN CHAND : In 1920. All Members will remember it.

AN HON. MEMBER : What did he say ?

MR. CHAIRMAN : Order, order.

SHRI KISHEN CHAND : I am not saying anything against Mahatma Gandhi. I have as much respect for him as anyone else. I am only saying that Mahatma Gandhi admitted that if anybody committed violence that was a blunder. He wanted non-violence and he went on preaching non-violence. But we do not have a leader of that type now. If only he were alive here he would have met the Communists and weaned them from the path of violence. Let us try to impress upon our Communist bretheren that when they have adopted constitutional methods, they may now give up violence. But the attitude shown in this House is not the attitude that will enable you to win them. Simply abusing people, saying that they will bring revolution to this country, because some 300 persons are let out, and that there will be all sorts of trouble, is not the correct attitude. Diwan Chaman Lall has been a great patriot and I expected that when he had opposed in 1929 those black Acts, he would come forward now also to say that these are black Acts and we will not allow our Constitution or the country's name to be sullied by these bad Acts.

Sir, it is easy to give power to the executive. The executive always wants to extend its power and the legislature in every country in the world is careful not to give extra power to the executive. I submit that in a democracy with a parliamentary type of government the main function of the legislature should be to keep the executive in check. I admit that this is a national Government.

It is our own Government. Yet the legislators are here to keep a check on the Government of the people, that by their laws the subordinate officers do not get an opportunity of abusing that power and of leading the country astray. We do not blame the Home Minister. But it is not the Home Minister who is going to carry out these laws. It is the judicial and other officers who may abuse the power and keep people in detention. This number of 300 does not include only Communists. It includes blackmarketeers, profiteers and people of that sort. So if you deduct their numbers from the 300 then probably the Communists would number only about 150. Thus it seems we are mortally afraid of about 150 Communists, some 45 blackmarketeers and others of a similar nature. The leader of my party has explained at great length that in a democracy these types of laws have no place and I do not want to repeat the same arguments. I would only end by saying that we have been trying to make a mountain of a mole hill. In the present circumstances there is no emergency and there is no need for such laws and therefore I submit that this law should not be placed on the Statute Book.

SHRIMATI SHARDA BHARGAVA :

श्रीमती शारदा भागवत : उपसभापति महोदय, प्रिवेन्टिव डिटेन्शन (Preventive Detention) विधेयक पर काफी बहस हो जाने के बाद अब मेरे बोलने की विशेष आवश्यकता तो न थी, परन्तु चूँकि बहस के अन्दर कुछ ऐसी बातें आई हैं, जिनका उत्तर देना मुझे आवश्यक मालूम होता है, इसलिये मैं बोलने के लिये खड़ी हुई हूँ। राष्ट्रपिता पूज्य महात्मा गांधी के आदेशों पर तथा पंडित नेहरू के नेतृत्व में बनी हुई सरकार की यह उदार नीति है, जो हम आज यह देख रहे हैं कि यहां पर जनतन्त्र के सिद्धांत पर लड़े हुए चुनाव के आधार पर सभी दल के लोग उपस्थित हैं। तरह तरह की पार्टीबन्दी होते हुए भी सबको चुनाव में पूरी आज़ादी दी गई। और सब लोग

[Shrimati Sharda Bhargava.]

पूरी आज़ादी से लड़कर यहां पर आये । यह ठीक है कि हमारी नेहरू सरकार की नीति उदार और जनतन्त्रात्मक है—पर जनतन्त्र के माने यह नहीं है कि वह किसी प्रकार शान्ति और व्यवस्था के विरोध में होने वाली खूनखराबी, लूट, डाके तथा खूरेजी को भी पूरी स्वतन्त्रता दें । स्वतन्त्रता के यह अर्थ नहीं है कि मनुष्य की जो मर्जी आये वह करे, जिसको वह चाहे मारे, पीटे या जो कुछ भी वह करना चाहे, करे । एक मनुष्य की स्वतन्त्रता के माने यह नहीं है कि दूसरे व्यक्ति की स्वतन्त्रता खतरे में हो जाय । अतः स्वतन्त्रता की भी एक सीमा होती है । प्रत्येक राज्य में, प्रत्येक एडमिनिस्ट्रेशन (Administration) में स्वतन्त्रता का एक सीमित अर्थ होता है ।

यहां पर जो विवाद हुआ है, उसमें अक्सर यह कहा गया है कि इस विधेयक द्वारा व्यक्तिगत स्वतन्त्रता का हनन किया जा रहा है । अतः इस के अन्तर्गत पकड़े गये डिटेन्यू (detenu) को यह अबसर दिया जाना चाहिये कि वह अपने मामले को अच्छी तरह से ट्रायल (trial) करा सके । मेरी समझ में यह नहीं आता कि ट्रायल के पक्ष में बोलने वाले भाइयों ने यह कैसे समझा कि प्रिवेन्टिव डिटेन्शन के माने यह हैं कि जो इसके अन्दर पकड़ा जाय उसका मुकदमा हो और उसको अपने दोष के विरोध में मुकदमा लड़ने की सहुलित दी जाय । प्रिवेन्टिव डिटेन्शन के माने तो यह है कि जो कोई व्यक्ति बुरा काम करने जा रहा है उसको प्रिवेन्ट करना । अगर उस आदमी का ट्रायल किया जाये, तो उसके माने यह हो जाते हैं कि वह आदमी या तो सजा पाने योग्य है अथवा बरी करने के, जैसा कि ट्रायल के बाद निष्कर्ष निकला है । अतः प्रिवेन्टिव डिटेन्शन में ट्रायल किस तरह से हो सकता है, यह बात मेरी समझ में नहीं आई ।

माननीय सदस्यों ने इस विधेयक के विरुद्ध में बोलते हुए कहा कि कांग्रेस ने अंग्रेजों के बनाये

हुए पब्लिक सेफ्टी ऐक्ट (Public Safety Act) का हमेशा विरोध किया और आज इसी प्रकार का कानून अपने राज्य में लाना चाहती है । जिस चीज़ का पहले विरोध करते आये हैं आज उसी तरह की चीज़ को फिर कांग्रेस सरकार यहां पर क्यों ला रही है ? यहां मैं उनसे कहती हूं कि इस बिल के अन्दर जो भावना है, जो माने है, उस पर विचार करें । वह समय क्या था, जिस स्थिति पर कांग्रेस ने इस तरह के पब्लिक सेफ्टी ऐक्ट का विरोध किया था । अंग्रेज बाहर से आये थे और हम उनके राज्य में शान्ति और व्यवस्था में गड़बड़ी करना चाहते थे, हम नहीं चाहते थे कि उन का राज्य यहां पनपने पाये, हम नहीं चाहते थे कि वह हमारे देश में रहें । हमने प्रत्येक तरह से उनका विरोध किया । हम चाहते थे कि वह किसी तरह से हमारे देश से चले जायें और हम स्वयं अपने देश का राज्य करें । आज जब हमारा देश स्वतन्त्र हो गया है और हमारे माननीय नेता देश की बागडोर चला रहे हैं, तो इस तरह से देश में अशान्ति फैलाने वालों को पनपने देना नहीं चाहिये और यदि ऐसी गड़बड़ी करने वाले देश में हैं तो उन्हें अदृश्य कानून से ऐसा करने से रोकना जनतन्त्रात्मक सरकार का कर्तव्य है ।

बहुत से लोगों ने यहां पर यह भी कहा कि इन लोगों को कोर्ट (Court) में जिस तरह से और मुकदमे होते हैं, इनका भी ट्रायल होना चाहिये । हम जानते हैं कि किसी मुकदमे की कोर्ट में जाने से क्या दशा हो जाती है । हमारा जूडिशियल प्रोसीजर (judicial procedure) जो हमें अंग्रेजों से विरासत में मिला है, उसकी अच्छाई और कमजोरियों से हम सभी परिचित हैं, वहां बहुत समय लगता है और तरह तरह की पेचीदा बातें पैदा हो जाती हैं । वकीलों का मैं पूरा सम्मान करती हूं और यह भी जानती हूं कि बहुत से वकील संसद् में और प्रांतीय धारा सभाओं में बहुत ही सफल हुए हैं । मगर

