

**APPOINTMENT OF CHAIRMAN TO  
THE COMMITTEE OF  
PRIVILEGES**

MR. CHAIRMAN : I have one announcement to make, viz., that as Dr. Patabhi Sitaramayya has left the Council of States to take up the post of Governor in Madhya Pradesh, I have appointed Shri C. C. Biswas to be the Chairman of the Committee of Privileges.

**THE PREVENTIVE DETENTION  
(SECOND MENDMENT) BILL, 1952—  
concluded.**

MR. CHAIRMAN : Further consideration of the Bill to amend the Preventive Detention Act, 1950, as passed by the House of the People.

CLAUSE 10

The motion is :

That clause 10 stand part of the Bill.

There are a number of amendments to clause 10.

SHRI B. GUPTA (West Bengal) : I move :

At page 2, line 49, for the word 'twelve' the word 'three' be substituted.

SHRI M. MANJURAN (Travan-core-Cochin) : I move :

At page 2, in lines 49-50, for the words 'shall be twelve months' the words 'shall not be more than three months' be substituted.

Sir, in the course of the debate on this Bill, it has transpired that the hon. Home Minister is not prepared to give certain concessions to those who will be detained according to ordinary legal process as he said. There might be many reasons for that. I do not contest that and in the way that he has been expressing, he has reached almost J

the last limits of boredom in the matter. He would like to conserve all the powers in his hands ; we do not mind that, but at the same time I do not understand how a man can be detained for one year. Why not detain him three months ? Then we need not have even this Advisory Board and all the other expenses. We could save the whole thing. In our place the police are very efficient. One week in the hands of the police is good enough. In certain cases one day is good enough. Why should a man be detained for all the twelve months ? The information that is received by the police is generally from some kind of informants. The Home Minister was talking of the District Magistrates and other big officers in the States writing the detention order. The detention order may be written by anybody but the information is received by the ordinary C. I. D. men from the ordinary informants and mostly condemning certain people. People who have got local differences might give prejudicial information against each other to the police which finally culminates in a detention order by a District Magistrate. I do not think the District Magistrate is asking anybody to fish out information. It is the ordinary policeman that brings up the information. This Act is actually giving all the rights and powers to the ordinary policeman and the informants who bring the information which the Government is not to test by any usual process of law. Why should you have one year for that and why not make it three months and give up the Advisory Board and everything ? We do not mind that. Let it be three months. What is wrong with that ? Even otherwise it will take about two months for the whole matter to be brought up before the Advisory Board. Add one more month and give up all the formalities about it. The Home Minister was telling us when we were discussing about the amendments to the Criminal Procedure Code that the present Evidence Act is very good and hearsay evidence will not be admitted. I said at that time that it would be impossible to prove any corruption with the amended Criminal Procedure Code.

He accused us that we would bring forth another argument when the Preventive Detention Bill would come for discussion. We have the same argument here as there also. He can do one thing. He can detain a man if he is suspected of committing a prejudicial act but the period of that cannot be more than 3 months. It might be that he might commit that act in June, July or August. I do not think even if the police were to have prophetic vision they would be able to suspect a man of committing an act that is to come out after 100 days. I do not think there is any reason to suspect that the police will get any information of acts that are likely to be committed after three months. So the period that could be prescribed can only be three months at the most. In fact it need only be one month but because he has been so insistent, let it be three months. He will now say that it is not for the Central Government to go into it. These are done in the States and why should the Centre be so much troubled about it? Mr. Razak was saying how it is difficult for some of the States to pass such Bills because they would be confronted with an adverse Opposition whose strength might grow very much with such kinds of unpopular Bills. So naturally in our State—Travancore-Cochin—the Government would not sponsor a Bill of this kind because the opposition is mounting and the Ministry will be blasted up. So if the Central Government is to assist the State Government to perpetuate the Congress regime let them say it openly, frankly, and we can understand it. We will give them the concession that being old men they should govern. But the Home Minister was quoting Macaulay as a great authority on jurisprudence. I was surprised at it. What has Macaulay's opinion to do with this Bill? We could also read much more essays but we do not like to be taught by Macaulay and his literary nourishes. That is not going to serve this country. It is not the Home Minister's arguments but his understanding of the present conditions, of the present Indian problems that would take the

people away from undesirable paths. I remember when I was learning English history as a boy that the King of England was brought down from his palace and taken to Runnymede by the people and there made to sign a charter, which charter has come to be called the first charter of democracy. That was in 1312 when King John of England was brought down by the people and he wrote that no one would be detained without trial. And afterwards also in England there have been fights and fights for this very right and every civilised nation at every stage has militated against such acts. But you here want to legalise an illegal practice. If you want to, then do it. But let the period be reduced.—You cannot say that such and such offences are likely to be committed in the course of a year. You can say that they are likely to be committed in the course of a week or a month at the most. Then why keep people in detention for such a long time just to prevent them from acting prejudicially? I cannot understand the reason for this and the hon. Minister has not given us any reason. We are referred to Macaulay. But we are in 1952. We are speaking and doing things in 1952 and if I remember aright, Macaulay wrote some time in the last century.

MR. CHAIRMAN : Let us leave Macaulay in peace.

SHRI M. MANJURAN : But that was his authority.

I was surprised to hear the hon. Home Minister very arrogantly stating, "Surrender your arms and surrender. Only if you surrender are we prepared to consider other things." Well authority has always been like that. But I would say to the Home Minister that if he shows a little more understanding the Communist Party would be prepared to surrender arms. The party would be prepared to end prejudicial acts. Human considerations should have taught him that it was better to cease this Congress mentally.

MR. CHAIRMAN: The point under consideration is the reduction of the period from twelve months to three months. It has nothing to do with surrender of arms.

SHRI M. MAN J URAN : But the attitude of the Home Minister about this Bill is an important point in this matter, because if such arbitrary powers are given to the Executive, for detaining a person for over a year, it will be a wrong thing. So these powers should not be given to them. It is the policeman who is going to write the case against the suspect. He is going to bring information about overt acts and the District Magistrate has to blindly endorse it. Of course the District Magistrate might be writing the order of detention and the grounds for the detention. All the same these might well have been concocted by the ordinary policeman and he might have received the information from antagonistic political parties. This fact should be taken into consideration. Therefore I say this power to detain a man for twelve months is quite arbitrary and the Home Minister should not insist that the period of detention should be twelve months. He should limit it to three months. Otherwise we would like to know how a particular case would be covered or anticipated to be covered in the course of a year. This has not been explained.

My next amendment is for the release of the detenus who have been so far under detention on the expiry of the old Act, that is to say, on the first day of October 1952. I say this because it was not the intention of the Legislature at the time it passed that Act that they should be detained any more than up to the 1st day of October, the day on which the Act was to expire. If we go beyond that we would be exceeding the intentions of the very Legislature so far as that Act is concerned. If they wanted that this Act should have greater spread, they would have framed it accordingly. So even according to the Government or according to the Legislature at that time it was only necessary to extend the

period up to the 1st day of October 1952. He has not given us any reason and I do not think there is any reason for the extension of the period of detention of those detenus who are under detention now. Their detention automatically expires on the 1st day of October 1952, if this clause (CM<sup>1</sup>) is not introduced in its present form. There is no reason for that. Therefore, I suggest that that clause may be amended to the effect that the period of detention of the persons under detention should expire on the 1st day of October 1952, as envisaged by the people who passed the original Act in 1951 and because the maximum term prescribed in this Act is only one year. Otherwise we have to infer that the Home Minister or his predecessors were short-sighted, that the last Legislature was very short-sighted. But I do not think that they were short-sighted. They thought over all aspects of the question and they came to the conclusion that it was only necessary to have that particular Act in force up to the 1st day of October 1952. We are now in 1952 and we have no reason to say that those people should be further detained. So the period of their detention which automatically expires with the expiry of the life of the Act should not be extended. It is not right to keep them in detention beyond the 1st day of October 1952. It is only legalised by the proposed Act. This proposed Act should not have taken within its purview those detenus who were detained by the previous Act. Those persons should automatically be let out in October 1952. That is my contention. With these few words I commend my amendments to the House. I hope the hon. Home Minister in spite of his exasperation and boredom about the matter will think with us for the time being and be sympathetic. It is because of our intense feeling and intense suffering that we are presenting before the House these factors which he should earnestly consider. We should also like to see this nation progress peacefully. We would also like this nation to progress with the co-operation of every section of the people in this country, if that were possible, and to see that nothing

[Shri M. Manjuran.] is done to affect prejudicially the national interests. It is for the hon. Home Minister and it is for those who are in authority today not to do things in such a way as to create all these further revokes and rebellions which even if suppressed now, might reappear again after some time and devour them one day. I request that the attitude of vindictiveness might give place to one of understanding and the period of detention be reduced to three months and also those in detention now may be released on the 1st day of October 1952 when the existing Act is due to expire. Thank you.

SHRI M. VALIULLA (Mysore) : Sir, I beg to oppose the hon. Member's views which he has just now propounded. Now, every where in the world people are making the demand that there should be trials by courts. Here, instead of trials we are going to have these Advisory Boards. But my hon. friend says, "Dispense with these Advisory Boards. Keep the detenus in detention for three months in jail." This is certainly a reactionary proposition, not advocated anywhere except in one country. So I oppose the hon. Member's amendment.

MR. CHAIRMAN : Amendment No. 76 is blocked by amendment No. 75 and amendment No. 77 was not moved. We now come to No. 78. Mr. Gupta.

SHRI B. GUPTA : Sir, I move :

That at page 3, lines 4—7, for the portion beginning with the words 'unless a shorter period is specified in the order' and ending with the words 'expires later', the words 'be deemed to have been revoked' be substituted.

Sir, in simple language my amendment means that the detenus who are in jail today should be released on the commencement of this new Act—the Preventive Detention (Second Amendment) Bill, 1952, when it becomes law. We are now, under your kindly chairmanship coming to the close of the discussion of a most unkindly Bill, and at this stage we can only urge upon

the hon. Home Minister to release the detenus who are in jail. It is not merely a sentimental or emotional appeal—though there must be emotion in it. It is also an appeal based on certain principles of jurisprudence and law, as I would like to make out presently, not only in general, but also in the light of the new measure that will emerge out of this House.

Now, Sir, there are detenus in the country today ; in Hyderabad there are too detenus who have been languishing in prison for one or two years or even more, and many of them had also been persecuted before they were arrested. There are about 50 detenus belonging to the Revolutionary Communist Party of India—that party has nothing to do with the Communist Party—in Dum Dum Central Jail. There are detenus in other provinces also. There are political detenus and there are non-political detenus, I agree. Certain things have been changed under the new measure, that is to say, a charge sheet will have to be framed on a certain definite basis, that is, charges must not be tainted in the way they had been tainted in the past and charges must not also relate to past activities of the detenus as it had been done in the past. I cited yesterday the case of Ganesh Ghosh. Many of the detenus have been charge-sheeted on grounds of this nature, that is to say, activities relating to the past, long past even before the arrangement of 1947 took place. Now, Sir, these charges would naturally not be tenable whatever the interpretation under the new Act, that is to say, these charges should automatically get revoked. Assuming, Sir, the Advisory Board was called upon to look into these charges afresh, the Advisory Board, acting upon the amended Bill, would have found most of these charges untenable even as they are, they would have found them patently untenable, irrebuttably untenable. That is one thing. It is not fair on the part of Government to allow the detenus to rot in jail even now when they admit that certain charges had been wrongly framed, and, also, when they have admitted that certain abuses have taken place,

the victims of these abuses and atrocities should be immediately set free.

I had a talk with the hon. the Prime Minister about this matter some time ago. At that time the Communist detenus were also in jail. I must say that the hon. the Prime Minister listened to us with a certain amount of understanding and sympathy and, as a result of his intervention, a number of detenus were released, and I should say, very promptly released, who would not otherwise have been released so expeditiously by the State Ministry. I must congratulate him for that ; but, certain other detenus were not released. They belong to the Revolutionary Communist P<sup>arty</sup> of India. The hon. the Prime Minister told us that he had been advised by the West Bengal Government to the effect that a representative of the Bengal Government had been told by the detenus that if they were released they would take to violence or do some such thing. I thought what the Prime Minister said was reasonable in the sense that if they say this kind of thing, what can I do. It was not unreasonable on the face of it, but, we pointed out to the Prime Minister that he must have been misguided in this matter by the State Government.

So, naturally, when I went back, I tried to see the R. C. P. I. detenus in the Dum Dum Central Jail, because we can only speak for them, not on behalf of them, and I thought I should see them so that I could get authority from them to state before the Prime Minister what they wanted us to say. I wrote to the Government and got a letter asking me to specify the object clearly, although the object should have been intelligible to any man who has got a grain of common sense. Anyway, I felt that the Government of West Bengal was taking a little time, probably to consult higher authorities as to whether I should be permitted to see them or not. So, I wrote to them saying that the object was obvious, to which I got a reply saying that no useful purpose would be served by my seeing them. Naturally it came out in the press and gave room

to certain very bitter feelings. When the Prime Minister wants to know a thing, of course there is the Government channel open, but why should not I also go, meet them and find out from them what they were feeling and also whether the statement made by the West Bengal Government about them was at all true ? I was not given an opportunity to meet them.

What the State Government is saying is this : 'If the detenus are released they would take to violence and things of that kind.' The only way open to me at that time was to get into touch with the leaders outside so that I could get certain facts for making the representation. I talked to them ; they have given me a copy of their programme and have also written a letter in which they have said that these allegations against them are baseless and that they do not believe in this sort of activity now. If they had done it in the past they have said categorically in the pamphlet of theirs that they have revoked this thing. This is what they write to me :

"Now, however, the Government of West Bengal state that the present detenus of the R.C.P.I. in particular are wedded to a policy of violence and these detenus have made declarations to such effect. I for my part cannot say for certain how the Government of West Bengal came by such statements, but from what I know of these detenus and what I hear, the detenus have taken the strongest possible exception to the imputation of such statements to them. The very fact that the Government of West Bengal denied you access to the detenus so as to prevent you from judging for yourself the veracity of the particular statement proves conclusively that the Government were guilty of 'sleight of tongue', if I may coin a phrase, in that matter."

I am not here to debate over this point very much. All that I am saying is that these detenus have made public statements which have appeared in the press, they have brought out a pamphlet here which I will present to the hon. the Home Minister before I leave ; and also they are willing to meet the hon. the Prime Minister. All these things are there and even then the West Bengal Government is behaving in a most dogmatic manner and says that the detenus will not be released.

[Shri B. Gupta ]  
 Now, Sir, no incident has taken place in West Bengal for a good length of time, for a number of years. I should say, for three years no incident has taken place. If a party really wanted to create trouble, however small it might be—we have had experience of terrorist parties in the past—it could commit certain acts of violence. You cannot stop it by putting 50 members of that party in jail. This party, if it had a certain policy in the past, has given that up; here is the time to be a little magnanimous and release them. They have made public utterances. I asked them to state their views in public; they did that. I cannot do anything more because I am not even allowed to see the detenus. This is the position there. Similarly, you will hear from the leaders from Hyderabad about the detenus of that part of India; they would explain with much more passion and also with much more logic and reason. Why should these detenus continue to be in jail? Let them all be released and let the situation be reviewed in the light of what some of you have said. You have said that past charges will not be taken into account, charges will not be framed again in the same way. The State Government will be requested to consult you before they take measures of this nature. These are the things you have yourself said. Therefore, let them out. I do not say we can start with a clean slate—I wish it were so but it is not possible to wipe off all the grossest abuses of the past. At least we can release them now, and if you do release them something will have been done in that direction. The release of detenus is very very urgent. The political atmosphere in the country remains vitiated as long as the detenus remain in jail. Some, or many, of them have been inside the jail for one, two or even more years. There cannot be any question of preventive detention in their cases, because there is nothing to prevent by the continued detention of these persons. There is no reasonable apprehension of any danger to their side. Therefore, there is no preventive action here—

The only usurpation is the Act which is supposed to be a preventive Act has become a penal or punitive Act. I would request the hon. the Home Minister to take away at least the punitive part and the vendetta that it carries should be eliminated as soon as possible, and the detenus should be released. Here is an occasion for the hon. the Home Minister to make a good gesture, a noble gesture, by releasing the detenus. That will be something which in this darkness would be like a spark of light, they may be dangerous or whatever name you may like to call, but people like them; people love them and that has been amply demonstrated in the elections, in countless meetings and demonstrations. Even if he has hatred for the detenus, the hon. Dr. K. T. Ramalinga Murthy said that he had love for the country—The love of one's country is simply the love of its people. People love these detenus; at least respect their sentiments and be good enough to rise to the occasion by setting them free. Let the doors of the jails be thrown open. Let these men—brave patriots—who have already suffered a lot, be set free. It will at least be some consolation that this House has secured their release. I hope the hon. Members from that side of the House would show this simple gesture of goodwill before they depart after their long deliberations, if they have something in their heart—a little amount of sympathy and consideration—and I can touch that vibrant chord in their heart, I hope they will persuade the hon. the Home Minister—he is sitting there and I do not know what his reactions are—to let them out. I hope the hon. gentlemen from that side will get up and support me in this at least.

SHRI P. SUNDARAYYA (Madras): Sir, I move:

the words and figures of April 1952 and figures of October 1952 be substituted.

substituted.

Sir, my amendments say that detenus who are already in detention should be released by 31st October 1952 or in the alternative on 1st January 1953, and not 1st April 1953 as it is in the Bill. My colleague moved that the detenus should be released immediately the Act comes into operation and I am moving these amendments so that I can make an appeal that, if the Home Minister is not prepared to release now these detenus, who have been there in jails for the last two years and even three years, he could at least see his way to releasing them after a few months. He said that the State Governments were objecting and that he had to persuade them. He may not find the time sufficient to persuade the State Governments and that is why I have suggested 31st October so that it will give him one more month to persuade them to release these detenus. That is why I suggest 31st October 1952. However, if some Governments are much more obstinate and they cannot be persuaded by 31st October 1952, he may take another three months and try to persuade them by at least 1st January 1953. That is the purpose of my amendments. Of course, if the Home Minister refuses to accept any of these amendments, then we have no other go except to register our protest that they must be released forthwith. Now I may bring to the notice of the Home Minister the cases of the Hyderabad detenus. Today there are—I do not have the exact figures—not less than 100 and not more than 150 detenus. A few days back there were about 300, but recently I read in the press that 100 or 150 have been released, and there are therefore another 100 or 150 detenus still in jail. Most of them have been in detention for more than two years. Of course, many of them were tortured and all that, but that does not come here in the period of detention. Now the elections are also going on there. Five by-elections are going on in Hyderabad. One of the detenus—S. Ramanathan—is a candidate from the Hanomkonda constituency. There were consistent requests to Government that at least those who are standing for the by-elections should be

released, but so far he has not been released. The date of the election is 3rd September and today is August 12th. Similarly there are several detenus who are leading colleagues of ours who, if they had been out, would certainly support our election campaign and be a very great asset to us. Now the Hyderabad Government says that these are the people who have got very bad records. I would say that these people have no worse records if the records are to be considered in the light of Government's activities. When there is no danger now, when no peace has been threatened by releasing the leaders of Telangana, why cannot you release them also, who follow the same policy and who are a disciplined lot? The Government's persistent refusal to release these leading detenus is that they do not want to take any action till the by-elections are over. They may release them afterwards, but they may not release them before the by-elections. Somehow or other they want to win the by-elections and show that the Telangana people are not totally against the Congress. Of course, they are doing many other things to win the by-elections to which we have drawn the attention of the Home Minister as well as of the Prime Minister and also of the Chief Minister of Hyderabad. We are raising questions in the Hyderabad Assembly and I have placed cuttings on the Table of the House the other day. That apart, Sir, I would request the Home Minister to release these detenus because if you say that the maximum period of detention under this Act will be twelve months, why do you hesitate to release those detenus who have already been in jail for more than two years and some even for three years?

Then the other day the Home Minister mentioned about the R.C.P.I. prisoners. If my remembrance is all right, those people who were responsible for those things have been charge-sheeted and, I think, sentenced also. But as regards others who are there in that Party, merely because some others did those things and they were charge-sheeted, why should these people conti-

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[Shri P. Sundarayya.] nue to be kept in detention, especially when they say that they do not believe in those kinds of activities now ? And in Hyderabad the detenus who have been released recently, have been released on very stringent conditions. They have to report to the police practically every day ; many of them have been let out on heavy securities and the police make their lives miserable. That is what is happening today. They cannot leave the village without the permission of the local magistrate etc. and any infringement"—even the slightest infringement—even unintentionally—may make them liable to be rearrested. So if the spirit of this Bill is to be observed, if the assurances, which the Home Minister gave on the floor of both the Houses, that they were going to implement this Act very liberally and that no injustice would be done to innocent people, are to be of any value, then I will ask : Is not this period of two or three years of detention which these detenus have already undergone, punishment enough for them, and has not sufficient time elapsed to release these persons ? That is why we have moved these amendments. If the intention is only to prevent any prejudicial act being done, then detention for more than three months is not necessary. If, on the other hand, it is your intention to put forward the excuse of preventing prejudicial acts being done and keep people as criminals for a period of one year, then let us not call this a Preventive Act but some other Act. The whole object, according to the speeches made in this House, is to prevent persons acting prejudicially. If people are to be kept imprisoned for years, then the whole thing would be a bogus thing. The real object would be something else than what was stated in the speeches.

The Home Minister has conceded at least some points—minor points though they may be—in the other House. Will he show some respect, some concession, to this House by accepting at least this amendment, so that this House also would be nattered

I that after all by these discussions we could persuade the Home Minister to concede on the floor of this House at least one more point towards liberalization of this Act ? My own appeal would be : Let the Home Minister clear the atmosphere in the country by showing that this Act is not going to be worked in a vindictive spirit. Release those detenus who have spent already more than two or three years in Hyderabad and other jails. I hope the Home Minister will accept our amendment and see that the detenus are released by at least the end of September.

MAULANA M. FARUQI (UttarPradesh! :

مولانا ایم - فاروقی ( اتر پردیش ) :  
 سہاوتی جی ! تھیں چار دن سے اس  
 بل پر جو بحثیں ہوئیں اور جو تقریریں  
 مختلف اور موافق دونوں طرف سے ہوئیں  
 اس کو دیکھتے ہوئے چند باتیں ٹھلی  
 کھلی سامنے آجاتی ہیں - ان چند باتوں  
 میں ایک چیز سب سے اہم اور سب سے  
 اونچی ہے وہ یہ کہ ہندوستان میں  
 کچھ فورسہز (forces) اور کچھ جصاصتیں  
 ایسی ہیں یا کچھ گروپس اور پارٹیاں  
 ایسی ہیں جو ہندوستان کے لا اینڈ آرڈر  
 (law and order) کو ختم کرنا چاہتی  
 ہیں - ان کا مقصد جو کچھ بھی ہو  
 ہم کو اس سے بحث نہیں - یہی نہیں  
 کہ گورنمنٹ یا وہ پارٹی جو لا اینڈ آرڈر  
 کو باقی رکھنا چاہتی ہے وہ اس کو  
 بیان کرتے ہیں یا ان کے پاس ایسے  
 ڈاکومنٹ ہیں یا ایسی شہادتیں ہیں  
 جو اس بات کو ثابت کرتے ہیں کہ ایسی  
 فورسہز ہندوستان میں کم کی رہی ہیں بلکہ



وہی لوگ خود اقرار کرتے ہیں اور انکی تقریروں میں یہ معاملہ ہوتا ہے کہ ایسی فورسز یہاں کام کر رہی ہیں۔

اب کوئی گورنمنٹ ہو، کوئی حکومت ہو اور کوئی بھی شخص ہو جس کو ذرا بوی ہندوستان کے کسی ذرہ سے مصدحت ہے اور جو ہندوستان کی اس آزادی کو جو سہلکروں اور ہزاروں برس کے بعد ہندوستان نے حاصل کی ہے برقرار رکھنا چاہتے ہیں تو اسے یہ سمجھنا چاہئے کہ ہندوستان کی تاریخ کا ایک ایک ورق اس بات کی شہادت دیتا ہے کہ اگر ہندوستان میں لا اینڈ آرڈر نہیں ہوگا تو جس طریقہ پر اب تک برابر ہوتا رہا ہے کہ جب بدنظمی پیدا ہوئی یا بد انتظامی پیدا ہوئی یا لوٹ مار شروع ہوئی تو ہندوستان کی آزادی چلی گئی آج بھی ہمیں اس خطرے کو محسوس کرنا چاہئے۔

9 a.m.

اب دوسرا یہ سوال ہے کہ جو صورت یہاں چل رہی ہے اس کو روکنے کے نئے کیا تدبیر اختیار کی جائے۔ ہمارے ایجوکیشن بیلنچیز (Benches) کے دوستوں نے یہ کہا کہ ہم نے نان وائلنس (Non-violent) طریقہ سے آزادی حاصل کی اور مہاتما گاندھی نے نان وائلنس کا قانون اور نان وائلنس کے اصول اچھے سے رائج کرنا چاہئے۔ بالکل ٹھیک ہے ہم نے آزادی ضرور حاصل کی ہے اور نان وائلنس کا نون ضرور ہمارے سامنے ہے اور گاندھی جی نے یہ ہمیشہ کوشش کی کہ اہلسا

پر عمل کیا جائے اور ہر شخص کو اس پر ضرور عمل کرنا چاہئے۔ لیکن سوال یہ ہے کہ ایک فارن گورنمنٹ کے سامنے انہوں نے ایک خاص طریقہ لڑائی کا نکالا تھا اور جو واقعات تھے ان کو سامنے رکھ کر سچائی کے ساتھ لڑائی کی۔ اب اس کے بعد جس طریقہ پر دنیا میں لا اینڈ آرڈر قائم کیا جاتا ہے اسی طریقہ پر قائم کرنا چاہئے۔ ہاں یہ ضروری ہے کہ ہمیں اہلسا کو عدم تشدد کو اور لوگوں کے ساتھ اچھے برتاؤ کو لوگوں کے ساتھ ملکر کام کرنے کو آگے رکھنا چاہئے۔ اور جو ہمارے ملک کے اوپر کے لیڈر ہیں وہ اس کا خیال رکھتے ہیں۔ ابھی ابھی ہمارے دوست جنہوں نے کہ امنڈمنٹ کو پھس کیا ہے سہلکروں ایسی چیزیں بیان کر رہے تھے کہ پرائم منسٹر سے ان کی گفتگو ہوئی۔ اور فلاں فلاں منسٹروں سے ان کی گفتگو ہوئی۔ وہ برابر اس کی کوشش کرتے ہیں کہ یہ لوگ درست ہوں اور درست ہو کر کام کریں لیکن جب یہ صورت ہے کہ وہ ایک ایسے راستے کو صحیح سمجھتے ہیں جو ہندوستان میں زیادہ سے زیادہ گہرو پیدا کرنے والا ہے اور وہ یہ صحیح سمجھتے ہیں کہ ہندوستان میں زیادہ سے زیادہ گہرو پیدا کی جائے اور لوٹ مار وغیرہ ہو تو پھر کوئی وجہ نہیں ہے کہ ان کو پوری قوت سے دبایا نہ جائے۔

جتلے بھی امنڈمنٹ میں اگر سب کو سمرایز (summarise) کیا جائے تو دو ہی چیزیں ظاہر ہوتی ہیں۔ ایک یہ کہ جو قیدی ہیں ان قیدیوں کے لئے آسانی مہیا کی جائے اور کہیں پر یہ ہے کہ بارہ مہینہ کی مدت کی جگہ چھ مہینہ کی مدت رکھا جائے اور کہیں یہ ہے کہ اسکو تین مہینہ کر دیا جائے

[Moulana M. Faruqi.]