अक्सर यह देखा गया है कि किसी मुकदमे में वकील झूठ को सच और सच को झूठ बनाने में कभी नहीं हिचकते, चाहे एक केस (case) कितना ही सच्चा क्यों न हो। चाहे वह वकील कितनी ही सच्ची दलील पेश करे, अगर वह अच्छी तरह से उस केस की वकालत नहीं कर सकता है तो वह केस हार जाता है। यदि कोई वकील केस में अच्छी तरह से दलील दे रहा है, तो चाहे वह केस कितना ही झूठा क्यों न हो, वह केस जीत जाता है। जहां इस तरह की हमारे कोर्टों की हालत है वहां यह कैसे माना जाय कि उनके मुकदमे का फैसला जल्दी और सही हो जायेगा, जब कि हम देखते हैं कि वर्षों तक मुकदमों का फैसला नहीं होता है और यह भी देखा गया है कि कभी कभी मुकदमे के फलस्वरूप अपराधी छूट भी जाते हैं।

इसके अतिरिक्त यह भी है कि जो लोग प्रिवेन्टिव डिटेन्शन ऐक्ट में पकड़े जायें और जिनका मुकदमा लड़ा जाय तो उनके विरुद्ध कोई भी गवाह नहीं मिल सकेगा, यह मुझे पूरा विश्वास है। अक्सर यह देखा गया है कि जो छोटे लोग लूटपाट करते हैं, तो उनके डर के मारे उन्हें बहुत से विटनेस (witness) मिल जाते हैं परन्तु सरकार को सच्ची विटनेस मिलना मुश्किल हो जाता है। जो लुटेरे होते हैं, उनके खिलाफ लोग विटनेस देने में डरते हैं। यह ख्याल होता है कि वही वह उनको जान से न मार डालें। इस तरह से सच्ची विटनेस मिलना बहुत ही मुश्किल हो जाता है। उन लोगों के खिलाफ बोलने वाला तथा विटनेस मिलना बहुत ही कठिन हो जाता है। बहुत से लोग इतना होने पर भी यह कहते हैं कि आज की सरकार का यह धर्म होना चाहिये कि वह हर एक व्यक्ति को स्वतंत्रता दे, भाषण देने की और दूसरी चीजों की। मैं आप लोगों से कहती हूँ कि आप लोग जो एक व्यक्ति की स्वतंत्रता पर इतना जोर देते हैं, वे लोग दूसरों की स्वतंत्रता पर विश्वास क्यों नहीं करते, राज्य की स्वतंत्रता पर, या देश की

स्वतंत्रता पर। यह देश जहां की स्वतंत्रता शिशु के समान है, क्या हमारे देशवासियों का यह कर्तव्य नहीं है कि इस स्वतंत्रता के शिशु को अच्छी तरह से पनपने दें? पर नहीं, आज तो हमारे भाइयों के दिमाग में दूसरी ही चीज समाई हुई है। वह तो लोगों को भड़का कर और उनमें गलत प्रचार करके हमारी स्वतंत्रता को खत्म करने में लगे हुए हैं। तो क्या यहां पर यह नहीं समझा जाता कि कुछ व्यक्ति व्यक्तिगत स्वतंत्रता के नाम पर करोड़ों लोगों की स्वतंत्रता को खतरे में डाल रहे हैं। आज यहां आकर वे ही लोग इस कानून से व्यक्तिगत स्वतंत्रता के महत्व का प्रचार करते हैं। "दी डेविल इज कोटिंग स्क्रिपचर्स" (The devil is quoting scriptures)। मैं यहां पर यह कहना चाहूंगी कि व्यक्तिगत स्वतंत्रता जिस प्रकार की आप देना चाहते हैं उससे देश की स्वतंत्रता नहीं रहती वरन् एक व्यक्ति की स्वतंत्रता न देने से पचासों व्यक्ति स्वतंत्र हो जाते हैं। तो क्या एक व्यक्ति की स्वतंत्रता के लिये पचासों व्यक्तियों की स्वतंत्रता का हनन किया जाय?

हमारे यहां राजस्थान में जिस तरह से लटपाट और खूनखराबी हो रही है, जिसके बारे में हमारे भाई बरकतुल्ला जी ने अभी यहां पर कहा है, उसके बारे में मुझे ज्यादा कहना नहीं है। परन्तु साथ ही साथ हमारे भाई हरीशचन्द्र जी ने राजस्थान के बारे में यह कहा कि वहां पर कोई खास बात नहीं हो रही है। उन्होंने कहा कि कांग्रेस में थर्ड ग्रेड (third grade) के आदमी आ गये हैं, इसलिये कुछ अव्यवस्था है। तो मैं यही कहूंगी कि इन कांग्रेसियों ने आप के मालिक राजाओं की तानाशाही को समाप्त कर दिया है, अतः आप उन्हें थर्ड ग्रेड से भी अधिक कुछ कह दें तो कोई आश्चर्य की बात न होगी। आपने राजपूत राजाओं के नीचे काम किया है जो जनता पर तरह तरह के अत्याचार करते थे और प्रदेशी सरकार से हाथ जोड़े रहते थे। आपको तो यह जनता का राज्य, जहां आपकी पूछ नहीं है, बुरा लगेगा

[Shrimati Sharda Bhargava.]

ही। मैं इन माननीय सदस्य से यह जानना चाहती हूँ कि क्या वह चाहते हैं कि इन लुटेरों के हाथ में ही राजस्थान रहे। मैं आप से यह भी कहे देती हूँ कि राजस्थान में भले ही कांग्रेस की सरकार की शक्ति न रहे, पर आपके पास सत्ता नहीं आ सकती है।

हरीशचन्द्र जी जब कहते हैं कि राजस्थान में कोई भी नहीं मारा गया, तो मैं यह कहूंगी कि या तो वह कभी अखबार नहीं पढ़ते हैं और उनको राजस्थान की हालत के बारे में बिल्कुल ही ज्ञान नहीं है, अथवा वह जानबूझकर ऐसी बातों से आंखें बन्द कर लेते हैं। क्या उनको नहीं मालूम कि अक्टूबर, १९५१ में लिखमराज अपने ६ साथियों के साथ कुछ लुटेरों द्वारा जान से मार डाले गये और उन्हीं लुटेरों ने उनके गांव में आग लगा दी। और जब पास के गांव भूडाना के किसान आग बुझाने आये, तो उन पर भी उन्होंने हमला किया जिसमें एक-दो नहीं ९ किसान जान से मार दिये गये। इसके साथ ही साथ मैं आपको एक उदाहरण और देना चाहती हूँ। जयतराम तहसील में निम्बल स्थान पर दो वर्ष पहिले कांग्रेस कार्यकर्ता लूणकरण के नाक-कान काट डाले गये। निम्बल के जागीरदार का चालान किया गया, मगर अभी तक वह पकड़ा नहीं गया। चुनाव में एक कांग्रेसी उम्मीदवार परशुराम के नामिनेशन फार्म (nomination form) में उसके नाम का प्रस्ताव करने के कारण अप्रैल, १९५२ को रामदत्त नामक एक व्यक्ति मार डाला गया और सात दिन बाद उसका समर्थक श्री दुंगाराम भी मार डाला गया। अभी हाल में इसी डाकू पार्टी द्वारा १० जुलाई को चामू गांव में ६ किसान मार डाले गये और ८ घायल हुये। चामू के जागीरदार के भाई तथा नीकरों द्वारा, जो कि ठिकाने के घोड़े और ऊंट पर आये थे, उनकी बंदूकों को काम में लिया गया। इस प्रकार कई हत्याएँ होती रहीं। ८३ कांग्रेस कार्यकर्ता तथा किसान मारे गये, परन्तु अभी तक

भी पूरा पता नहीं लग सका। ८ मुकदमे चल रहे हैं, २७ व्यक्ति छोड़ दिये गये हैं और ६ मुकदमों में पकड़े हुए लोग मुक्त कर दिये गये हैं। तो किसान कब तक इन अत्याचारों के शिकार बने रहेंगे। डाके डालने वाले तो कई पकड़े भी गये, मगर असल में डाका डालने वालों से अधिक ताकतवर डाका डलवाने वाले हैं। जागीरदारी समाप्त करने से जागीरदारों के कलेजे बैठे जा रहे हैं और उनको उत्पात का भूत सवार हो गया है और वह राजस्थान में इस तरह से गरीब जनता को सता रहे हैं। आखिर-कार जागीरदारों में से असेम्बली के तीन मेम्बरों को भी पकड़ा गया तब कुछ शान्ति हुई।

SHRI M. S. RANAWAT (Rajasthan)

श्री एम० एस० रानावत (राजस्थान): वह तीन एम० एल० ऐ० क्या अलवर के पकड़े गये हैं ?