فرض ہے کہ یہ جو امڈمنٹ آپ کے سامنے ہے ان میں ایک ہی موو (move) ہے کہ ہر طرح کی آسانی پیدا کریں۔ میں اپنے ہوم ممبر صاحب سے اور ہاؤس سے پوچھنا چاہتا ہوں کہ ایک شخص ہندوستان میں کرائمز لا (criminal law) کے ماتحت چوری کے معاملہ میں گرفتار کیا جاتا ہے اور دوسرا شخص اس کو چوری کرنے کے لئے ابھارتا ہے۔ چوری کیوں کرتے ہیں۔ چوری آدمی دو ہی وجہ سے کرتا ہے یا تو وہ بھوکا ہوتا ہے یا اس کی غلط تربیت۔ یا تعلیم ہوتی ہے اور اس کی چوری کی عادت پیدا ہو جاتی ہے۔ تو ایک شخص چوری کے جرم میں جیل میں ہے اور اس سے بچاؤ نہ ہو مصدقہ یہ تھی کہ وہ بھوکا تھا اس لئے اس نے چوری کی۔ تو ایسے قیدی کو زیادہ آسانی مہیا کرنا چاہئے۔ کھونکہ وہ بھوکا تھا اور چوری کرنے کے لئے مجبور تھا اور میں سمجھتا ہوں کہ ہم کو کوشش کرنی چاہئے کہ سب سے پہلے اس چور کے لئے آسانی مہیا کی جائے جس چور نے بھوکے ہونے کی وجہ سے چوری کی ہے۔ ایک طرف وہ چور ہے اور دوسری طرف ایسا شخص ہے جس کی وجہ سے میں روپیہ بہا ہوا ہے چاہے وہ باہر سے ہی آیا ہو روپیہ کیوں نہ ہو اور وہ نوجوانوں میں تھریک کرے کہ تم چوری کرو، تاکہ قابو اور اس وجہ سے وہ گرفتار ہو کر آئے تو میں نہیں سمجھتا کہ اس کے لئے کون سی مرسی (mercy) کی گنجائش ہے اور اس کے لئے کیوں آسانی مہیا کی جائے جو سینکڑوں چور اور قاتلوں کے ہمارے یہاں بند ہیں اور چونکہ کسی سرورڈ (Movement) کے ماتحت نہیں ہیں وہ لوگ آسانی کے زیادہ مستحق ہیں بہ نسبت ان لوگوں کے جو ایسا سمجھ کر ہی ہم

کرتے ہیں کہ ہم ہندوستان کو برباد کرنے کے لئے کام کر رہے ہیں۔ چنانچہ امڈمنٹ میں ان میں یہی روح ہے اور یہی چیز کام کر رہی ہے۔

اب آپ کے سامنے کوئی کھلی چیز ہے۔ آپ کو ۳۰ کروڑ آدمیوں نے منتخب کر۔ ایچ کورسوں پر بیٹھایا ہے۔ کچھ لوگ کہہ سکتے ہیں کہ الیکشن کے سلسلہ میں غلط کارروائیاں ہوئیں اور وہی لوگ گرفتار کئے گئے ہیں جنہوں نے الیکشن میں کانگریس کی مخالفت کی تھی۔ یہ بالکل غلط بات ہے اور ہم اس کی تردید کریں گے۔ میں آپ سے دہنا چاہتا ہوں کہ ۳۰ کروڑ آدمیوں نے ہمیں صرف اس لئے منتخب کر کے بیٹھایا ہے کہ ہم قانون بنائیں اور انتظام کریں اور خاص طور پر اس لئے منتخب کر کے بیٹھائے گئے ہیں کہ ہم ہندوستان کی آزادی کو برقرار رکھیں اور اسے اپنے خون اور پسینے کو ایک کر کے ہر طرح سے ایڈوانس کریں۔ چاہے باہر کی فورسز یا اندر کی فورسز اس کو برباد کرنے کے لئے کام کریں ہمیں سب کو طاقت سے دباننا ہے اس لئے یہ ضروری ہے کہ آپ قانون میں کوئی ترمیم نہ کریں اور آپ اپنی مٹی کو تھیلی نہ کریں۔ میں یقین کرتا ہوں کہ آپ ہر شخص کو اطمینان دلا دیں گے کہ آپ نے پورا امن رکھا ہے۔ ایک ایسے شخص کے لئے جس کے ہاتھ میں زہر ہے اس کے لئے یہی رحم ہے کہ اس کا ہاتھ کاٹ دیا جائے۔ سختی اور رحم اخلاقی چیزیں ہیں۔ اگر کسی قوم میں زہر کا مادہ پیدا ہو گیا ہے تو ہمارا فرض ہے کہ ایسے شخصوں کو سمجھائیں کہ جو وہ کر رہے ہیں وہ غلط ہے اور جس راستے پر وہ جا رہے ہیں اسے چھوڑ کر صحیح راستہ اختیار کریں لیکن اگر اس پر نہیں

مانتے تو پھر ہمارا یہ فرض ہو جاتا ہے کہ قوم کے اس ہاتھ کو جس میں ناسور پھندا ہو گیا ہے، تھک دیں۔ اسی لئے قانون بناتے ہیں اور اسی لئے بہت سخت کارروائی کی جانی ہے۔ حقیقتاً وہ سختی نہیں ہے بلکہ نرمی ہے۔ آپ ایک لڑکے کو سارتے ہیں تو کیوں سارتے ہیں۔ اس لئے نہیں سارتے کہ وہ کوئی آپ کا دشمن ہے۔ یہ بالکل غلط فہمی ہے کہ ہندوستان میں ہم کسی پڑوسی کو اپنا دشمن سمجھتے ہیں۔ ہندوستان میں کانگریس والے یا دوسری کوئی پارٹی والے دوسروں کو دشمن سمجھیں اس سے غلط رویہ اور کوئی نہیں ہو سکتا۔ سب دوست ہیں، سب ہندوستان کے رہنے والے ہیں۔ اب باہر کا کوئی شخص نہیں رہا ہے۔ جو بھی ہیں وہ اس کا دعویٰ کرتے ہیں کہ انہیں ہندوستان سے محبت ہے۔ ہم بھی دعویٰ کرتے ہیں کہ ہمیں ہندوستان سے محبت ہے اور دوسری جماعت بھی یہی دعویٰ کرتی ہے کہ ہمیں ہندوستان سے محبت ہے۔ تو اگر ہندوستان سے محبت ہے تو ہمیں سب کو ملکر یہ کوشش کرنی چاہیئے کہ ہندوستان کی ترقی امن اور سکون سے ہو۔ یہ نہیں کہ جو ہمارے بھائی غلط راستے پر چلے گئے ہیں ان کو سیدھے راستے پر لگانے کے بجائے ہم ان کو اور سہارا دیں اور اس طرح کی کوئی آسانی قانون میں مہیا کریں جس سے ان کو مدد ملے جو کہ جرمنوں کو پڑھاتے ہیں۔ اس لئے آپ کی صرف ذمہ داری یہاں بیٹھکر چند لوگوں کو خوش کرنے کی نہیں ہے۔ بلکہ میں بہت شدت سے اور بہت سختی سے آپ سے یہ عرض کروں گا اور بڑے ادب سے استدعا کروں گا کہ آپ اس پر غور کریں کہ جس قدر سختی سے امن قائم ہو اور جو چیزیں قانون میں سخت سے سخت لاسکیں

وہ بالکل حق بجانب ہیں اور یہ ہندوستان کے اوپر اور یہاں کے رہنے والوں کے اوپر احسان ہوگا جو کہ غلط راستے پر چل رہے ہیں۔

آج اگر قانون ہاتھ سے نکل جاتا ہے تو اس کا مطلب یہ ہے کہ ہندوستان میں زیادہ بربادیاں ہوں گی۔ جن بوزھوں نے جو کہ اب تک موجود ہیں گذشتہ بربادی دیکھی ہے ان کو احساس ہوگا کہ جس وقت لاپنڈ آرڈر آتے جانا ہے اس وقت کوئی مصیبتیں بیکس میں پڑ آتی ہیں اور کیا بربادیاں ہوتی ہیں۔

لہذا جو امانتت ہیں وہ صرف دو ہی نقطہ نظر سے پھس گئے ہیں، دو ہی خیال سے پھس گئے ہیں۔ ایک تو یہ کہ ان کو آسانی مہیا کی جائے اور دوسرے یہ کہ اس طرح سے امانتت ہوں کہ یہ قانون بالکل ختم ہو جائے۔ آپ کی زبان سے میں تو یہ کہوں گا۔

دو مقصد ہے ناز و غمزه والے گفتگو میں کام چلنا نہیں ہے دشمنوں سے کہے بغیر۔

مقصد تو ہمارا ان کے ساتھ اچھا سلوک کرنا ان کی خدمت کرنا ہے۔ لہکن جب اس خدمت سے کام نہیں چلتا تو پھر حال یہ تو کرنا ہی پڑیگا کہ اگر ایسے کام نہیں چلتا تو ہمیں تلوار اور فورس کے ذریعہ سے تمہارا کام کرنا پڑیگا اور تمہاری اصلاح کرنی ہوگی۔

ہم اور آپ سب ایک ہیں۔ ہم سب کو ملکر ہندوستان میں امن قائم رکھنا چاہیئے اور اس کی آزادی کو برقرار رکھنا چاہیئے۔ یہی ہماری کوشش ہوئی چاہیئے۔ یہاں جو امانتت آئے ہیں اور اس کے پہلے جو اور امانتت رہیں

[Moulana M. Faruqi.]

ہو چکے ہیں یا ہونے والے ہیں  
منظور نہیں ہونے چاہئیں - اور سیدھے  
سیدھے جو ریزولیشن سامنے ہے اس کو  
پاس کرنا چاہیے۔

[For English translation, see Appendix II, Annexure No. 93.]

SHRI S. GURUSWAMI (Madras) : Mr. Chairman, I should like to endorse the appeal made by Mr. Sundarayya to the Home Minister for the release of those prisoners who have been under long detention. The Bill when it is passed into law will amply safeguard the interests of the country. It will be a mitigation of opposition if they respond to the kind appeal made by the Leader of the Communist Party. In doing so I would make it clear that I do not support in any way the activities of the Communist Party but I am opposed to the principle of the Bill. And you have provided for washing off the old sins when the new Act comes into operation. Therefore if the Government is prepared to respond to the appeal made by Mr. Sundarayya that at least by 1st January 1953 the prisoners who have been under long detention should be released, it will be an act of clemency which can be appropriately accepted by the Government and announced on this occasion of the passing of this Bill.

THE MINISTER FOR HOME AFFAIRS AND STATES (DR. K. N. KATJU) : Sir, there are two sets of amendments before the House. One set relates to the maximum period of detention provided by the first clause and the other set of amendments relates to the case of detenus already in prison. Now, so far as the first set of amendments is concerned, without meaning any disrespect to the movers, it really amounts to a joke. We have already had lengthy discussions on the constitution of the Advisory Boards, the procedure to be followed by the Advisory Boards, the right of representation of the persons concerned before the Advisory Board, production

of evidence and what not. The Advisory Board will return the case to the Government with their final opinion upon it within ten weeks of the date of detention. Now, the amendment that is sought to be introduced is to revise the detenu within three months of the date of detention. The Advisory Board, after considering all materials before it—it is a high-powered Advisory Committee with qualified Judges on it—and after considering every matter, come to the conclusion that the detention was justified. They send a report, and my hon. friend says that that man should be released as a matter of right on the 1st September.

SHRI P. SUNDARAYYA : We also said that there need not be any Advisory Board.

DR. K. N. KATJU : After all these things have taken place, after a great deal of discussion has been gone into, after two divisions have taken place in the lobby, why do you want to say, "we do not want any Advisory Board ; we leave it entirely to the discretion of the executive and the District Magistrate, but there should be no question of keeping a man in prison for more than three months. I do not know, Sir, whether you were here when yesterday I mentioned about a particular hon. Member coming forth with an amendment saying, "within 5 days"—rather a new experience to me—and the same hon. Member tabling another amendment saying "within 7 days", another amendment "within 15 days" and again another amendment "within 21 days". Today, I have got a similar set of amendments. One hon. Member says in amendment No. 8r, "31st day of October", and the same hon. Member says in the same breath, in amendment No. 82, "1st January 1953". Is it joking with the House ?

MR. CHAIRMAN : Alternative amendments.

DR. K. N. KATJU : As I said, I am a new man—rather quite new—to this kind of bargaining, "31st October" ; if not "1st January" ; if not "1st April". 1st April—of course you know what it is.

Now, coming to the amendment I "three months"—the alternative amendment is "six months"—is it trifling with the House or trifling with the [ Advisory Board ? Then please remember that under section 13 of the Act—it has not been touched— there is power for the Central Government and the State Government to revoke the order at any time that they like within the course of the twelve months, and to release the detenu on parole on valid grounds—his mother is ill or something. Please remember— I repeat it I do not know after how many times—that no State Government is anxious to keep any detenu in prison for any period longer than it can possibly help it for so many reasons, for economic reasons for one thing. A detenu costs substantially to the State Government in the shape of daily allowance, in the shape of medical welfare, in the shape of books, newspapers,—in fact in the shape of so many things. They would like to part company with him as soon as they can. Therefore this is the maximum period, this twelve months. Therefore I submit there is really no substance in these amendments.

Now, coming to the second set of amendments, I ask all sections of the House to consider this situation. During the last four months, from April to the end of July—four months—each State Government has, of its own accord and on our suggestion, been engaged in the most intensive review of every single man in prison. The result of that has been that in Bengal, not a single member of the Communist Party to which my hon. friend belongs is now in detention. In Hyderabad, I am really astonished myself, with all the regulations to which my hon. friend gave expression about arms, about people living in jungles and all that, he himself told me just now that this Hyderabad Government has actually released between 100 and 150 detenus during the last month and a half, or within the last two months. All the State Governments have now reported that every single man who is now in detention is, in their opinion, not worthy of being released. They are not pre-

pared to release the remaining detenus. They consider that it would be dangerous to release them, the members of the R. C. P. I. Party—sometimes they are red, sometimes they are less red, sometimes grey, I do not know what colour they are. They say that they are not prepared to release them. What would have been the situation if this Act had only been extended by one year? The result would have been that all these detenus would have continued in prison up to the 1st October 1953 as a matter of course. That was the situation in 1951. That was the situation in 1952. Every single person in detention would have continued as a matter of course. I do not want anybody's thanks for anything that I do, but let us say that whatever the State Governments might say, whatever the danger they may run, still in the case of those people who have been there for some time—my hon. friend says, two years, two and a half years and three years—let us send them home, let us give them a chance, on the 1st April 1953— Then, if there is any person who goes to prison after the 1st April 1952, then so far as he is concerned, he will serve only twelve months. That is to say, the rule that you are making today becomes retrospective. In the case of older persons—I repeat once again so that there will be no difficulty about it, no misunderstanding about it—in the case of anyone who has been in detention from a date prior to 1st April 1952—may be two years, may be one year, it does not matter—he will be released on that dead line 1st April 1953. Anyone who has been in prison after that date, any date in April, any date in May—and now it is 12th August—he shall have retrospective benefit by the rule we are passing providing for a maximum detention of 12 months. Is this not reasonable ? My hon. friends say, you did something for the Lower House, why don't you do something for the Upper House ? It is not a question of donation which I will give gladly. It is not a question of likes and dislikes. So far as I am concerned, I have accepted this and I will take the consequences. It is actually a big question. A man commits a theft. If

[Dr. K. N. Katju.]

you were to examine him, probably you would find that his mother was starving and he could not help it. In eighty per cent, of the cases of theft you will find the motive is not to make money but to get something to buy food. And so, it is a very big question. You were represented in the Lower House. You are not different people here. The same party, the same group, is there, and you work on organised lines. And so, do not try to distinguish between the two Houses on personal factors. Sir, I oppose the amendments.

MR. CHAIRMAN : Amendment No. 76 is blocked by amendment No. 75 and amendment No. 80 by amendments Nos. 81 and 82.

SHRI P. SUNDARAYYA : Sir, I withdraw my amendments Nos. 81 and 82.

Amendments\* Nos. 81 and 82 were, by leave of the House, withdrawn.

MR. CHAIRMAN : Then only amendments Nos. 75 and 78 remain.

The question is :

That at page 2, in lines 49-50, for the words 'shall be twelve months' the words 'shall not be more than three months' be substituted.

The motion was negatived.

MR. CHAIRMAN : The question is :

That at page 3, lines 4-7, for the portion beginning with the words 'unless a shorter period is specified in the order' and ending with the words 'expires later'; the words 'be deemed to have been revoked,' be substituted.

The motion was negatived.

MR. CHAIRMAN : The question is :

That clause io stand part of the Bill.

The motion was adopted.

\*For text of amendment, see column 13 ante.

Clause io was added to the Bill.

MR. CHAIRMAN : The motion is :

That clause 11 stand part of the Bill.

The first amendment by Mr. Kakki-laya is disallowed as it is a negative one for the deletion of clause rr. Therefore we have only one amendment in the name of Mr. Bhupesh Gupta.

SHRI B. GUPTA : Sir, I move :

That in clause n of the Bill, to the proposed sub-section (2) of section 13 of the principal Act, the following proviso be added :—

"Provided that a period of not less than six months shall have elapsed between the revocation or expiry of the detention order and the making of such a fresh order."

Sir, the substance of this and the other amendments has already been discussed and I suppose that, if I were to speak on these amendments again, it would perhaps sound as a joke to the hon. the Home Minister. I am not here to crack jokes. I am here to say a few words which my public duty compels me to do. Nor am I here to seek a donation from the hon. the Home Minister even though I know he will be gracious enough to give it. But he would not of course give us the detenus back. Sir, my amendment is this that between the release of a detenu and his re-arrest under the Preventive Detention Act, at least six months' time should be allowed to elapse, so that these arrests are not based on absolutely false charges. What happens is that a detenu is released and then after four or five days, his re-arrest takes place. The object of this Act, I suppose, is not to penalise him or to persecute him. But Government is at liberty to arrest anyone after his release, after five days or a week. I know the hon. the Home Minister will say that I need have no fears on that score. But here we have got our experience of a number of Ministers > a number of Governments in the various States. Sir, if Ministries were of a different type, if State Governments were different, we would have no

tears. But, however, our fears are well-founded, because I know, Sir in a number of cases the detenus' case; went up to the High Court for *habea: corpus* and they were set at liberty. Immediately, within a month or two, they were taken back again as detenus,

There was nothing to justify rearrest. Government feared that some strike might take place somewhere. The notice had been served for a strike but nothing had materialised. In a state of extreme fright the detenu was arrested and put back in the Dum Dum jail. Such kinds of things happen. The findings of the High Court have been indirectly flouted—I would not call it a contempt of court because I know that under the strict definition of law it is not so ; but constructively, speaking from the point of view of constructive law, projecting jurisprudence a little further, it could be described as a sort of contempt of court. The detenu is released and is put back in jail again. This danger has to be averted. I do not say that in every case it will be done, but the probability remains and we should avert that danger. My amendment will obviate that and will create a better situation so that injustice and abuses cannot take place whenever a particular Minister or a Government official desires it.

I know the fate of my amendment ; the fate is written large on the hon. Home Minister's face. Therefore I have no doubt about it, but, even so, before I conclude I would like him to consider whether this is a reasonable proposition by the standards of good conscience and by the standards of good jurisprudence and I hope if that is so, the hon. Minister before placing this on our shoulders, will at least accept this amendment. If one amendment at least is accepted it will not do any harm. After all six months' time will be there and he can be arrested if he commits any cognizable offence under the ordinary law but let there be a time-lag before his re-arrest under the Preventive Detention Act so that he gets an opportunity and you can also watch

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him, and apply your mind to the matter in a dispassionate manner, so that the progressive officials of the States do not get an opportunity of doing mischief. Therefore I move this amendment, and as I said I have no hope for it.

DR. K. N. KATJU : My hon. friend's very attractive speech reminds me of a colleague of mine at the Allahabad Bar who very often used to say • 'My Lord, there is nothing in the point which I am now going to place before your Lordship but my client will insist that it should be mentioned and therefore I am putting the proposal.'

In the Select Committee this clause was very much discussed and these two words "fresh facts" were inserted out of deference to the Members opposite represented in the Joint Select Committee. I said that the intention was that there should be—to use a colloquial phrase—a complete wash-out of what was done before. It was said that we must make it clear, then we inserted the words "fresh facts" but I do not understand the six months business. The man, if he is so inclined, may start on a process of conflagration within three days. He may go to Switzerland for rest and relaxation. He may go to Deogarh, or Mussoori or anywhere. What is the charm of six months ? I do not want to take the time of the House—it is on the face of it unreasonable. My hon. friend recognized it.

MR. CHAIRMAN : The question is :

That in clause 11 of the Bill, to the proposed sub-section (2) of section 13 of the principal Act, the following proviso be added :—

"Provided that a period of not less than six months shall have elapsed between the revocation or expiry of the detention order and the making of such a fresh order."

The motion was negatived.

MR. CHAIRMAN : The question is :

That clause 11 stand part of the Bill.

The motion was adopted.

## NEW CLAUSE 12

MR. CHAIRMAN : There is a proposal for a new clause 12.

DR. K. N. KATJU : Sir, I do not know what your ruling is going to be. We have already discussed it.

MR. CHAIRMAN : I am going to rule it out.

SHRI B. GUPTA : I do not move my amendment. \

MR. CHAIRMAN : No. 86 is ruled out because we have voted upon it.

SHRI P. SUNDARAYYA : Sir I move :

That after clause n of this Bill the following new clause be added, namely :—

"12. *Amendment of section 14, Act IV of 1950.*—In sub-section (4) of section 14 of the principal Act, for the words 'two years' the words 'three months' shall be substituted.

Sir, it may be another joke for Mr. Katju but we are accustomed to be treated like that. Every amendment is called a joke but all the same I have to press it. The maximum period of detention is one year. Here this is a question of parole and if a person is detained, parole comes only after he is detained and kept in jail. There would be only a few months left—in any case it will not be more than nine months because I do not expect—at least the present Government—that any Government will release a detenu the moment he is arrested. Suppose the detenus—I do not expect it—do not come back to the Government, then is it necessary to give a punishment for years for this? In the earlier provision also a period of one year was prescribed if the detenu does not surrender to Government. There also I moved an amendment that it should not exceed three months. The same logic is applied here and I move here that the punishment for this offence should not be two years but should be only three months. Of course I do not expect the Home Minister to accept it but still he may even

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treat this as a joke but all the same we do not want the Government to go on arming itself to give sentences. I may satisfy his conscience that he is ruling with a heavy hand but it is not going to help. As the representatives of the people we will oppose it. Therefore I move my amendment that the punishment should not be for more than three months.

DR. K. N. KATJU: There are two aspects that my hon. friend has completely overlooked. Breaking a parole is really from the moral point of view much worse than many of the offences indicated and made punishable in the Vetal Code. Parole involves an element of trust. It is a sort of gentlemanly thing. It is an understanding between the Government and the detenu or prisoner concerned that 'You release me for such and such purpose, I will come back' and if he does not return, there is really nothing to be said. If there is anything to be said, say that he had missed the train etc., the Government will consider that. That is one thing. It involves— if I may use that expression—almost an element of moral depravity about it.

The second aspect which my hon. friend has overlooked is that his whole argument seems to proceed on the assumption as if the sentence of two years is something hard and fast. The Act says 'with imprisonment for a term which may extend to two years or with fine or with both'. That leaves an enormous discretion to the Magistrate. If it is an ordinary technical breach of parole—say of one or two days' delay in return, he may let him off with a fine of Rs. 5 but if it is a serious case—supposing a man goes on parole and does a lot of things and deliberately goes underground and comes out after two years, then the Magistrate may give him suitable punishment. Therefore it is not a question of three months or more. If it is a case of three months, he will get three months only. If it is only a technical one, he might be fined lightly. Why are you so much worried about it?



MR. CHAIRMAN : The question is :

SHRI P. SUNDARAYYA : I move

That the clause in of the Bill the following new clause be added, namely :—

That at page 1, line 5, for the word 'appoint' the words 'declare and only at places which are declared disturbed areas by the Central Government from time to time' be substituted.

"12. Amendment of section 14, Act IV of 1950.—In sub-section (4) of section 14 of the principal Act, for the words 'two years' the words 'three months' shall be substituted.

SHRI S. BANERJEE : Mr. Chairman, my amendment is a very very simple one. If this amendment is accepted by our benign Home Minister, the clause would run thus :

The motion was negatived.

CLAUSE 1, TITLE AND ENACTING FORMULA

"It shall come into force on such date and in such areas as the President, having regard to the special conditions prevailing therein, may direct."

MR. CHAIRMAN : Now we come back to clause 1, the Title and the Enacting Formula.

We are now at the end of this Bill. We have tried to the best of our ability to mitigate the rigours of the Bill. We have tried to delete the words "relations of India with foreign powers" which will have the effect of preventing the people from criticising freely and frankly the foreign policy of the Government ; we have tried to delete the words "maintenance of public order" ; which will stand in the way of the people effectively agitating for the redress of their grievances, we have tried to delete the words "maintenance of supplies and services essential to the community" which are presumably directed against the proper functioning of free trade union movement ; we have tried to provide family allowance, we have tried to provide for legal assistance. But in all these matters we have failed. This is the blackest Bill of the session and I would say that if our attempts to mitigate the rigours of the Bill have failed it only reinforces the truth of that age-old saying "Black will take no other hue".

The question is :

That clause 1, the Title and the Enacting Formula stand part of the Bill.

Now I may say I agree with Dr. Katju that amendments Nos. 1 to 3 are really jokes and so disallowed. Amendment No. 4

SHRI B. GUPTA : I move :

That for sub-clause (2) of clause 1 of the Bill, the following sub-clause be substituted :—

"(2) It shall come into force in such place or places and on such date or dates as the Central Government, on a resolution of either House of Parliament, passed in this behalf, may, by notification in the Official Gazette, appoint."

MR. CHAIRMAN : No. 5.

SHRI S. BANERJEE (West Bengal): I move :

That at page 1, line 4,—

(a) after the words 'such date' the words 'and in such areas' be inserted, and

(6) for the words 'Central Government' the words 'President, having regard to the special conditions prevailing therein' be substituted.

SHRI S. BANERJEE : I also move :

That at page 1, lines, for the word "appoint" the word "direct" be substituted.

These amendments if accepted, will save the Government and also the people from the operation of this Act as also the rigours of this Act. Article 352 of the Constitution in its clause (3) says :

"A Proclamation of Emergency declaring that the security of India or of any part of the territory thereof is threatened by war or by external aggression or by internal disturbance may be made before the actual occurrence of war."

[Shri S Banerjee.]

I would ask the hon. Home Minister to mark the words "before the actual occurrence" and—

"or of any such aggression or disturbance if the President is satisfied that there is imminent danger thereof."

Therefore, I say, let the President declare a state of emergency. After that has been done, all the difficulties that were related by the hon. Home Minister in general and the constitutional difficulty in particular will disappear and the whole problem will come up before us in a simple form. That will restrict the application of this particular black Bill, if enacted into law, to those areas in which there is really disturbance. Even if the hon. Home Minister does not accept this simple proposition of mine, I would ask him to do one thing. Let him keep this Bill in his armoury for ready use, but let him postpone the placing of this Bill before the President for his assent. The present Act expires only on the 1st of October 1952. He can have this Bill in his armoury, passed by both Houses of Parliament, by the House of the People and the Council of States, let him keep this Bill ever ready for use when occasion demands, when he finds that there is disturbance, disturbance which threatens the security of India, not the security of the present Government. There is a big difference between the security of the country and the security of the Government that is ruling the country. If the hon. Home Minister finds that there is real danger to the security of the land, let him then, and only then, go to the President with this Bill ready for use and have the President's assent. That will, I think, solve all the problems that have been raised in this House. If that is not done, what happens? I will remind the hon. Home Minister of the case known as the Daniel Case where Lord Shaw remarked in the course of a long judgment :

"In the exercise of power that the Government have, the plainest teachings of history and the dictates of justice demand that on the one hand Government power and on the other individual rights, these two shall\* face each other as party and party."

If you want to put Governmental force against the force of the people, the verdict of history will record that the hon. Home Minister created a situation in which this state of things was brought about and which eventually was bound to sweep out of existence the present tyrannical Government. Therefore, my last appeal to him is, even at the cost of repetition, to keep this Bill ready for use, but to keep it in abeyance till a situation arises, till the occasion demands the taking of the assent of the President.

I would like to add one word with regard to legal assistance, and say this to the Home Minister, eminent lawyer as he is. I only unfortunately passed my law examination, but did not practise anywhere. I got myself enrolled as a 'vakil' of the Calcutta High Court but, in pursuance of the call of Mahat-maji I gave that up, never to resume. There is a proverb current in legal circles that "a person who pleads his own case, has a fool for his client." Therefore, I would like to ask him to remember this legal proverb. He has asked us insistently and persistently that if the\*detenu pleads his own case his case will have the chance of being better received by the Advisory Board ; but, there is also that chance,—which chance is, I think, much larger—that he will make a fool of himself.

MR. CHAIRMAN : That is not the point in the amendment.

SHRI S. BANERJEE : I am referring to this in passing, Sir. Therefore, I would like to ask him to accept my amendment or, for that matter, if he gives us an assurance—let the clause stand as it stands in the Bill—that he will not approach the President for assent to this Bill till an occasion arises, I am prepared to withdraw the amendment and all the difficulty that has faced us since the beginning of this discussion will disappear as mist before the rising sun.

SHRI P. SUNDARAYYA : Sir, my amendment is that the Act should come into force only at the places

which are declared to be disturbed areas by the Central Government.

We have tried to move various amendments to the Act which were aimed at safeguarding the prospective victims of this Act, but all of them have been rejected. Now, Government wants this Act to be made applicable to the whole of this country immediately. This Act empowers Government, even the District Magistrate to arrest a man on the merest suspicion, or, I should put it, on the merest satisfaction, and detain him. This Draconian legislation with such powers should not be allowed to be used in normal times. This Act should come into force and should apply only in those areas where conditions are such that it becomes necessary to apply it. Unless Government declares a particular area is disturbed, there is no meaning in utilising this Act for normal times. The Home Minister the other day in his introductory speech, said that this Act would be applied at the places which are declared as disturbed areas or at places only at the discretion of the Central Government after a declaration. He brought out his argument that all the State Governments want this Act and if we do not immediately enact this, then, the State Governments, under the Constitution, have a right to have their own Acts of Preventive Detention and would not bother whether there is a Central Act or not. He also said, in that case, he could not prevent any State Government from having its own Act for Preventive Detention. The only way of preventing the State Governments enacting a separate Act would be to have a Central Act which would apply to all the States. Sir, I would say that this argument is a joke on this House. Whenever we move amendments, he says it is a joke; similarly we have to say that the argument which the Home Minister has advanced is a joke on us. When I ask that help of legal practitioners be given to the detenus he says it will be against the interests of the detenus. He poses as if he is more interested in the detenus while seeking powers

to detain persons and not the people who are opposing the principle of detention itself. Similarly also he says about the State Governments. He wants some excuse, some argument or other to defend these things and says that he is preventing the State Governments from coming with much worse Acts by having this Penal Act throughout the whole of India. By passing this Act immediately and making it applicable to the whole of the country, you would be only helping the State Governments to come with more Draconian legislation. If you accept my amendment this difficulty will also not be there because if any State Government brings out such foolish legislation, the Central Government can make it useless as, under section 13 of this Act, the Central Government is empowered to revoke every order they pass.