SHRIMATI SHARDA BHARGAVA :

श्रीमती शारदा भागवत: आप जरा समझ कर प्रश्न कीजिये। तो मेरा कहना यह है कि इस समय राजस्थान में प्रिवेन्टिव डिटेन्शन एक्ट की बहुत ही अधिक आवश्यकता है। उसके बिना वहां पर तो मेरा ख्याल है कि गरीबों की रक्षा नहीं की जा सकेगी। वहां तो एकदम सरकार को पूरे अधिकार दे दिये जाने चाहियें कि जो कोई भी इस तरह का काम करेगा उसको फौरन पकड़ लिया जायेगा और उसको नज़रबन्द कर दिया जायगा। मेरी राय में तो ऐसे व्यक्ति को कड़े से कड़ा दंड दिया जाना चाहिये, जो देश की शान्ति एवं व्यवस्था को समाप्त करना चाहता हो। हमारे वशिष्ट पुराण में लिखा है :

“अग्निदो गरदश्चैव शस्त्रपाणिर्धनावहः

क्षेत्र दारा हरश्चैव पड़ेते आततायिनः”

अर्थात् आग लगाने के लिये आया हुआ, विष देने वाला, हाथ में हथियार लेकर मारने को आया हुआ, धन लूटने वाला, खेत नष्ट करने वाला स्त्री को हरने वाला, ये ६ आततायी हैं। मनु ने भी कहा है कि इनको दंड देना परमावश्यक है और उसमें कोई पातक नहीं है।

राजस्थान में हमारे गुमराह भाई जो अपने को अब भी देशभक्त कहते हैं स्वार्थ के लोभ में अपने सामान्ताही गढ़ों को टूटता हुआ देखकर देश में अशान्ति तथा अव्यवस्था फैला रहे हैं। उनके द्वारा की गई हिंसक प्रवृत्तियों के प्रति कठोर से कठोर कानून काम में लाना चाहिये। इन लोगों को किसी तरह का मौक़ा न मिले कि वह शान्ति और व्यवस्था में किसी तरह से विघ्न डालें।

एक बात और जो मुझे कहनी है, वह यह कि मेरे भाई हरीशचन्द्र जी ने बड़े जोरों के साथ यह कहा है कि राजस्थान में पहिले अच्छा राज्य था, मगर अब नहीं है। वह यह बात क्यों नहीं कहेंगे क्योंकि पहिले वहां पर जागीरदारों का राज्य था, मगर अब जागीरदारी खत्म हो रही है और उनका हमेशा के लिये इस देश से अन्त किया जा रहा है। उनके पास जो कुछ रुपया-पैसा था, वह खत्म हो रहा है। वह चाहते हैं कि जिस तरह से आज तक जीवन का आनन्द उठाते आये और गरीब जनता को परेशान करते आये, उसी तरह से वह जीवन व्यतीत करते रहें। इसके अतिरिक्त अपनी परम्परा से आई हुई हुकूमत को छोड़ने में यह लोग कठिनाई मालूम कर रहे हैं और इसी कारण अपने स्वार्थ के वश होकर देश की शान्ति और व्यवस्था को भंग करना चाहते हैं। हरीशचन्द्र जी ने उन्हीं के समय में प्रजा पर मनमाना शासन किया है, अतः वह तो उनके राज्य का यशोगान करेंगे ही।

मैं अन्त में यही कहना चाहूंगी कि सरकार को इस बिल के द्वारा इस तरह के लोगों की कार्यवाही को रोकने के लिए और भी कड़े से कड़ा कदम उठाना चाहिये। इस बिल के द्वारा इस तरह के आतताइयों को पकड़ सकेंगे और देश में शान्ति और व्यवस्था को कायम कर सकेंगे जिससे कि हमारा देश उत्तरोत्तर उन्नति करता रहे। इसलिए मैं इस विधेयक का पूरी तरह से समर्थन करती हूँ और आशा करती हूँ कि इसको भवन सर्वसम्मति से स्वीकृत करेगा।

[For English translation, see Appendix II, Annexure No. 89.]

SHRI M. S. RANAWAT : I will probably first of all tell you that I would not try to answer the points of the hon. the lady Member who spoke just now, but I will reply to Mr. Barkatullah Khan. He is an old friend of mine and he comes from Jodhpur. He said there was lawlessness in Rajasthan and he said that the Prime Minister, Mr. Jai Narain Vyas, told him that he was absolutely not able to control the law and order situation. I tell you that is why the people have not elected him; that is why the people have not given him votes. They knew he is incompetent. But then my friend with the help of some of the Central Ministers even tried to mislead the hon. Prime Minister by seeking permission to get him to stand for election again. I do not know how he will fare again, but if he is elected he will not again be able to control law and order and the Home Minister of India will be in greater difficulty. I do not say, Sir, that in Rajasthan no crimes are committed. That way, I do not think, any State anywhere in India can claim that crimes are not committed, that crimes were not committed and that crimes will not be committed. Crimes are committed everywhere, wherever the Ministry becomes loose, wherever the Administration becomes weak. Whenever crime increases, it is a reflection on the Home Ministry of a State; it is a reflection on the police and the magistracy of that State. In U.P., when our present Food Minister was there, we used to hear a lot of stories. It was he who with a strong hand saved U. P. from a lot of difficulties. For all these States, particularly for Rajasthan, the Central Government and the hon. the Home Minister has a special responsibility. My hon. friends on the Congress Benches say that there is enormous lawlessness in Rajasthan. They say that there is so much lawlessness in that State that it looks as if Rajasthan was sitting on a volcano. If that is the situation there, why don't you declare martial law? There is a strong case for declaring martial law. Declare

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martial law and hang every Rajput and every *Jagirdar* on the nearest lamp-post. But what is the situation ? Only about 60 people have been taken under the Preventive Detention Act. I will tell my hon. friends, and particularly the hon. lady Member who spoke just now, that if you think that when this Preventive Detention Act is sanctioned that is going to stop lawlessness in Rajasthan or anywhere else in India, you are mistaken. It is the police, it is the normal law, it is the Police Act, the Penal Code and the other Acts, if they are properly administered, if the magistrates and police and Ministers do their duty—it is these that will enable you to maintain law and order. I will give you bare, simple facts about these 60 people. Formerly, only the Pakistan border was involved. But after the new Government came into power, as soon as the Legislative Assembly meeting took place, they passed an Act effecting tenancy reform. They effected a reduction in the rents of the tenants. They rushed the measure through. They did not call any committee meetings. A fear psychology got hold of the Rajasthan Government that the *jagirdars* might become violent, and they started arresting people. Now, in a particular area of Rajasthan called Torawati, there are large numbers of Bhomias. You know, Sir, 6,000 or 8,000 army personnel were disbanded, and all these people are still without any employment. Fifty per cent. of their pension cases have not been decided. There have been schemes of rehabilitation and land distribution, but not a single person has been rehabilitated or been given land. They say, "Your files are here". That is the economic trouble. Those people wanted to do cultivation of their lands. While they were in the Army, the lands were being cultivated by some others. When they returned, they had nothing to live on. Then we had our 'Karyakartas' going round the villages and taking up their cases as if to give them help. I will tell you about Preventive Detention cases. They arrested three M.L.As. The first was Devi Singh. He was arrested. The case went to the

High Court. The High Court, on a *habeas corpus* petition, released him. Another case is that of Garadan Singh. The police who arrested them were so incompetent that they said that Devi Singh was somewhere at the time when actually he was in the Assembly. There is such incompetence among the police and among the magistrates. But then they said, "anything is good enough to hang an M. L. A. if he happens to be a *jagirdar* or a Rajput". The third man whom they took was from Jodhpur State. His name is Kesar Singh. What happened ? The police went to his old house and searched it. He was not there. When he was returning, they accosted him. "Are you Kesar Singh" ? "Yes". Then they took him. Now, you will see how incompetent they are. The rules were made on the 14th of May, as to how prisoners or detenues are to be treated. One week after, the man was taken under detention. He could not be given jail treatment because he was not a prisoner. For three days the man was not given food. He was a respectable man. For seven days he was in *kal-kothi*. He was also released.