DR. K. N. KATJU : No, not at all, if the Act does not apply to that area.

SHRI. P. SUNDARAYYA : If you don't want to, then you can't.

If any State Government was foolish enough to bring out much worse black Acts in the States then you declare this Act, cancel every order which they may make if you are really interested. Do not bring this kind of argument to convince us that we are bringing this Act so that no State Government can bring forth worse Acts. Of course, State Governments would certainly demand such Acts so that they may escape the usual course of law and detain people, whom they do not like, people who are opposed to their policies and Acts, conveniently in the jails. Is it necessary or is it the job of the Central Government or of this House to go on accommodating the State Governments, in this respect of detaining persons, when you are saying so much about the Fundamental Rights, right of the Supreme Court intervening, and so many other things guaranteed? If the State Government is going to do this, then apply this Act and say that their Act will become null and void.

[Shri P. Sundarayya.]

I am saying that this clause should be there that only when an area has been declared to be a disturbed area by the Central Government this Act should come into force and not at other times.

SHRI B. GUPTA : Mr. Chairman, now here is another amendment by way of an alternative suggestion. We have taken pains to bring in all kinds of alternative suggestions to the notice of the hon. the Home Minister and it seems nothing is acceptable to him. He says that we are trying to emasculate the Act. In reply I will say that undoubtedly we wanted to tear the heart out of this ugly Act ; it is true. However we know, that this despotic measure will hang over us like a Damocles' Sword. Therefore, my amendment is aimed at controlling its operation. My amendment says "it shall come into force in such place or places and on such date or dates as the Central Government, on a resolution of either House of Parliament, passed in this behalf, may, by notification in the Official Gazette, appoint."

Now, one must give some arguments and I will therefore give some arguments. We take the stand that the objective situation in the country today does not at all warrant the application of the new measure which is going to be passed. Should such conditions arise, it will be for the Government to satisfy the country, most certainly this Parliament which is a sovereign body, that the application of this Act is called for. Therefore, Sir, I say if the Government thinks that in any part of India, whether it is Bengal or part of Bengal or South or somewhere, there is a situation which calls for application of this Act, let the Government come here, convince us or the other House that a situation has arisen where this Act must be immediately invoked. We will have some opportunity of discussing the situation with a view to seeing that it is not misapplied. As far as the Government is concerned, they have got a sizable majority—I do not

know how long it will last, but a sizable majority nonetheless. So they would have hardly any difficulty. But if this amendment is accepted they will be in honour bound, morally bound to come before the sovereign Parliament here and give some explanation to the satisfaction of Parliament and of the country as to why they are going to apply a particular Act in some part of India.

Now, Sir, this is done in other countries. Take for instance Great Britain and France. They passed through periods of stress, commotion and all kinds of things. Now, when their Government think that a situation has arisen when certain extraordinary measures are called for, what do they do ? They go to the Parliament and explain the position and then call upon the Parliament to support the application or the use of extraordinary powers. This is normally done. This practice has been there for a long time—since the 19th century. Since the end of the 19th century this kind of thing appeared in the Parliamentary agenda

and has since been continued. In Great Britain it is unimaginable that an Act of this nature would be applied without taking the Parliament into confidence. And that is very important. Therefore I say, let at least this amendment be acceptable. After all in Parliament here they have got a majority and they need have no anxiety that way if they can control their party machine well—only I am afraid how they will control. Morally you will gain enormously if you bring it before Parliament, if you convince Parliament and if you argue out your case so that we can hear the

hon. the Prime Minister or the hon. the Home Minister speaking in justification of such a measure. Not that justice will be done, but at least there will be a pretence and we will be able to have a better glimpse into the minds of our rulers. After all, an angry and dogmatic Home Minister is, I suppose, the greatest danger to the security of our homes. Therefore -we would like to keep the Home Minister under our eyes and see how his

mind works so that we can have a little control over him, have a hold on him so that he is not altogether cut off from his moorings. It is not only for redeeming our liberty, but also to redeem our Home Minister that I am moving these amendments and I hope these will go down to his heart and will be accepted by him.

DR. K. N. KATJU : Sir, we have heard very charming speeches and I am sure the two hon. friends might be very deadly advocates before a Judge—a sleeping Judge.

Now I thought that we had discussed all these matters, but here is this point raised again. It was raised by my hon. friend Dr. Kunzru the other day and I ventured to say that constitutionally it was open to serious objections and it would really not be done. Even from the point of view of expediency it was of very doubtful propriety ; it would not confer any benefit, any advantage on anybody. I gave the assurance in this House—I mentioned it in the other place also—that what I proposed to do was, as soon as the discussions are over and supposing this Bill is passed and receives the assent of the President, then I shall sum up the whole position and address the State Governments on the various points which have emerged throughout these discussions and tell them and particularly those who have at present—if I may put it that way—a clean slate that I congratulate them that they have had no occasion to take advantage of the Preventive Detention Act and I would appreciate very much, if they ever think of taking advantage of this Act, if they would let us know first if they could possibly do it so that we could jointly consider the matter and see how it stands. This is rather involved language, but I think the meaning would be quite clear. I repeat it once again that primarily it is the States' responsibility and we cannot sit upon them and then hold them responsible. Now, for io a.m. instance, in one amendment it is said, declare a

disturbed area. My hon. friend here (*pointing to the Law Minister*) is a Judge ; I have not studied all the relevant Acts but I think there is a provision in some Police Act which says that the State Government may declare a particular area as a disturbed area with the consequence that it can station punitive police there and make the inhabitants responsible. Otherwise, I do not know that our Constitution says anything about a disturbed area. Secondly, reference is made to article 352—declaring an emergency. Now, that means commotion—almost a revolution—population rising in revolt etc. Article 352 might have been applied in Hyderabad, I do not know. My hon. friend is going into these matters—*zms.*, sten-guns and all that. I wish my hon. friend Mr. Gupta might go to Hyderabad and try his charming advocacy on those people who have got these guns and weapons and take them to the State armoury and try to bring about some peace there. Anyway it is neither here nor there. So far as a Resolution by either House of Parliament is concerned, I take this to mean—by way of games—we want to have another innings. We had four days ; we would like to have another two days. Perhaps we should come here over and over again. Madhya Pradesh—2 days ; Madhya Bharat—an other 2 days ; Bengal—another 2 days and so on perpetual Preventive Detention, perpetual discussions, perpetual excitement, black powers being extended and so on and so forth. Then there is another amendment which says for the word 'Central Government' substitute 'President, having regard to the special conditions prevailing therein.' I do not know whether the idea underlying it is this that the President of India has got some special powers. I was under the impression that the President acted on advice and there is really no difference between the Central Government and the President. My hon. friend, the Law Minister, says the word 'Central Government' is denned. Anyway, the substance of the matter is—I won't repeat the word joke—these amendments are not seriously intended ; they

[DR. K. N. Katju.]

serve no useful purpose. "Let us not allow the Act as it is to remain on the Statute Book," that is the purpose of these amendments.

Before I sit down, Sir, I should like, in a very serious manner, as solemnly as I can, to register a most strong protest against the suggestions and insinuations that have been made that this Act is not intended for the benefit of the community, for the protection of the people of the Union, but that it is intended for party purposes and for securing party ends, for the suppression of any particular group, party or individuals belonging to the so-called Opposition. I say in all seriousness that it is a completely baseless charge—absolutely baseless charge. There is not an iota of foundation in it. The last elections have proved this—the very presence of my hon. friends whom we like so much within the House here with their presence here, can it be said that there has been any interference by anybody during the elections? I do not want to compare with other countries, because we are all friendly countries—even it is improper for me to put it this way—but think it over when you are sitting in your homes as to what are the conditions elsewhere. The speeches which have been heard here during the last five days, could they have been delivered in any House, in any representative Assembly anywhere in the world .....

SHRI B. GUPTA : Yes, anywhere in the world.

DR. K. N. KATJU : You are quite right; you may say so here, but you will not be permitted to say this anywhere else. You will not be there; you will be within the well, you know what.

SHRI B. GUPTA : Where ?

DR. K. N. KATJU : Think it over. Now, I say it is pure propaganda. My hon. friends will pardon my saying so. We have heard a lot of debate here. Only 5 per cent, was dealing

with the merits of the Bill and the 95 per cent, was pure propaganda for outside purposes. That is the first point.

The second point is this. I strongly protest against anyone calling any Bill or any legislation passed by this Parliament as "black". There is no such thing as a "black Bill". This Parliament is a sovereign body. Whatever it passes becomes the law of the land; it must be obeyed; it must be followed; it must be executed. If any Judge or the Executive Government do not carry it out as Parliament intends that it should be carried out, the Executive and the Judiciary are answerable to Parliament. It is open to Parliament, if they think fit to do so, to alter it. It is open to the electorate to register their disapproval of it when the next general election comes. They may even register their disapproval if there is any by-election if the matter is brought before that particular body of electors. But so long as it stands, it has to be obeyed. I do not understand these words "black" and "white". What do they mean? I make no distinction between "black" and "white". What do we think of anybody who said "black people" and "white people"? But there is a distinction. I do not know how it came about. But having regard to the population of India, it is a very improper thing to say. In this Union there are a variety of people coming from different areas, living in conditions so far which were not democratic conditions. The first thing to be done is that there should be a general respect inspired in the breast of every Indian for the law as a sacred thing, that it requires obedience, that if it is passed by Parliament it is entitled to reverence. You may change it afterwards. That is a different matter. This constant attempt on the part of Members opposite to use the words "black", "blacker" and "blackest" is something which is not to be commended. I have not mentioned this so far, but now that we are closing the debate on the clause-by-clause stage, I must say that I was greatly hurt that in such a solemn document as a dissenting

minute some hon. Members thought it proper and desirable to use this word. For instance, in the penultimate paragraph of a dissenting minute, at page 17, this occurs :

\* "We hold that this Black Act of Preventive Detention is not only not necessary, but dangerous to the Democratic life of our people."

What is the good of calling it "black" ? You can say, "This Act is dangerous" or "harmful".

I wanted to emphasise those two aspects. I oppose the amendments.

MR. CHAIRMAN : Amendment No. 4. The question is :

That for sub-clause (2) of clause 1 of the Bill, the following sub-clause be substituted:—

"(2) It shall come into force in such place or places and on such date or dates as the Central Government, on a resolution of either House of Parliament, passed in this behalf, may, by notification in the Official Gazette, appoint. "

The motion was negatived.

MR. CHAIRMAN : Amendment No. 5. The question is :

At page 1, line 4,—

(a) after the words 'such date' the words 'and in such areas' be inserted, and

(b) for the words 'Central Government' the words 'President, having regard to the special conditions prevailing therein' be substituted.

The motion was negatived.

MR. CHAIRMAN : Amendment No. 6. The question is :

At page 1, line 5, for the word 'appoint' the word 'direct' be substituted.

The motion was negatived.

MR. CHAIRMAN : Amendment No. 7. The question is :

At page 1, line 5, for the word 'appoint' the words 'declare and only at places which are declared disturbed areas by the Central Government from time to time' be substituted.

The motion was negatived.

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

DR. K. N. KATJU: Mr. Chairman, I beg to move :

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

MR. CHAIRMAN : The motion is :

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

SHRi B. C. GHOSE (West Bengal) : Mr. Chairman, now that the Bill will soon find its place on the Statute Book, and considering the present mood of the House, I may assure you that I have no intention to add much further to the flood of oratory that the passage of this Bill had burst open. If discussion over so many days could not make the Home Minister or the Government see reason, I am not labouring under any impression that what we may say now will have any other effect. But it is because I feel that I must register an emphatic protest against this legislation and also because it is necessary to analyse what we have already done that I thought I should participate in this discussion.

I wonder if you have been struck by the incongruity of a large part of the discussion that has taken place over this measure in both the Houses. Here, my hon. friends on my right have quoted chapter and verse from the principles and practices of democratic countries to register their opposition to this Bill, and there, my honourable friends on my left have done the same thing in regard to what are called totalitarian countries to support this Bill. This is an extraordinary procedure. I should have thought that we in this country were not concerned with what is happening in countries which are commonly described to be behind the Iron Curtains. We are concerned with our own tradition, with our own principles, and we have to justify this Bill on those considerations and not on

what has been happening in other countries.

I should have thought that fundamental truths do not change with time and place, that what was true remains true. And that should apply at least to the party which has had as its motto, *satyameva jayate*—which is the motto of the State as well. It appears that fundamental truths have not changed—that even though the Britishers have gone, the quality that they had imparted to the officers that they had held still continues, and that whoever sits in the Secretariat comes out with the same sort of arguments. I was also amazed at the levity with which the Home Minister at some time or other brought forward arguments either in this House or the other, e.g., when he spoke of conditions in Murshidabad jail, which justifiably drew forth a sharp rebuke from an hon. Member in the other House. He also said in this House that it is not in the public interest that Parliament should be bogged down year after year for 20 days with a Bill on the lines of the present one, creating an unhealthy atmosphere, all in the name of personal liberty. That, Sir, is an extraordinary statement, because if something is going to be done which strikes at the very root of our society, if something is done which will destroy the very breath of liberty, I think we should have discussion not only for 20 days but for 20 months so that the sanctity and integrity of the State might be maintained. I would ask him, Sir, for a moment to recall what is happening at Pan Mun Jon where negotiations are going on for over a year. What is the matter at issue? Technically I should have thought that Communist China is right because the issue there is whether certain prisoners of war should be repatriated or not. And certainly on the face of it it would appear that prisoners of war of a particular country should be returned to that country. It is on that issue that we are not having any truce in China because the

United Nations feel that it would be going against the personal liberty of certain prisoners of war to return them to their own country if they do not want to go back and because personal liberty is involved, we are having war for over a year and no truce is effected and what are the risks involved? A world war, loss of life and vast expenditure. So I feel, Sir, that in such a matter of vital importance it is nothing strange that we should have long discussions because if the rights of the individuals are affected, if the basis of society going to be destroyed, it is but right and proper that we should register our protest in no uncertain terms that such a measure should not be passed. Sir, it is nobody's case that there may not be occasions for an Act of this nature. It has been admitted both in this House and the other House that there may be occasions of national emergency. There may be a crisis. There may be a war when such legislation may be necessary and nobody would deny the Government powers like these. But have the Government given us sufficient justification for bringing about this legislation at this moment of time? What other arguments have been placed before us? It is said that things have happened in Telangana, in Saurashtra and in West Bengal. But why did those things happen in Telangana? What was the Government doing? Had they not got sufficient powers?

Sir, we have heard some astounding statements made by Members from this side of the House on my right that they wanted to give terms to the Government for surrender of arms. That, I must say, is the most astounding statement in any democratic country. But what have the Government been doing in spite of the powers that they have got? There are people who are harbouring arms. Why don't you detect them? Do you require a Preventive Detention Act for that? What have you been doing so far? You had the Preventive Detention Act. You had all the powers with you. And still



you could not detect them. That shows that your police system does not work properly and you cannot function efficiently. You want the Preventive Detention Act because with that Act you want to rope in hundreds of people in jail. You cannot function properly and that is why you want this Act. I would submit that because Government have not been able to do anything when they had full powers with them, we should not give them this additional power because they will be misusing and abusing it. It is right and proper that they should not be given further powers. Every time the Government is coming to the House and asking for more and more powers as if these powers are merely toys with which they want to play about and with which they do not know what to do.

Then the argument they usually advance is that this legislation is in the interest of the security of the State. What is the security involved? Have you given sufficient facts that it is necessary for the Government to have this Act? It is always argued that in case of necessity Government may be able to utilise this Act. But we should not have legislation of this sort merely on the ground that it may be necessary in case of necessity. Has it not been the defence of every tyrant, of every dictator whenever he wanted power, to say that it is necessary for the security of the State? The security of the State demands the denial of justice, that has been the argument of every tyrant. I want to say that if the security of the State demands such legislation, then prove to us that this is necessary. You have not given us any case. You say that conditions have improved but there have been cases like that in Telangana or Saurashtra or West Bengal and therefore you want this Act. What has been going on in West Bengal? I come from West Bengal. There is no serious situation there. There is distress. People are in distress. You cannot relieve them of that distress. They rise against you and then you bring in tear-gas. That is not the way in which you can meet the

people's wishes or the people's needs. And what you are doing is to adopt the same methods as totalitarian countries do. And you forget that if the characteristics of the Communist State which most repel us are the purge and the public hysteria which accompany it, we must ensure that our remedies against Communist penetration do not infect us with the same disease. I am afraid we are being guilty of that. What other arguments have the Government given us for this piece of legislation? Nobody denies that there is a huge majority on the other side. You went to the people with the appeal that you would serve them, that you would remove their distress. But you have not done that and you come with this piece of legislation.

The Home Minister advanced another argument that the Constitution permits it, and there is nothing wrong in having this legislation. Is it obligatory on the Government, because the Constitution permits such exceptional things, that Government should take resort to those exceptional measures? Why should the Government always look to the exceptional measures in the Constitution and not to other chapters which are for the benefit of the people? What has happened to the Directive Principles of State Policy? I believe it is Chapter IV of the Constitution. What have the Government done about them? Why don't they bring in legislation to ameliorate the condition of the people? Have the Government done anything to implement those Directive Principles of State Policy? If they had done that, if they had satisfied the people, I can assure them that there would be no case for this Preventive Detention Act. You cannot bring in a condition which would be tantamount to what I might call a police State even in spite of what the Prime Minister has said about it and even in spite of his annoyance. What you are bringing about is in the nature of a police State because the police will be supreme. The Government will be in the hands of the police. They will bring in evidence.

[Shri B. C. Ghose.]

They will bring in facts which you have to accept. The whole country will become a hunting ground of spies, informers and other *agents provocateur*. Is that the thing that you want in this country in normal conditions, in peace time ? What I should think is that it is necessary for you to carry the people with you. The danger that one foresees is that unless the Government carry the whole community with them, we may get the subversive movements naturally more increase, going underground and becoming more dangerous than before. Have you considered that possibility ? D'ont you feel that the things you are doing now would only make things worse ? Are you not making the people who will be going to jail martyrs ? Was not the same true in the British Government days, that whoever went to jail became a martyr, whatever, he was ? The same mentality exists in this country even today. If you send persons to jail, they get the sympathy of the people. Why do they get the sympathy of the people ? Because you have not been able to solve their problems, to remove their economic difficulties. You have not been able to bring social and economic justice to them and without that you want to bring in this Preventive Detention Act. It is natural that the sympathy of the people goes to those who are detained for they feel that it is because they stand up for their rights, you are sending them to jail. Is it the way that you should conduct this Government ? Is it in your interests that you should have the people against you ?

In Telangana I am told—I do not know the facts of the case so much because I do not come from that part— that there were the largest amount of Communist activities and the largest amount of violence committed by them.

[MR. DEPUTY CHAIRMAN in the Chair.]

Why then did they come back here as representatives of the people if the people did not feel for them ?

Did your Preventive Detention Act prevent them in any way ? I should like to tell the Government that by this measure you will be only helping them. You will be only giving more strength to them. I really wonder sometimes whether the opposition to this Bill from my friends to my right was real or whether they are not happy within themselves that this Act is going to be passed by this House. Therefore, I feel, Sir, that unless the people are with you, unless you can carry the people with you, you should not have a measure of this sort, because it will go against you. Sir, it may be asked why I am so anxious about it. I am really not worried about the fate of the Congress Party or the Congress Government. That is not my concern, but I am worried because the way that they are conducting themselves may bring about such a condition in which no democratic party can function. I am apprehensive of that. I want the basic, fundamental things to be maintained, that we should proceed in a democratic fashion. If Government behave in this fashion, the people may lose all faith in democratic institutions as people in some parts of the country are already saying. They say, "Here was the Congress, which was the embodiment of the people's hopes and aspirations. What has the Congress done ? This is your democratic Government. They have done nothing for the people. They can only bring in repressive legislation. Look at China. Look at Russia. See how they are functioning. In China the new Government has been in power only for two years, but look at the change that has been brought about in the economic condition of the people". Now, that is a very serious danger. Unless we maintain the decencies of life, the fundamental rights of the people, except in a national emergency, I am afraid, Sir, you will not be able to put down the forces that you want to. They will be only adding to their strength. I sometimes wonder if there is some sort of secret understanding between my hon. friends to my right and my hon. friends to my left.

SHRI P. SUNDARAYYA:  
Absurd.

SHRI B. C. GHOSE : My hon. friends to my left probably feel. "After us let there be deluge. We do not care about the democratic principles of life. It is not our consideration. If we go, it does not matter who remains". That, Sir, is a very serious matter, and that is why I am apprehensive of the effects of the passing of such legislation as this in these times, without the support of the people. Make no mistake about it. The fact that the Congress has been returned in such large majority does not mean that in measures like this the people are behind it. Sir, I do not want to dilate on this matter any further, because I know, Sir, that whatever we may say at this moment will have no effect, but I feel it as my duty to state what the implications are, what the stakes involved are. You must be careful as to how you are proceeding. You must be sure as to what the consequences are likely to be. The hon. the Home Minister made an appeal for co-operation. He said that he would appeal to the Opposition to cooperate with the Government in bringing about tranquillity in the land and in the minds of the people so that there might be no need to apply this Preventive Detention Act. Sir, we will certainly co-operate with the Government if the Government brings in measures to relieve the distress of the people, to give them economic and social justice. If you had done that, there would have been no necessity for measures like this. But if you are going to do something which I can foresee is going to strike at the very root of our social fabric, which is going to destroy the very breath of life—because I feel that this is a very serious danger whatever the Government might say—you cannot expect any co-operation from us in such measures.

MR. DEPUTY CHAIRMAN: I have got 10 names from the Opposition and probably there will be some more from them who would like to

speak. We have to finish by 4 o'clock. The hon. Minister may take about three quarters of an hour or

I so for his reply. So, I would request hon. Members to restrict their speeches so as to enable the largest number of Members to participate in the debate.

SHRI K I S H E N CHAND (Hyderabad) : On a point of information, will the hon. Minister speak after 4 o'clock or before 4 o'clock ?

"MR. DEPUTY CHAIRMAN : Before 4 o'clock. We have to finish this by 4 o'clock.

SHRI P. SUNDARAYYA : Yesterday, the agreement was that two-thirds of the time should be given to the Opposition Members and one-third of the time to the Government Benches including the Minister. It is only on that basis that 4 o'clock was fixed. I find so many hon. Members standing on the other side. If you allow them all to speak, that would be going against yesterday's understanding. If you allow that, we will not be able to finish by 4 o'clock.

MR. DEPUTY CHAIRMAN : I said that I have got ten names from the Opposition and probably there would be some more from them who would like to speak. If you allow one-third to this side, that will mean 13 speakers, and we have got only 2 1/2 hours before 1 o'clock, and so I would ask that hon. Members may not take more than ten minutes each. In exceptional cases, they may take 15 minutes. This is my suggestion and I hope all hon. friends will co-operate with me.

SHRI P. SUNDARAYYA : Yesterday, the understanding was that the one-third of the time allotted for the Government Benches should include the time given to the hon. Minister.

MR. DEPUTY CHAIRMAN : You can leave that to me.

SHRI P. SUNDARAYYA : submit that ten minutes will be t o

little. I think that 15 minutes should be allowed, and in the case of leaders of parties twenty minutes.

MR. DEPUTY CHAIRMAN :  
Then we will not be able to finish by 4 o'clock.

SHRI B. C. GHOSE : I would like to suggest for your consideration and for the consideration of the Leader of the House and the Chief Whip of the Congress Party that it would not be difficult for us to come, if necessary, tomorrow. After all, the holiday tomorrow is not such that we cannot come.

MR. DEPUTY CHAIRMAN : I am not going to allow any change in the programme which has been agreed to by the House.

SHRI GOVINDA REDDY (Mysore) : I would like to submit one thing. Mr. Sundarayya spoke of yesterday's understanding that one-third of the time should be given to the Government Benches. It is true but the condition was that the Opposition should indulge only in fair criticism. If they indulge in all sorts of unfounded charges, then that would be breaking the understanding. It all depends upon how they behave.

MR. DEPUTY CHAIRMAN :  
We will see how the debate proceeds.

SHRI ABID ALI (Bombay) : Sir, the Opposition has proceeded on the assumption that the Government is bringing forward this Bill for the purpose of crushing other political parties.

SHRI P. SUNDARAYYA : Is he making a speech ?

MR. DEPUTY CHAIRMAN \* Are you speaking on the Bill ?

SHRI ABID ALI : Yes, Sir.

MR. DEPUTY CHAIRMAN :  
No, no.

DR. ANUP SINGH (Punjab) Sir, the understanding was that we would try to finish the debate by 4 o'clock if possible ; if not, we might have to sit for another day on the 14th. But I gather now that we have got to finish by 4 o'clock. Has that point been decided ?

SOME HON. MEMBERS : No, no.

MR. DEPUTY CHAIRMAN We will finish by 4 o'clock. There is another Bill and if we do not finish that today, it may be taken up on the 14th. That was the agreement.

SHRI B. K. MUKERJEE (Uttar Pradesh) :  
"If we can finish today by 4 o'clock". There is an "if" there,

MR. DEPUTY CHAIRMAN 1  
So far as this Bill is concerned, we will finish it by 4 o'clock. The adjournment to the 14th is on; as regards the other Bill.

SHRI H. P. SAKSENA (Uttar Pradesh) : Mr. Deputy Chairman, Sir, I support the passage of the Preventive Detention (Second Amendment) Bill moved by the hon. the Home Minister the other day. After a good deal of stress and strife, passion and excitement, attacks, counter attacks and passages at arms between the Members of this House, I appear before you with an olive branch of peace in my right hand and a heart overflowing with love for all beating in my breast. If I succeed in bringing a rapprochement between the conflicting groups of this House, I would think that my membership of this Parliament has been well served and my purpose has been achieved. In this endeavour, I am encouraged by the utterances of the two leading Members of a Party known as the Communist group. Mr. A. K. Gopalan, the Leader of the above Party in the House of the People said on 1st August.....

SHRI C. G. K. REDDY (Mysore) : On a point of order. It is all right if he refers but I think it is not proper

for us to refer to proceedings in the other House. Convention and also propriety demands that as far as possible we should not refer to speeches that are delivered in the other House and their deliberations in general. So I would like hon. Members as far as possible not to refer to things that happen in the other House. That is the convention.

MR. DEPUTY CHAIRMAN : Yes.

SHRI H. P. SAKSENA : I am quoting Mr. Gopalan because he has laid down a policy for his party to follow and therefore I hope I have your permission to quote him.

"The attitude of my party is that while we agree."

—please mark the words—

•'to the use of preventive detention, we want that it should be used only when there was an emergency."

It was not only in my personal interest but it was in the interest of the whole House to consider that this is, according to Mr. Gopalan, the policy of the Communist group. Mr. H. N. Mookerji, another luminary of the Communist Party had stated on a previous occasion in the House of the People—in this very Session that :

"The Communists could pursue a policy of constructive amelioration of the condition of the people and by means of this policy, to bring the maximum of agreement with the Government for the benefit of the people."

Now these are the two guiding principles for the members of that Party to consider and to obey and observe. Here I was astonished to find that the Leader of the group in this House was misleading; he was committing an offence against the policy laid down by his own men although he happens to be the Leader of that very group.

SHRI GOVINDA REDDY : Will you believe that they have a policy ?

SHRI H. P. SAKSENA : Should the Leader of the Party not lead his men on these sound lines ? I am sorry that he does not. Let us look at the attitude of the Members of this group in this House. I regret to say that it is very unsatisfactory. It is unhelpful. If they eschew violence ...

MR. DEPUTY CHAIRMAN : Please speak on the Bill.

SHRI H. P. SAKSENA : This is a general debate and all manner of observations, I believe, are permissible. I am speaking on the Preventive Detention Bill as a whole. Of course I am to be guided by your advice and your ruling.

MR. DEPUTY CHAIRMAN : Please confine your remarks to the Bill.

SHRI H. P. SAKSENA : I will leave then any reference to the activities of the group known as the Communist group if it is so unpalatable.

Now, standing before you I am myself a victim of the exigencies of time and circumstances. The two things that I hated in my life most were the Press Act and the piece of legislation restricting the liberty and freedom of any individual. But then I feel and believe that that attitude of mind was quite good during the days of slavery. We did not, we could not assess the value of the freedom of the press or the freedom of an individual as we were slaves. Now as free men we have got to look at these things in their relative value. We have to determine and assess them in their relative value. Freedom of speech and liberty must be enjoyed by each and everybody but then that liberty and freedom should not injure the liberty and freedom of others—Now the expression of one's will through the press is a very sacred right ; it must be observed by all, it must be enjoyed by all but if it causes a turmoil,, a disturbance to any great part of the State, that freedom of press is very harmful.