Then there is another case of Sohan Singh as also that of Balwant Singh and Ude Singh. All these people have been released either by a court or by an Advisory Board. Now in Jaipur there were Bhoomias. They said that these Bhoomias are not going to obey. There is a punitive police. But that was not enough. So they said 'Let there be preventive detention'. And they detained 13 men, Sir. All these 13 men were brought in. The cases of about 11 went to the High Court. The case was argued and the Government advocates found that Government had a very weak case. In the meantime their cases were examined by the Advisory Board presided over by a High Court Judge. So far as I understand, the cases of two people only, Durga Singh and Jagannath Singh, who were arrested on 9th July, are pending before the Advisory Committee. Not a single man could be detained either in the court of law or by the Advisory Committee. Now, Sir, where was the police officer's competency ?

Now, Sir, I tell you one story of my own State. The Revenue Minister had a feeling that the Udaipur people should know that he was more powerful than even the Rana of Mewar. He must show his might. Bija Singh, M. L. A. was arrested. He was arrested under certain sections of the criminal law i.e. harbouring and assisting of dacoits— a very serious offence. That man was brought handcuffed. He was paraded and brought in a law court. The District Magistrate I believe was influenced by the Minister that *zamanat* should not be accepted. Who are the District Magistrates? The services story of Rajasthan is harrowing. And that District Magistrate did not accept the *zamanat*. But there is one fortunate thing in India that there is a High Court and there is the judiciary which is not influenced by the party Government or party officials. The Judge asked: "Where is your *prima facie* evidence?" The police had not even proper evidence. So he was released on bail upto the end of July. The case has not yet been challaned. This all shows that they were so enthusiastic to arrest the man, to bring him to the court and all that. Because that young man was married to the daughter of the cousin of the Maharana, they were trying to show to the people and say: "Oh, look here. This is not the old Maharana's regime. See, his nearest relations we can handcuff etc". This is about these cases.

(Time bell rings.)

Then again I tell you in Rajasthan we had one Mr. Bannerji, Inspector General of Police of the Bengal Province. That man came and was appointed as Inspector General of Police. He was a very honest and intelligent officer. He organised the police force. But in the meantime Greater Rajasthan came in and then we had some new I.C.S. bosses coming from U. P. They would not stand that strong Bengali Inspector General of Police who was too strong and considerate a man. So they quarrelled. Then Sardar Patel went to organise that place—that Birla-gee's place. Then somehow or other

he had to resign and he submitted a report of about 500 pages to the Central Government. And after that we got another gentleman Mr. Misra—a very valuable and senior man. (Interruption) What I would say is that where there is no good Government, there is bound to be some trouble. Even in Chandni Chowk or even in this very Parliament House there can be some trouble if proper organisation and good Government is not there.

Then Mr. Misra came and he was asked to enquire, but nothing happened. He reported that there was nothing, and therefore he was made to go back. Now a gap comes in. Junior police officers came in, and in between the Ministry had done so many things into which I do not want to enter. We have now another police officer, Mr. Billimoria, from Bombay, a very senior man. So long as Mr. Venkatachar was our Chief Minister, everything went on well. If they are going to elect the Ministers from among the elected men, Panditji said that if wrong people are elected on the Congress ticket, he would ask them to quit. The Rajasthan people are not foolish. What happened was that our ex-Ministers, ex-Chief Ministers and Congress Presidents were defeated and second-rate Congressmen got elected, people who were not known to be bad because they were new. I will ask the Home Minister to pass not only this Act but also much more stringent measures; but you please go there and administer it yourself and not hand over your functions to Mr. Jai Narayan Vyas and others.

SHRI BARKATULLAH KHAN: My hon. friend is mentioning the names of persons who are not here to defend themselves.

SHRI M. S. RANAWAT: You are here to defend them. The whole party is there to defend him. So, my request is that the Government of India should send a person there of the calibre of the Home Minister. If you ask a man of the calibre of the Food Minister, I would have no objection. The Rajasthan people voted for the Congress

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only with a narrow majority, and then unfortunately all the top-ranking Congressmen were not elected. (*Time bell rings.*) I have only just begun.

MR. DEPUTY CHAIRMAN : Mr. Bhupesh Gupta.

SHRI B. GUPTA : Mr. Deputy Chairman, Sir, I rise to oppose this blackest of the blackguardly Acts that ever disgraced our public life and our patriotic traditions. I know, Sir,

SHRI O. SOBHANI (Hyderabad) : Is the word "blackguardly" parliamentary ?

SHRI B. GUPTA : It is about the Act, not about you.

DIWAN CHAMAN LALL (Punjab : My hon. friend has raised a point of order. Is the word used by my hon. friend, which is abusive, a parliamentary expression ? He wants your ruling, Sir, on the point.

MR. DEPUTY CHAIRMAN : It is most unparliamentary.

SHRI B. GUPTA : Sir, I submit I rise to

MR. DEPUTY CHAIRMAN : You first withdraw that expression.

SHRI B. GUPTA : I withdraw it since it is unparliamentary. I would like to tell my hon. friends on the other side through you that they should also learn to use parliamentary expression when they talk about us.

MR. DEPUTY CHAIRMAN : I expect every hon. Member would use only parliamentary words.

SHRI B. GUPTA : I hope your expectations would be fulfilled. Sir, I rise to oppose this blackest measure which has ever disgraced our patriotic traditions. Now, Sir, I would not go into its abuses, because if I begin to recount the atrocities that have been associated with this Act, I will take

hours. At every step, this black Act has been attended with blood and tears, boseness and brutality. So long as this Act remains on India's Statute Book, India can never remain quiet, for we have been given a behest by our forbears to fight against such measures.

If the pillars of this House could speak, they would have loudly protested against this measure because our forbears here in these halls fought it when the Congress Party had not crossed over to the Maxwell-side. Mr. Deputy Chairman, Sir, I feel that this measure has to be assailed from all angles because there is no justification for it. It goes against all democratic principles, principles for which human generations have fought for centuries, principles that were first upheld in the Bill of Rights of the Americans in 1791, principles that were fought for by the British and the French, principles that have been fought for by our leaders in the past, principles which are being fought for today all over the world by democratic and progressive people. Because these principles are yet unconquered and unconquerable principles. They were incorporated in the Universal Declaration of Human Rights as adopted by the General Assembly of the United Nations on 10th December 1948. Article 9 says :

"No one shall be subjected to arbitrary arrest, detention or exile...."

In this document where Human Rights have been stated, there is a Preamble which says :

"Where it is essential, if a man is not to be compelled to have recourse as a last resort to rebellion against tyranny and oppression, those human rights should be protected by the rule of law".

Those gentlemen of the Congress, those disciples of Gandhiji who preach one thing and practice another, who mouth non-violence phrases only to speak elsewhere through the mouths of guns, will kindly note the Preamble of this Charter where it is conceded by implication, even by the United Nations that under certain conditions even rebellion is permissible.

(MR. CHAIRMAN in the Chair.)