[Shri H. P. Saksena]

Much has been said with regard to the use of this Bill. To what use will it be put when it becomes law? There have been apprehensions after apprehensions expressed in this House that it is mainly directed towards the parties opposed to the party in power. Now, the Home Minister has taken great pains to say that it is not so. I endorse what he has said and is saying and I can swear by all the gods I know of that this Bill is not directed towards any political party. It is only in the interest of the country as a whole that it is being enacted. Only those who are suspected of anti-social activities like blackmarketing, profiteering, spreading communal virus and indulging in subversive activities—it is only against such persons that the arm of the law will extend. It has absolutely nothing to do with genuine and lawful expression of political views. Our friends, I mean those who are opposed to the party in power, are already enjoying all sorts of liberty to express their views.

I am afraid I have not much time left and I have to be very quick.

Regarding the duration of this Act or Bill, arguments were advanced as to why when Sardar Patel wanted the measure only for twelve months and when Shri Rajagopalachari wanted it only for twelve months, you want it now for 27 months? It has been clearly demonstrated here by many speakers that this period of 27 months is not sacrosanct and that it could be decreased. The Act can be withdrawn any moment. It can also lie dormant and not put into use like the Rowlatt Act of 1919. It will come into effect only when there is the necessity for it, when there is an emergency. Of course the emergency has to be declared by the Government. Then there are so many other safeguards also provided in the Bill. Therefore the Bill when it comes to be an Act will be innocuous and quite innocent. As a matter of fact, I feel that if I had been asked to support the original Act which was passed in 1950 I would have felt

a lot of compunction. There would have been prickings of conscience. But now I am supporting a measure which is going to remove the rigours of the original Act. It is providing more and more safeguards for the detenus and enabling them to get out of the clutches of the law. That is why I think it is only in the interests of the detenu that this Bill has been brought forward and they should, as a matter of fact, be thankful to the Home Minister instead of cursing him.

Sir, I need not enumerate the safeguards that have been provided here. One thing has, however, surprised me and that is the attitude of these brave men who always acted so valiantly. They now want an amnesty and cry for being released. Why? I am surprised at the whining attitude of these people. Why do they want to be released? I never claimed that, I have eight convictions to my credit, including one of detention. I have not acted like these brave men. I did not take part in the proceedings in the courts even, for I said the courts were not properly constituted. Why do you want this amnesty? If you commit a crime, you have to suffer the consequences of it. Otherwise, just do not commit it at all.

*(Time bell rings.)*

Please allow me a little more time, Sir. This is perhaps the first and last time I am asking for such indulgence.

An hon. Member referred to what is called the Mountbatten Award. Well, I have heard of the MacDonald Award and so many other awards, but the Mountbatten Award I have not heard of. I am afraid I shall have to look up my books at home and reference books and carry on an intensive research in order to see whether there is such a thing as the Mountbatten Award.

Then my hon. friend Shri Tajamul Husain said that .....

MR. DEPUTY CHAIRMAN : All these arguments have been made here. Please wind up your remarks.

SHRI H. P. SAKSENA : My hon. friends said that we should meet violence with violent methods. I do not endorse that view.

Strange things have also been said here. The other day it was said that our Prime Minister is not a democrat. Very well, he is able enough to take care of himself, but that is the strangest part of an oration that I ever heard.

SHRI C. G. K. REDDY : Why don't you answer it ?

*(Time bell rings.)*

SHRI H. P. SAKSENA : My hon. friend Shri B. Gupta.....

MR. DEPUTY CHAIRMAN: Order, order. You have already taken twenty minutes. Mr. Mazumdar.

SHRI S. N. MAZUMDAR (West Bengal) : Sir, the Government has I made up its mind and whatever arguments may be advanced from this side of the House at this stage of the passage of the Bill, I do not think they will find much echo in the heart of the Government or of the hon. Home Minister. Still I wish to say something.

The hon. Minister, in spite of his eloquence and arguments, has failed to make out a case for the Preventive Detention Bill. There is no emergency in the country, no armed rebellion, no insurrection, nothing of that sort. Then what is it all about ? Let us come to the basic question. If a physician is a real physician, he should, instead of confining himself to the symptoms go right to the root cause of the ailment. All that the Home Minister has been able to make out is that there is discontent in the country. There is widespread discontent among the people. There are anti-social activities. There are such things in Saurashtra and other places. What lies at the root of all these things ? That is what we should find out and that is what we should try to cure. I shall be very

brief. I have never wasted the time of the House.

The basic reality of the Indian situation is that the present social and economic order in India is due for liquidation. It was due for liquidation a long time ago. A decaying and dying feudal social and economic order was maintained by force by British imperialism for a long time and this thwarted our growth and it created a deep crisis in the life of the people. The crisis reached its maximum depth during the post-war years. That was its last stage and a complete and radical transformation and liquidation of that order was placed on the agenda of the day. This change is long overdue and should have come about not in years, but in a few months or days. People were starving. The people were reduced to abject poverty. They had not their daily bread, no shelter over their heads, no clothing. That is the reality of the present situation. Now, without taking that fact into consideration, whatever might be the motives of the hon. Minister—I do not want to enter into those motives—whatever they may do, they cannot bring about an improvement in the state of things. Millions of uprooted humanity have been refugees from East Bengal and also West Punjab who are dying on the street like cats and dogs. You ask them to be patient and be satisfied with what the Government have done for them. You give them a list of all that you have done for them, give them a statement of accounts and you expect them to be satisfied. They will not be satisfied.

What is the tragedy of the Indian national movement ? Under British imperialism the whole country, barring only a handful of feudal elements, barring only the most wealthy sections of the people, were all united against British imperialism. But even from that time there were two trends inside the national movement. Sir, I say this without any rancour. Like Mr... Saksena I would like to speak without any bitterness and I would like to place before the House a few facts for its cold, calm and dispassionate consideration.

[Shri S. N. Mazumdar.] From the very beginning there were these two trends visible in the national movement for liberation from the foreign rule. One was the trend under the right-wing leadership of the Congress and the other was that of the left wing. The right wing was interested not in the radical transformation of social order, but in getting sufficient adjustment in it and power to develop the interest of the class that they represented. That was why even from the very start there was the emergence of these two trends in the National Congress, the right wing ready for compromises and coming to terms with British imperialism and the other opposed to these moves. In the postwar years that deal was made. By that, barring the big industrialists, other sections of the people, labourers, peasants, employees, people of the middle-classes and even small industrialists, all these sections of the people have not been benefited by this deal. This situation has to be faced boldly.

I do not say that the Government in power has not done anything to change the situation. It is true that India is not exactly what she was before 1947—Changes have occurred. But what is the effect of these changes? According to me, these changes are only patchworks, a little whitewash here and a little whitewash there, bright varnish to hide ugly sores. But festering sores cannot be hidden that way,—by nothing more than that. The core of it has not been touched. The basis of the ills is still there. In reality it has been an attempt to maintain *status quo*. And this attempt to maintain the *status quo* is throttling and killing the people. This is what is happening in spite of the motives of the Government, in spite of their attempts and their plans of national development and their community projects.

As against that, the people have been reduced to such a condition that to ask them to have patience is only, to use the mildest term, a tragedy. What is it that you are going to prevent? You are trying to prevent only

the symptoms. You are going only to hide, let me say, the festering sores and not cure them. If you cannot cure it it is clear what we say that, not for love of abuses or invectives but for truth, truth, that you are out to suppress the democratic movement, in order to maintain the *status quo*, to take a stand against progress, for reaction. Those who cannot live in the *status quo* have got to be suppressed. That is one question.

Secondly, Sir, my hon. friend, the Home Minister, the other day said that—he quoted from Mr. Herbert Morrison—because he was treated leniently, Hitler rose to power. That is a travesty of truth. Hitler rose to power because he was supported by big monopolist of Germany, by high Government officials, by high army officials. I am not going into the details of it. That analogy is not applicable here. I shall give an example as regards repression. By repression people's movement cannot be suppressed. If my hon. friend believes that by taking stern measures the movement could be suppressed, he is mistaken. My hon. friend, Mr. Reddy, even though he hurled some abuses or rather allegations against us, made one good point. He said if you want to fight communism, fight it politically, ideologically. Come out in the open. Most of the Members who spoke have been a bit autobiographical. For one moment, I shall also be autobiographical in order to show that repression cannot suppress the spirit of the people.

I started my political career when I was a boy of 16 or 17 years as one of these revolutionists in Bengal who unfurled the banner of complete independence long before the Congress could even dream of it. Those revolutionaries mounted the gallows, with the song of the motherland on their lips. I did not have the good fortune to mount the gallows, but I was convicted to a long term of imprisonment. Out of the last 22 years or so, I have spent 17 years in prison, most of the time not as a security prisoner, not as a detenu, but as a convict sentenced to a long term of imprisonment with irons on my hand

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and feet in the dungeons of Andamans. British imperialism could not crush us. I was converted to communism in Andamans. The then Governor of Bengal, Sir John Anderson, made plans that we shall be condemned to death in the Andamans. We went on a hunger strike in 1937. Many of my friends may remember about it. There was a tremendous upsurge in our support and the Government had to come down. Sir, I came out of jail in 1945 after the end of the world war. I could have easily hitched my wagon to the caravan of my friends on the other side and I could have basked in the sun shine of official favour, but I did not do that. I joined the Communist Party and I worked for it. In 1948 I had to go underground and I feel no shame for it. I found that planters were preparing to launch offensive against.....

(Time bell rings.)

I will finish, Sir,..... tea garden labourers. Their M. L. A. was arrested. I was not going to oblige the Government by leaving the labourers in the lurch. I was arrested in 1949. I came out only in April 1952 but still, I submit, Sir, my spirit is unconquered, unbroken. I am proud to be a Member of the Communist Party and I say, Sir, without rancour, that you cannot crush a man like me.

AN HON. MEMBER : Do you believe in violence ?

SHRI S. N. MAZUMDAR : I shall answer that question if I get more time. The body may be crushed, but the idea will not be crushed. So, Sir, at this moment also, let the Government take all these facts into consideration and I let them go to the root of the matter and then only take steps.

With these words, Sir, I close my speech.

SHRI T. PANDE (Uttar Pradesh) : I

**श्री टी० पांडे (उत्तर प्रदेश) :** सभापति महोदय, यह नजरबन्दी विधेयक, जो हमारे सामने पेश है, यह एक बड़ा गम्भीर विषय है

और मेरा तो विश्वास है कि अगर मुझे पहिले निवेदन करने का समय मिल जाता तो मुझे पूरा विश्वास है कि विरोधी पक्ष के मित्र, इस में जो परिवर्तन किया गया है, उसको स्वीकार कर लेते। सदियों के बाद हमारा देश स्वतन्त्र हुआ है। इस देश में जनतंत्र या प्रजातन्त्र और लोकशाही की स्थापना हुई और अब उसकी रक्षा करना हम सब लोगों का कर्तव्य है। हमको सोचना चाहिये कि जब राज्य-परिवर्तन होता है तो देश में तरह तरह की स्थिति पैदा हो जाती है। इस तरह की सब स्थितियों का मुकाबला करने के लिये हमको तैयार रहना चाहिये। जिस समय राज्य-परिवर्तन होता है उस समय देश में चार तरह की स्थिति पैदा हो जाती है और मैं इन चारों प्रकार की स्थितियों को आपके सामने रखना चाहता हूँ।

पहिली बात मैं आपके सामने यह कहना चाहता हूँ कि जब राज्य परिवर्तन होता है तो जनता में एक तरह से अराजकता की भावना पैदा हो जाती है। दूसरी बात यह है कि समाज में जो विरोधी तत्व होते हैं वे उठ खड़ा होना चाहते हैं और खुलकर खेलना चाहते हैं। तीसरी बात यह है कि जिनके हाथ से राजनीतिक सत्ता छिन जाती है, जो सत्ता-स्वार्थी लोग होते हैं, वे अपनी सत्ता को स्थापित करने के लिये नाना प्रकार के षडयंत्र करते हैं। चौथी बात जो अन्तिम है, वह यह है कि देश में जो विभिन्न राजनीतिक दल होते हैं वे इस बात की चेष्टा करते हैं कि राज्य-सत्ता हमारे हाथों में आ जाय। अब हमको देखना चाहिये कि इस देश में इस तरह की स्थिति है या नहीं। मैं आपसे कहना चाहता हूँ कि इस समय जनता में अराजकता की भावना है और इस किस्म की भावना है कि हिंसा के द्वारा शासन में परिवर्तन कर दिया जाय। मैं आपसे यह भी निवेदन करना चाहता हूँ कि समाज-विरोधी तत्वों को इस देश में पूरी तरह से अभी तक नहीं दबाया जा सका है। उन लोगों में अभी तक हिंस

[Shri T. Pande.]

की भावना है। इसलिये मैं आपसे यह भी कहना चाहता हूँ कि इस देश में राजनीतिक दलों और भूतपूर्व राजसत्ता धारियों में यह भावना है कि हथियारों के द्वारा देश के शासन प्रबन्ध में परिवर्तन कर दिया जाय। ये लोग राजसत्ता को अपने अधिकार में करने के निमित्त हथियारों के बल पर शासन को उलटना चाहते हैं। इसलिये यह परम आवश्यक है कि इस नज़रबन्दी विधेयक को, जो उपस्थित किया गया है, उसको अवश्य स्वीकार किया जाय।

11 a. m.