If you want to stop rebellion of men in this country, it is your duty, Sir, to bring into operation democratic principles, establish the rule of law, not the rule of the truncheon, not the rule of the gun, not the rule of might that you possess today. I can tell you that whatever the Congress may do, they have not got enough gun-powder in the magazine to crush the freedom spirit of the people. The Indian people would rather die on their feet than live on their knees. I want to tell very frankly that it is not a question of violence or non-violence, it is a question of fighting for human rights, it is a question of life and death, it is a question for the future of our generation. It was most painful to hear the hon. Home Minister, one-time disciple of Pandit Motilal Nehru, one-time defender of the accused in the Meerut Conspiracy Case, speak in the language of Maxwell and similar others. It is a tragedy in our public life that men who at one time inspired a certain spirit in the movement of this country have begun to assume the role of those people whom we were taught to hate. It is a tragedy of our country today; but this tragedy is nothing new. It has become a part of our life, especially in the higher councils of the Congress where all ideals are being abandoned with a rapidity which one cannot comprehend.

Mr. Chairman, the hon. Home Minister gave a background picture of the Preventive Detention Measure. He drew his picture according to his own lights. He stated so many things which I need not repeat here. In order to justify the necessity of this Act he drew a kind of horrible picture but in that picture something was missing. In that picture of Calcutta which he gave he did not mention the defenceless women who were brutally killed by the police firing in the streets of Calcutta on the 27th April 1949. Nor did he tell you in this House of the murder of an expectant mother who was carrying a child in her womb in a village in 24 Parganas. I would not go on mentioning misdeeds of this kind that have

been committed because there is no end of it. The leader of our party has cited and given you the names and numbers about such cases and called upon the Government to institute an enquiry. I wish the hon. Minister for Home Affairs before coming here with his brief for support for this measure, had instituted an enquiry into the allegations that had been made of murders etc. Then he would have known the truth. Therefore I will leave this part of the story at that.

Now it has been contended by people that this measure is absolutely necessary because certain things happened. I may tell you straightaway that the Communist Party of India when it met in Calcutta in February-March of 1948, had nothing in contemplation about violence or anything of that sort. The political thesis of the party is there still before you as a public document. There is not the slightest suggestion about violence or anything of that kind. But the Congress conscience, full of guilt about the Mountbatten deal, realised that if we began to expose the deal that had been made, things would be difficult for them. That is why with a fury that is unparalleled in our generation, they came down upon our party and attacked us unawares, carried out searches all over the country, banned our press and drove us underground. Not that we wanted to go underground. I was one of those who went underground and I say I did it because I did not want to please and oblige Shri Kiran Shanker Roy, the Home Minister of that time, who brought out fantastic allegations and talked of accumulation of arms by the Communist Party and all that but never discovered even a—dud cart-ridge anywhere through the searches that were carried out all over West Bengal. That was the provocation, the political provocation—that compelled us to go underground. After that provocation some people were naturally enraged, in the same way as they were enraged when leaders were arrested on this very day ten years ago, and expressed their anger. Then a handle was found. More excuses were found to let loose in the country a veri-

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table reign of terror, paralysing the whole democratic public life. They departed from all rules ; and the truncheon came to reign. Detention camps were established by these Congress Ministers. In the Dum Dum Central Jail where I lived, three detenus were murdered in cold blood in 1949. These are the things that happened. I need not go into them. I only refer to them briefly to show how the Congress Government provoked the country and led to the situation which enabled them to come down upon us with more measures of repression. They started the era of political repression all over the country, respecting no law, respecting no human values and led the country into a wilderness for which generations will remember them with unbounded shame. Therefore, I need not repeat that story.

I should have thought that the hon. Home Minister, an able lawyer, would come here to establish his case, a political case, for having this measure. He gave us an exposition of law and he did his job from his point of view very well. I would like to mention here that that is why we want lawyers to defend also cases of the detenus before the Advisory Boards, because we know, Sir, that if we have our little lawyer Dr. Katju fighting for a noble cause they will do much better than people who are not conversant with the technicalities and procedure and the methods of presentation of law. I hope the hon. the Home Minister will kindly note this point from the experiences of his own performance.

Now, Sir, what is the case ? Nothing. No case has been established. Some mention has been made of certain incidents which took place in 1948, 1949 and 1950, but, we live in the year of grace 1952. Now, what is the situation there ? The country is peaceful. The objective situation does not at all allow for extraordinary measures to be taken by any stretch of imagination. Now, Sir, we find there is peace in the country and tranquillity prevails not because the Congress has succeeded in repression, but because the people want to try democratic

methods that are available to them. Peace and tranquillity obtain in the country and even so we find the hon. the Home Minister coming before us with his regrettable logic and expecting us to support the measure which, in the final analysis, only tends to provoke the people, create a situation in which Fascism may flourish, but democracy never. That is why I say, Sir, this measure one has to be put in the pipe and smoke. But, I know, Sir, that the Congress heart is beyond my reach. I cannot touch it. I know a great transformation has taken place but I wish I had powers to liberate the soul of Dr. Katju of 1931.....

(Time bell rings.)

from the evil spirit of 1952. I have got no such power, Sir. The bell is ringing and I thought I would get a little more time as the hon. Minister spoke for a long time and there was a big Congress tub-thumper here somewhere in the House who also spoke. Well, therefore, I thought I should be given a little more time.

My contention is this : no justification whatsoever, objective justification—I am not talking about subjective feelings, you may have all kinds of feeling and I know that Congressman's heart is panic stricken and that has sneak in his boots. There exists no warrant for this measure at all. If you want to maintain peace, maintain the democratic order, maintain the democratic atmosphere, give people freedom to express their opinion and carry on their rightful movement. Do not fetter them. Only then it will be possible to maintain peace.

MR. CHAIRMAN : Thank you, Mr. Gupta. I want to tell you that there can be great sorrow without tears, great joy without exultation, great passion without excitement and extravagance of expression.

SHRI B. GUPTA : But, Sir,

MR. CHAIRMAN : That will do now. Thank you. You will have another chance, with the amendments and so many other things coming in.

(Time bell rings.)

SHRI B. GUPTA : I only want three minutes, Sir.

MR. CHAIRMAN : No, no. Dr. Katju.

THE MINISTER FOR HOME AFFAIRS AND STATES (DR. K. N. KATJU): Mr. Chairman, we have heard very eloquent speeches, moving speeches and a lot of acclamations. I must confess, however, that though I may be considered heartless, I have been left absolutely cold. The last speaker referred to the Declaration of Human Rights. Everybody accepts that. There is some reference there to due course of law. When we come here, the Government of India comes here, to Parliament, for legislation, Parliament enacts a law and that is the due course of law, as I understand it. There is a lot of difference between acting according to the arbitrary discretion of the executive and acting according to the procedure, what is called in the American phrase, "due process of law". Now, I have been asked over and over again by many hon. friends some of whom I hold in great esteem and affection, "You have given us no facts. Nothing has been stated to us. What is the ground for your coming here for extending this Act?" When this was said here and argued here in a variety of ways, I was reminded of a day in the Allahabad court—I believe it was in 1917 or 1918—and I was sitting in court appearing in a case. My opponent was arguing and the learned Chief Justice—an Irishman—I do not know whether he is alive now, but one of the most brilliant men I have come across—he said to my opponent, naming him : "Mr. So and So, you could take the horse to the pond but you cannot make him drink. Either you don't understand us or you cannot understand us." Now that was a judicial pronouncement that I am quoting, otherwise I would not have said it myself. Now, what more proof do you require than the speech that was delivered by my hon. friend opposite? We are all responsible men here—Members of Parliament—speaking of the two Houses together, 700 men. In the

House of the People, they are representatives, directly elected by the Indian people, here we come again by election, but through a somewhat indirect process. We read newspapers daily ; we hear accounts of Saurashtra, Rajasthan, West Bengal, Travancore-Cochin, Hyderabad ; it is not what we hear—they are the under-currents. Just fancy to yourself—I repeat once again I speak without any offence, without any malice whatsoever—if my hon. friends here in this calm Parliamentary atmosphere could speak in the language that they did here, just fancy when they go to a public meeting—a meeting of the masses—what sort of language they would speak. I tell you with all confidence that for this Bill no other justification is required—absolutely none—than the speech that was delivered by my hon. friend here yesterday morning. Just consider that I have throughout these discussions never named any particular party. I have said over and over again that this Bill is directed not against parties—political or otherwise—groups or associations. It is directed against individuals. The time may come when if we find that groups and parties and associations are combining together for a particular purpose, then to quote the famous judicial dictum, the arm of the law may be found long enough and strong enough to reach any offender whoever he may be. I might say that the Government of India may take and follow the advice given by one hon. Member there and some hon. Members elsewhere and ban the whole party. This is not a matter of personal choice or personal predilections or homage to mere theoretical doctrines. It is a matter of peace and tranquillity in this big land, and if they have got to be banned, well they will be banned. I entirely agree with hon. Members there who said : "Well, if you are governing, govern ; otherwise get out. Get on, or get out." You cannot do it with mealy-mouthed phrases with this current running. I hate to discuss Telangana every time. When we are in 1952, we are flooded with what happened in 1947 or in 1946 and even before that. "The Nizamshahi was very bad, Telangana was oppressed.

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The cultivators were groaning. The Razakars were shouting. And all sorts of things took place." Sir, from 1946 to 1952 six years have elapsed. It was not a gentle situation. When you start a civil war and the Army has to intervene, the Army has got only one thing at its disposal, and that is the gun. The police may have a lathi. The soldier—the Indian soldier, the British soldier, the American soldier—has got only a gun at his disposal. I was not here ; I do not know much about it. They say that the police started it. There were excesses. The military came along. They started it. And the wonderful point is this. This may be the fault of my upbringing. A lawyer has got to be precise. If I were to say to a judge, "five thousand cases of this kind have occurred", do you know what the answer of the judge is going to be ? "You are exaggerating." How can you say so many thousands—round thousands ? Everything in thousands—never is it 4,999. Here is my hon. friend counting in thousands : loot, 9,000 ; 300 women raped ; 400 children tortured—all quite large figures

SHRI P. SUNDARAYYA : Approximate figures.

DR. K. N. KATJU :..... as if they had taken an actual census ! Let us leave it there. Who started this, we do not know. Murders took place. People rose up in arms. Against whom ? Is it Korea ? Is it South Korea and North Korea ? Are you going to have truce, and conversations carried on as they are being carried on in Pan Mun Jon ? I was astonished. I had heard it before. My hon. friend says : "Look at my gentleness. I made an actual offer. I have got so many guns, so many sten-guns, so many bren-guns, so much ammunition ; and I actually offered to present it." Negotiations to take place on what basis ? "Do not arrest me. Give me a sort of general acquittance. *Le len aur de aen*. We agree to settle the account," Are you talking with the Government, or are you talking with

your enemy ? Sir, no Government can remain in any country which can compromise on these terms. Hon. Members should realise what the situation is going to be

SHRI B. GUPTA : Gandhiji did it.

DR. K. N. KATJU : I am not going to be interrupted.

SHRI B. GUPTA : Sir

DR. K. N. KATJU : I am not going to be interrupted, Sir. The hon. Member should listen. I am not going to give way, unless the Chairman directs.

MR. CHAIRMAN : The hon. Minister may proceed.

DR. K. N. KATJU : They are going to dictate terms to their Government. They may be patriots. Other people may call them murderers. They may be robbers, other people may call them Robin Hoods. They may burn villages, other people may call them people who clear up the village refuse, dirt. It is not going to be a truce. I may assure you on one point that so long as the Government exists, do what you like, but it will not enter into negotiations on those terms. You may keep your arms. You may go into the jungles. Say what you like and behave as you like and live as you like but Government will not be going to settle with any section of the community that holds out these threats. This is going to be Government and not a farce. Let us be clear about it. I was rather surprised to hear something. I must say I hold them in very great respect and affection. The whole country does it. While my hon. friend Acharya Narendra Deva said lots of things, he never said this thing as to what his opinion was in regard to this aspect of it. What would he do if he were here ? Would he enter into negotiations ? My hon. friend went into minute details... legal advice here or legal advice there, legal advice before a representation

was made and legal advice after the representation was made—but the fundamental question is there. What have you got to say about it? This is the under-current which is flowing in this country and we have got to face it. Otherwise I do not know what will happen. I was really very happy to hear from my hon. friend that they loved the country. He referred to Kalidas. Of course I do not know Kalidas. I have only read it in a foreign language. I think he also referred to Vikramajit. He said "Our heart is over-flowing with affection for our country." This reminds me of a book which I was very fond of reading in my college days, Sir. It fascinated me. It was Boswell's 'Life of Johnson'. Dr. Johnson was a very famous conversationist. He had strong antipathy for Scotchmen. He was talking to a Scotman once in his usual style and decried Scotland in every way in the presence of that Scotman. The Scotman said, "But Dr. Johnson, you will agree that Scotland has many wide prospects." Dr. Johnson immediately said: "Yes, Sir. Scotland has many wide prospects and Iceland has noble wide prospects. But let me tell you that the noblest prospect of Scotchmen is the high road that leads him to England." Because at that time Lord Bute and other Scotchmen were there in London. So I tell my hon. friend opposite and many of his associates that whatever their love may be for India, the noblest prospect that they have got is the high road that leads them to some other countries both in the East and in the West. So we know where we stand.

My task has really been very much lightened by the speeches which have been delivered by my hon. friends opposite. But democracy is of two ways. One of the misfortunes of this generation is that the same word is not used in the same sense. The same word is used in the East in one way and in the West in another way. The word democracy there is the power of a particular party. You have elections. One list is put before the electorate, no other candidates. The

results are announced. 99·9 per cent. of the electorate went and voted. That is democracy there. They love it. They like it. But here is also this democracy, and I would beg hon. Members opposite to say whether in any other democracy a House of this description is conceivable, in the countries from which they draw their spiritual inspiration.....

SHRI B. GUPTA : It is, that is your trouble.

DR. K. N. KATJU :..... Spiritual sustenance and to which they are affiliated in spirit. Will speeches like these be permitted? Is it conceivable? I say, go to other countries. In the United States of America they call it "un-American activity." You know what it means. In the United Kingdom, there was one member of the Communist Party in the last House. I know the name but I have forgotten it.

AN HON. MEMBER : Mr. Gallachar.

DR. K. N. KATJU : Here full opportunity was given. Some people might say it was a mistake. Full opportunity was given. People came and said whatever they liked to say. I am not going into the merits. They say that in Telangana they won the elections. They won because they terrorised the people. The vilest things, the most extraordinary things—if I were on a public platform outside, I would have used a much stronger language—were said; every sort of charge was made as if we had become tyrants, we did not love the land, they are the torch-bearers of liberty and democracy and we are Fascists, communalists, goodness knows what we are.

Then, my hon. friend, Acharya Narendra Deva—he will pardon me for saying so—was a little doctrinaire. He talked of personal liberty, as if the Congress had lost all touch with the masses, all touch with the classes, all touch with personal liberty, and had turned to other shrines to worship

[DR. K. N. Katju.]

other gods. He referred in passing to the fact that I had quoted in the other place some passages from Mr. Herbert Morrison's speech. I did but not at any great length, and I would like, with your permission, Sir, to read a few lines. I quote him, not because I wholeheartedly agree with him—his way of thinking and my way of thinking are different; I have been brought up in a different school—but because he is a genuine Britisher, a Labour man, brought up in the highest traditions of liberty, freedom of the individual and all that, and the debate was on a similar motion, motion relating to some procedure and administration of the Detention Act. That was, I believe, the second year of the War, the commencement of the second year. It was the commencement of the second year of War and a lot of things had been said on the lines which were pursued here and this is what Mr. Morrison said. He refers to the speech of Mr. Stokes and says :

"I say to my hon. friend that the state of mind in which he made his speech today, that classical liberalism which maintains that there must be this, that and the other right maintained in all circumstances will not win a war."

He was referring to the war. Then he comes to a much more apposite feature :

"If you run a war in that way, you will lose it. If he tries to run a social revolution"

That is more applicable to our situation today :

"he will lose it. When will my hon. friend learn from the lesson of Germany? What is the lesson of Nazi Germany? It is that the Republican politicians of that time were too soft."

That was the German Republic which I think came into existence somewhere about 1925.

SHRI B. GUPTA : 1922.

DR. K. N. KATJU : Before Hitler got into eminence and got into power :
5 p.m.

"It is that the Republican politicians of that time were too soft—not that they were

too hard—in applying in what was a revolutionary situation classical liberal doctrines and so on. I am sure that my hon. friend would have dealt properly with full legal advice and procedure, with Herr Hitler if he had been in Germany at that time."

And then he goes on, after an interruption :

"I come back to the history of Germany, and I beg the House not to forget it. I particularly beg my hon. Friend not to forget it. The German Government of that time respected very fully these principles which are now urged upon me, and the result was that Herr Hitler was dealt with under a very gentle law. He was put into prison under very gentle circumstances. He also was not treated a criminal prisoner. He was given rights of access, and other persons were given rights of access to him. He was allowed to do almost as he liked. In a few months he was out."

I am reading this because Hitler was a man whom hon. Members do not like, nor do I, nor anybody:

"If I had been running the German Government at that time that man would never have got out. He would never have survived. He was an enemy of the State and he ought to have been shot."

And then he said—and I would request the House to particularly note this sentence :

"In situations of war, and situations of revolution,"

and we are going through a revolution—a social revolution :

"if you are to be soft and preserve meticulously liberal doctrines and principles which may be, and are, ordinarily right and defensible, and if that is the line that Ministers are to follow, I would only say to hon. Members: Take my advice, do not be a Minister in those circumstances, because it will be exceedingly dangerous for the security of the State or the success of the cause."

I read this because it comes from a Britisher, not that I adopt it. We are passing through, Sir, a social revolution and

SHRI S. MAHANTY : On a point of information, Sir, will the hon. Minister please define what a social revolution is ?

DR. K. N. KATJU : I am not answering any questions.

SHRI S. MAHANTY : Then what is the use of our listening ?

DR. K. N. KATJU : A social revolution is one where a particular old order is fading away and

SHRI S. MAHANTY : It is bound to fade away.

DR. K. N. KATJU :and a new order is taking its place. That is what I call a social revolution. When I started life twenty or thirty years ago I saw the social structure of that day, with so many zamindars, *jagirdars* and others. In the High Court fifty per cent. of the cases I was conducting belonged to the zamindars, *jagirdars* and they were all about sales, contracts, etc. The feudal structure in society was in full play. But in the U.P. zamindars are gone. The whole character of litigation has changed. That will be the situation in every part of the country.

SHRI S. MAHANTY : Do you want to oppose it ?

MR. CHAIRMAN : No, what do you talk.

DR. K. N. KATJU : I heard them. I have never spoken. Throughout the day I have listened to them.

Well, now the relation between capital and labour is changing. A welfare State is coming into existence. The Government is trying to do whatever it can to remove hunger, disease and to improve the existing conditions. It is not an easy job. It is not only as if the rulers of some States instead of getting crores are now getting lakhs. My hon. friends from U.P., both of them, know it. I think there are two lakhs of zamindars who will probably say they have nothing. I am not talking of the *taluqdars*. I am talking of the smaller zamindars. Similarly in Bihar too ; everywhere. It is no use shutting our eyes to the fact that we are passing through a social revolution. The argument is that the pace is too slow. But Darbhanga here says that the total amount of compensation given to him will not exceed some ten to twenty lakhs of rupees. The other argument says, "Don't give him a

penny." It is all a question of argument. But it will be blindness to say that we are not passing through a social revolution. There are various forces working in this country. I am not making any charge against anybody. I am obliged to my hon. friend for giving me an inkling into the working of his mind, my hon. friend Acharya Narendra Deva, when I referred to the Delhi incident and said this is a land of casteism. I entirely agree. He said that marriages between two castes or communities should be a private affair. I entirely agree with him again. All that was done in Delhi should not have been done. Still that is a matter of argument. But then we come to the basic question. Supposing all this was done and they wanted to make a *tamasha* of it. There were other people who did not relish it and they protested. They went about excited. Feelings were excited and lot of bitterness about it arose, and I told you what happened. But what was done by the two persons who were in the tram-car and who were severely injured and died ? What was done by them ? But this is what happens whenever there is such commotion, not only in Delhi but everywhere. I used to say and all of us used to say ten years ago, that is before Pakistan, that it would be absurd for any Hindu to punish a Muslim in Delhi because a Hindu was manhandled in Peshawar. This is exactly what happened in Calcutta when I was Governor there. In the holocaust of December 1949 and January-February 1950, people were killed, manhandled and such wicked things took place in Eastern Bengal. Equally such things happened in West Bengal ; people were taken out of the houses, pulled out of trains. What had they done ? It is not a question of one or two men, as my hon. friends, said very eloquently, sort of brandishing of banners, "300 men only." As a matter of fact, the number is not 300—it makes no difference—there are 500 or so, including 93 black-marketeers, who incite from behind. This may start a conflagration which may be difficult to control and which may cause an enormous loss of life. We have seen it and I have seen it in

[DR. K. N. Katju.]

Kanpur in the year 1931, when the riots raged for four days and 400 lives were lost. It could not be controlled. Then how to stop it? Nobody wants to put anyone in jail. That is not the object of it. I do not know what the argument is. As only 300 or 600 persons are in jail under the Preventive Detention Act, remove it from the Statute Book. There is no need. The reverse of the medal is "Well, it has been used most cautiously, most gently and may be that the situation improved as a result of that." I really wonder sometimes, and I have wondered all round for the last 2 days or 20 days, as to why my friends here are so deadily opposed to this measure. Does it mean that it will interfere, sometimes, with their programmes. The hon. Member from Aligarh said that they went there—someone said he was right and someone said he was wrong, but it really depends,—and they spoke in support of Urdu. They said the Muslims are being throttled. I would not quote, Sir, but when I was listening today, I was reminded of a passage in Macaulay's essays, "Ranke's History of the Popes". We all know about Macaulay's Hastings and Clive. There is an essay of his written on History of the Popes and I may read just one sentence, because I cannot have English of that description. Referring to the Jesuits, this was written about 1840—he says: "With what vehemence, with what policy, with what exact discipline, with what dauntless courage, with what self-denial, with what forgetfulness of the dearest private, with what intense and stubborn devotion to a single end, with what unscrupulous laxity and versatility in the choice of means, the Jesuits fought the battle of their Church, is written in every page of the annals of Europe during several generations." I would not take any more time of the House, but I should advise younger people, because this is supposed to be the House of Elders, who want to read a fine passage of literature, to read "Ranke's History of the Popes".

SHRI P. V. NARAYANA : Thank you.

DR. K. N. KATJU : I referred to what I thought to be our traditions in the preservation of law and order and my hon. friend, Acharya Narendra Deva was rather sarcastic about it. He said "Look at him." He is talking in praise of satyagraha, the fast unto death in favour of the stoppage of cow slaughter. I did not say anything of the kind. What I did say was, well that is in our nature. That is in accordance with our traditions. That is what was taught to us by Gandhiji. By non-violence if you want to further your cause, suffer yourself, but do not injure any other. If you ask my opinion about satyagraha, well, I won't take your time, because it is much too large a problem. There was a discussion—I noticed in the papers—between the Chief Minister of U. P. and Shri Vinoba Bhave the other day about it. Our ancient traditions were, as I understand them, Sir—it would be impertinent for me to talk in your presence about it—non-violence and righteousness of means to attain your ends, perfect renunciation, as Gandhiji used to say: Treat yourself as the trustee of whatever you have in wealth, in intellect, in wisdom, for the benefit of humanity. That is what Gandhiji used to say. He could say to a mill-owner: You are earning Rs. 10 lakhs. Earn it, but spend as little as you can on yourself and treat yourself as the trustee for the remaining Rs. 9,75,000. In one book which I daily read, it is stated: Place yourself at the disposal of the community, whatever you have in beauty, in wisdom, in intellect, in your expertness, in your skill, in your experience; whatever you have, place it at the disposal of the community. That is the tradition, I say, with which we should guard this freedom, this unity and preserve the peace and tranquillity of the land. That was what I intended to say. I imagine I was not properly understood or I did not make myself quite clear. I do not want to take up much time unnecessarily; for me this is not a twice-told tale, but almost a five times-told tale.

I now come to the details of the Bill—about the period two years or one year.

I said, among other reasons, I wanted to avoid excitement, annual excitement, this sort of—I do not mean to be derogatory—show. If you read all the speeches of these two days together, and if you cut out the kind or the unkind references made to the Home Minister either by name or by official designation and if you cut out or remove the homage paid to the goddess of personal freedom, personal liberty, in such a case what is left? Nothing is left. I think there were only one or two Members who dealt with the details of the Bill or made a few suggestions. Sir, you have been very indulgent and if you had not called on me to speak at 4 o'clock, I think every other Member would have spoken and this could have gone on up to a few days. Now, I say that this should be proof positive that one day's discussion on the resolution which might be brought next year would be quite sufficient to enable us both to act as worshippers at the shrine of the Devi and also to suggest any improvement which may occur to you.

Now I come to the last point. Suggestions were made to make it applicable to different parts of India—and not to the whole of India. I dealt with it in the beginning. In the first place, there would be constitutional objection that if we left the field open, there is nothing to prevent any State Government from stepping in. There are some States today where at the present moment and for some months at least—a longish time—fortunately no person has been detained. What I stated in the other House, and what I repeat here, is this. This is what I propose to do. I shall write to all the States practically, and more particularly to those States which have got a clean slate, so to say: "I congratulate you on your feeling no necessity to have recourse to this Act. This matter was discussed in Parliament at great length, and I should like that before you try to take advantage of the new Act, you should let us know". And we are all acting in co-operation. It is impossible to carry on the Government of this country either by the present or by any Govern-

ment without systematic, continuous co-operation between the State Governments and the Government of India. And I say to them: "Please let the Government of India know what you propose to do, so that we will get a complete picture before you start operations under this Act." I respectfully suggest that this should meet the exigencies of the situation, and should also meet the wishes of hon. Members. What they want is this, that where there is tranquillity, action should not be started. That is the main object of making the Act apply in parts.

The last point I have to deal with is the question of legal assistance. Now, I have got before me a picture of two stages. The first is the stage when a man is detained and is taken to the place of detention. The Act provides that as soon as may be, and not later than five days, he should be given the grounds of detention and he should be asked to submit a representation if he wants to submit one. Now, please remember that at that time the Advisory Board is not on the scene at all; the Advisory Board comes into the picture much later—about four weeks later. The grounds are there; the representation is there. The State Government considers the matter, and they say, "This is quite satisfactory. Release him." Or the situation may so settle down that they may let the man go. But the Advisory Board, as I said, comes later into the picture. What I propose to do is this. There should be no suggestion that I was not quite frank with the House about it. In this matter I have always tried to put the State Governments into the forefront, because it is their responsibility. Secondly, as to how they should deal with a particular individual in custody is entirely their subject under the State List. We cannot legislate upon it. So what I propose to do is this. I will write to the State Government like this: "Will you please consider whether there would be any objection to allowing any detenu, if he so desires, to have an interview with the lawyer of his choice or a friend to enable him to draft a representation with respect to the ground of detention...."

SHRI B. GUPTA : In Bengal that is allowed even now. I was there in detention. We were allowed to meet the lawyers to consult them. But nothing beyond that.

DR. K. N. KATJU : My friend is thinking of a case of the older days when there was no right of personal access to the Advisory Board so far as the detenu was concerned. Under the existing Act you will remember that if the Advisory Board thought it essential, they might send for him. Otherwise no question of getting face to face arises. Probably in Bengal they allowed it. They got the lawyer who drafted the representation. And then the matter was entirely in the hands of the Advisory Board.

SHRI B. GUPTA : That is not so.

DR. K. N. KATJU : They might have asked for further information from the Advisory Board and he might have consulted another lawyer. Then if that is done in West Bengal, I am quite happy. But I cannot be sure about other States. I should like to have all the rules and see how the situation stands and I will address all the State Governments to allow facilities, if a detenu so requires, of an interview with the legal practitioner or a legal adviser to enable him to draft. Now if he continues in detention and the case ultimately goes to the Advisory Board, then another chapter commences. They get all the powers under section 9. The detenu will have notice asking if he wants to go and see the Advisory Board. And if he says 'yes', well he will go there and then no question of any lawyer comes at that stage. It is a question of entire face to face discussion with the three friends who will be sitting there with him. If he is a rustic, you may take it from me—I am not talking again as a Minister—he will excite great sympathy because they will say : "What can a poor rustic do ?" On the other hand if he is a leader, then the magistrate gets suspicious and he will say : "Perhaps he is leading a movement." Therefore I do not want to have any third party in anyway intervening at

that stage. Nor do I want that any legal adviser should be allowed to interview him at that stage because I do not know what the Advisory Board will do. But I am perfectly certain that he will get the most fair hearing. This is my inner conviction.

Sir, I find that Acharya Narendra Deva started his oration by saying that the Home Minister is an advocate and he has therefore put up a case. That reminded me very much of my mother. Whenever I used to talk to her—she was a very intelligent lady—I was rather grappling with her in arguments. She said : "Well, who can argue with you ? You are a vakil and it is your business to argue." So do not please consider that whenever I speak or any lawyer speaks on these benches or on those benches, he is just putting up a case and trying to defend as I have had to do. We have got our own convictions and we act according to our lights. My inner feeling is that if you bring in a lawyer between the Advisory Board and the detenu, you would be causing him more harm than good. Sir, these are the two or three points which were raised in the course of about eight hours' discussion, so far as the details of the Bill are concerned. So far as the general denunciation or so far as the general approval is concerned, it is all very much in evidence. I read somewhere : John Morley was the editor of some daily paper and he had an applicant before him. He asked him at the interview, "What is your qualification ?" He said, "I can write very well." Morley asked, "Then ?" He replied, "I can criticise very well." Morley asked him, "Any special line ?" He replied, "General invective." I was reminded of this passage in Morley's Autobiography. It is the general invective that I cannot stand.

Sir, I once again beg the House to take this measure into consideration.

MR. CHAIRMAN : The question is :

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

The motion was adopted.

MR. CHAIRMAN : Now, we proceed to the clause by clause consideration. Motion moved.

That clause 2 do stand part of the Bill.

There are a number of amendments.

SHRI B. GUPTA : We have not got all the amendments.

MR. CHAIRMAN : The point is that clause 2 deals with the period and the amendments of which notice has been given, so far as I have them, relate to the reduction of the period from the 31st December 1954, either to October 1953, or December 1953 or September 1953 or November 1953.

SHRI P. V. NARAYANA : Or 15th August 1952.

MR. CHAIRMAN : I have not got that. The amendments relate to the reduction of the period from two years to a shorter one, either this or that or that. These are the amendments and I have no idea whether there are any more amendments.

SHRI KISHEN CHAND : There is one for complete deletion of this clause.

MR. CHAIRMAN : Complete deletion is no amendment. Have you got any more amendments to this clause (addressing Secretary) ?

SECRETARY : One more amendment.

SHRI P. SUNDARAYYA : I have tabled an amendment making it 1st April 1953.

MR. CHAIRMAN : We have got now 5 amendments to this clause : one by Mr. Satyapriya Banerjee—1st day of October 1953, one by Mr. Sundarayya—1st April 1953, one by Mr. Kakkilaya—31st December 1952, next 30th September 1953 and then Dr. Kunzru's—30th day of November 1953. These are the five amendments of which notice has been given.

SHRI P. V. NARAYANA : I have also given notice of an amendment.

SHRI B. RATH : I have also given one.

SHRI P. V. NARAYANA : There will be many more.

MR. CHAIRMAN : These are the amendments which were given up to 12 o'clock today. If you want to have a complete list of amendments, it is no use proceeding with this matter today. So, we shall take up clause by clause consideration on Monday morning at 8.15 a. m. The House now stands adjourned till 8.15 on Monday morning.

The Council then adjourned till a quarter past eight of the clock on Monday, the 11th August 1952.

Editor of Debates,
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