मैं आप से यह प्रार्थना करना चाहता हूँ कि विरोधियों की ओर से बहुत सी कहानियाँ पेश की गई हैं। मैं भी उत्तर प्रदेश का एक साधारण किसान हूँ, देश सेवक हूँ, कांग्रेस के साथ, कांग्रेस कार्यकर्ताओं के साथ मैं जीवन भर काम करता रहा। मैंने अपने जीवन में कई प्रकार की यातनाओं को सहा है। मैंने अपने पहले जीवन में हथियार उठाकर अंग्रेजों के खिलाफ़ खूबी बहावत करने की चेष्टा की। यहां जो राजनैतिक षडयंत्र चले मैंने एक सिपाही की हैसियत से काम किया। मेरे ऊपर षडयंत्र केस चलाया गया, मैंने हथियार इकट्ठा किये और इस देश से अंग्रेजी सत्तनत को उलटने के लिये नाना प्रकार के कार्य किये। मगर मैंने इस पर गौर और विचार किया कि हम लोग हथियारों के द्वारा इस देश को विदेशी राज्य से मुक्त करा सकने में कामयाब हो सकते हैं या नहीं। मैं आपके सामने निवेदन करना चाहता हूँ कि इस सदन के समक्ष श्री रामप्रसाद बिस्मिल, चन्द्रबोस्कर आजाद, भगतसिंह, सूर्यदेव और तारकेश्वर का नाम लिया गया है। मैं आदरपूर्वक इन लोगों के समक्ष सर झुकाता हूँ। मैं रामप्रसाद बिस्मिल की इज्जत करता हूँ। और आपसे निवेदन करना चाहता हूँ कि उनके विचार अन्त में परिवर्तित हो गये थे। गांधी जी ने जो महान् आन्दोलन शुरू किया

उसके प्रभाव में लोग आ गये और इस बात की चेष्टा की गई कि हिंसा द्वारा विदेशी सरकार को नहीं हटाया जा सकता है, बल्कि जनता की संगठित शक्ति के द्वारा और अहिंसा का हथियार ग्रहण करके ही विदेशी सरकार को देश से बाहर किया जा सकता है।

मैं जिस ज़िले से आया हूँ उसका मुझे गर्व है, वह बहादुरों का ज़िला है। वह ज़िला उत्तर प्रदेश में बलिया के नाम से आज प्रसिद्धि पा चुका है। बलिया ज़िला हिन्दुस्तान के इतिहास में शोरे-बलिया चेतू पांडे के नाम से सर्वदा याद किया जायेगा। बलिया का सन् १९४२ ई० का इतिहास बहुत ही महत्वपूर्ण है और वह भारतीय इतिहास में हमेशा अमर रहेगा। जिस समय सारे भारतवर्ष में विदेशी राज्य के खिलाफ़ आन्दोलन छिड़ा हुआ था, उस समय अंग्रेजी सरकार ने बलिया की शान्तिप्रिय जनता के खिलाफ़ लड़ाई शुरू कर दी। उस समय हमारे १५० आदमी गोली और मशीनगनों के शिकार हुए। वहां की जनता पर तरह तरह के अत्याचार किये गये। उन पर हवाई जहाजों से भी हमला करने की कोशिश की गई, मगर इतना होने पर भी वहां की जनता ने गांधी जी के बताये हुए उसूलों के मुताबिक़ अपना कार्य जारी रखा। उन्होंने किसी के ऊपर हथियार नहीं चलाया, किसी भी सिपाही को घायल नहीं किया गया, किसी को क़त्ल नहीं किया गया। इतना होने पर भी बलिया के लोगों ने अंग्रेजी सरकार के सामने हार नहीं मानी। हमने सर्व प्रथम 'स्वतन्त्र बलिया प्रजातन्त्र' की स्थापना की। बारह सप्ताह तक हमारा राज रहा। इसका क्या कारण था? इसका कारण यह था कि हम लोग गांधी जी के बताये हुए सिद्धान्तों के अनुसार चलते रहे, जिसको कि वहां की जनता ने अपना लिया था। जिस तरह से उस समय उत्तर प्रदेश के गवर्नर ने वहां के लोगों पर अत्याचार करवाये, वह किसी से छिपा नहीं है। उत्तर प्रदेश के उस समय गवर्नर श्री

हेलेट ने अपने दो मुख्य अंग्रेजों को जिनका नाम मार्श स्मिथ और नेदरसोल था, बलिया को फिर से जीतने के लिये फौज और पुलिस के साथ भेजा। उन लोगों ने स तरह के अमानुषिक अत्याचार किये, वह इतिहास में सदा अमर रहेंगे। जब उन अफसरों ने बलिया को सेना और पुलिस के द्वारा अपने कब्जे में कर लिया तो उन्होंने उत्तर प्रदेश सरकार के गवर्नर को यह तार दिया कि "हमने बलिया को फिर से अपने अधिकार में कर लिया है"।

तो मेरे कहने का मतलब यह है कि महात्मा गांधी के बताए हुए मार्ग को ग्रहण करते हुए वहां की जनता ने गोलियों, लाठियों और अन्त में हवाई जहाज की बमबारी भी सही, मगर वे अन्त तक अपने सिद्धान्त से नहीं हटे, चाहे उनके प्राण ही क्यों न चले गये। मैं आपके सामने यह बतलाना चाहता हूँ कि अब वहां की स्थिति में कितना परिवर्तन हो गया है। मैं आपके सामने एक उदाहरण पेश करना चाहता हूँ। इस घटना को घटे हुए दो वर्ष हो गये हैं, उस घटना को देखकर मेरे हृदय और आंख के सामने आंसू के बजाय खून टपकने लगा। यह घटना "छिछोर" की है। वहां आजकल हालत यह है कि लोगों की भीड़ इकट्ठा हो जाती है और जो उनके दुश्मन होते हैं उनको ही नहीं बल्कि उसके सारे परिवार को मार देते हैं। इस तरह की एक घटना का मैं आंखों देखा हाल बयान करता हूँ। जिस समय मुझे यह खबर मिली कि कुंवरसिंह के मकान को वहां की जनता ने घेर लिया है, तो मैं वहां के लिये रवाना हुआ। वहां के मजिस्ट्रेट ने मुझ से कहा कि आप हमारी गाड़ी पर चले मगर मैंने उन के साथ जाने से इन्कार कर दिया। मजिस्ट्रेट अपने साथ पुलिस के सिपाही भी ले गये थे। जिस समय मैं वहां पर पहुंचा तो हजारों लोगों की भीड़ इकट्ठा थी, पुलिस और पुलिस के अफसर भी वहां पर मौजूद थे। मैं भीड़ को चीरता आ चला गया तो मैंने अपने सामने पांच लाशों

को गिरा हुआ देखा। मैंने देखना चाहा कि ये लाशें किनकी हैं, इसलिये मैंने उनके ऊपर जो कपड़ा पड़ा हुआ था उसको उठाया। देखने पर मुझे अचम्भा हुआ कि ये पांच लाशें स्त्री-पुरुषों की थीं जो कि पहिचानी भी नहीं जा सकती थीं। यह हालत उस भीड़ ने की थी, जिस ने एक दिन पहले १२ बजे रात्रि के समय कुंवरसिंह के मकान को घेरकर, जो एक कांग्रेस कार्यकर्ता था उसकी और उसके घर वालों की यह हालत कर दी थी। उनके मकान पर उनके वृद्ध पिता को, जिनकी उम्र ७० वर्ष की थी, उस भीड़ ने अधमरा करके छोड़ दिया था। इसी तरह से उनकी धर्मपत्नी को भी घसीटा और अधमरा कर दिया। उनकी बहू को भी मारपीट कर अधमरा करके छोड़ दिया। उनके पांच और छः वर्ष के शिशु बालकों को भी मारकर अधमरा कर दिया। इतना सब होने पर भी अन्त में उस भीड़ ने उनके मकान में आग लगा दी और जो अधमरे व्यक्ति थे, उनको उस आग की लौ में फेंक दिया। तो मैं आप लोगों से पूछना चाहता हूँ कि इन हालतों में जब कि कुछ लोग हिंसा से काम ले रहे हैं, उस पर उतर आये हैं, क्यों न यह विधेयक पास किया जाय। आज इन हालतों में किस तरह से जनता की स्वतन्त्रता की रक्षा की जा सकती है। यह सरकार का परम कर्तव्य हो जाता है कि वह जनता की स्वतन्त्रता की रक्षा करे और उसकी रक्षा करने के लिये उसके पास साधन होने चाहिये। यह विधेयक वह साधन है जिसके जरिये वह जनता की स्वतन्त्रता की रक्षा कर सकती है।

मैं आपसे यह कहना चाहता हूँ कि मैं श्री आचार्य नरेन्द्र देव जी का विद्यार्थी रहा हूँ, उनके प्रति मेरे मन में बहुत इज्जत है। मैंने उनका भाषण यहां पर सुना, वह एक बहुत ऊंचा भाषण था। वे व्यक्तिगत स्वतन्त्रता के बड़े भारी पक्षपाती हैं। पर मेरा पूर्ण विश्वास है कि २०वीं सदी में गांधी जी से बढ़ा कोई

[Shri T. Pande.]

व्यक्तिगत स्वतन्त्रता का पक्षपाती नहीं है। लेकिन मैं आपसे कहना चाहता हूँ कि जिस व्यक्तिगत स्वतन्त्रता का आप लोग समर्थन करते हैं, कोलाहल मचाते हैं, क्या वह व्यक्तिगत स्वतन्त्रता सिर्फ आप लोगों के ही लिये है, और लोगों को व्यक्तिगत स्वतन्त्रता नहीं मिलनी चाहिये? मैं आप लोगों से पूछना चाहता हूँ कि राधामोहन का जिस तरह से हाल किया गया, क्या आप सारे देश में वही हालत पैदा करना चाहते हैं? जिस तथ्य को बताने में उसका क्रल किया गया है, क्या यही आपकी नीति है, क्या इसीलिये आप व्यक्तिगत स्वतन्त्रता की मांग कर रहे हैं? राधामोहनसिंह मानिकपुर ग्राम का एक किसान कार्यकर्ता था और उत्तर प्रदेश का एक साधारण व्यक्ति था। उसने उस प्रकार व्यक्ति के बारे में बतलाया था जो कि गोली से मरा था और कुछ व्यक्तियों ने उसके शव को जला दिया था। उसके इतने बताने पर उस व्यक्ति का कुछ लोगों ने क्रल कर दिया। तो मैं आप लोगों से पूछना चाहता हूँ कि आप कौन सी स्वतन्त्रता इस देश में स्थापित करना चाहते हैं? मैं अपने समाजवादी भाई से भी कहना चाहता हूँ और मेरी उनसे प्रार्थना है कि क्या वे यह चाहते हैं, क्या उनकी यह इच्छा है कि इस देश में अराजकता और मारकाट का दौरा रहे? श्री गोस्वामी तुलसीदास जी ने एक चौपाई में कहा है—

अहह प्रथम बल मम तनु नाही ।  
तदपि जाइ देखो बल ताही ॥

मैं आप लोगों से कहना चाहता हूँ कि जिस तरह की नीति आप लोगों ने अपनाई है, वह देश के लिये घातक सिद्ध हो रही है और इससे देश को बहुत हानि हो रही है। जिस तरह से हम लोगों ने अंग्रेजों के खिलाफ हथियार उठाये थे उसी तरह से हम जनता की स्वतन्त्रता की रक्षा करने के लिये हथियार उठाने को

तैयार हैं। अगर इस विधेयक से भी जनता की स्वतन्त्रता की रक्षा न हो सकी तो हमको इससे भी कठोर रुख अपनाना होगा।

यहां पर हमारे भाइयों ने तैलंगाना और आन्ध्र के कई उदाहरण दिये कि वहां पर नेताओं को गिरफ्तार किया गया और गोली मारी गई। यह बिल्कुल गलत है। वहां के जमींदारों और देशमुखों ने यह कार्रवाई वहां पर आरम्भ की और रजाकारों का भी इसमें हाथ रहा। अब इसके बदले में हमारे भाई उस नीति को वहां की जनता पर दोहरा रहे हैं। हमारे भाइयों ने रजाकारों से हथियार लेकर जमींदारों, देशमुखों की जमीन को छीन कर उनका क्रल किया। कांग्रेस कार्यकर्ताओं को हर तरह से नुकसान पहुंचाया और उनका खून किया। रजाकारों से जो हैदराबाद के निजाम की निजी फौज में थे, उनसे मिल कर यह काम किया। सरकारी रिपोर्ट पढ़ने से मालूम पड़ता है और मैं जानकारी के साथ यह कह सकता हूँ कि कांग्रेस कार्यकर्ताओं को और बेगुनाह लोगों को क्रल किया गया, मारा गया और उनको टॉर्चर (torture) किया गया। मैं समझता हूँ कि हमारे कांग्रेस कार्यकर्ता, जो आज शासन पर बैठे हुए हैं और जिसके नेता श्री नेहरू जी हैं क्या उनको इस बात का शौक हो रहा है कि वे लोगों को नज़रबन्द करें। जब इस देश में साधारण जनता की स्वतन्त्रता ही सुरक्षित नहीं है, तो उनको इस तरह के क्रदम उठाने पड़ रहे हैं।

मैं आपसे कहना चाहता हूँ कि जिस तरीके को आपने अस्तित्व कर रखा है, उसके परिणामों को भुगतने के लिये आपको तैयार रहना चाहिये। अगर आप हथियारों से काम लेंगे तो उसका मुक्ताबला हथिया से ही किया जायेगा।

इन शब्दों के साथ मैं इस विधेयक का समर्थन करता हूँ और सरकार से प्रार्थना करता हूँ कि वह इसको शक्ति के साथ लागू करे।

**मैं अपने विरोधी पक्ष के भाइयों से भी कहता हूँ कि वह इस तरीके को छोड़ दें और इस देश का कल्याण और हित करें, जिससे देश में सुख और शान्ति की स्थापना हो सके ।**

[For English translation, see Appendix II, Annexure No. 94.]

SHRI RAJAGOPAL NAIDU (Madras) : Mr. Deputy Chairman, we, in the Opposition, will have to feel consoled only in this respect in the matter of this Bill, the consolation being that there is certainly some improvement over the 1951 Act. Of course, in the guise of giving certain concessions—concessions in the matter of reduction of time—we find, Sir, that more stringent provisions are introduced in the Bill. I shall now briefly deal with the Bill and show how in one way it is more stringent than the 1951 enactment and how on the other hand small concessions have been given.

Taking clause 2, we find, Sir, that the life of this Act has been extended by two years. We know, Sir, that this Act was passed in 1950. Prior to that there was the Defence of India Act—more or less on analogous terms. That Act had lapsed by 1946 or 1947. For three years there was absolutely no all-India Act ; then in the year 1950 nearly four years after the war had ceased, this Act was introduced, and its life was confined to a period of one year. Probably it was felt then that it was enough if the life of the Act was restricted only to a period of one year. In 1951 it was felt—I do not know for what reasons—that it should be extended for another one year and in the year 1952 it is being extended for two years, though the reasons given in the Objects and Reasons attached to this Bill run counter to this very provision in clause 2. I am not commenting upon that now and I will leave it at that.

Let us now go to clause 4. What is the concession that the hon. Minister has given ? I find that the period has been reduced from 15 days to 12 days—a very great concession, Sir. Take clause 5. Suppose a search

warrant has been issued against a detenu and if he does not appear, it was a non-cognisable offence hitherto, but now it has been made a cognisable offence, and unfortunately there was not much discussion on this amendment. In clause 6, of course, the words "as soon as may be" have been qualified as "not later than five days from the date of detention". It is indeed a very great concession. Under clause 7 I find hitherto a person who has been qualified to become a Judge of a High Court was appointed as a member of the Advisory Board. Now that has been omitted. Now only a person who has been a Judge or who is a Judge is qualified to be appointed as a member of the Advisory Board. It is a great improvement and I heartily congratulate the hon. Minister on showing this much of concession at least. Coming to clause 8, we find that instead of six weeks the period has been reduced to 30 days. Again in clause 9, we find there is a great improvement made. Hitherto the practice was that if the Advisory Board deemed it necessary, they could interview the detenu. We now find by this amendment that if the detenu chooses to have an interview with the Advisory Board, he can do so. But in the Select Committee we tried to make it obligatory on the part of the Advisory Board. Whether the detenu desires to interview the Advisory Board or not, we wanted to make it obligatory for the Advisory Board to interview the detenu. But the provision has been made in this way, that if the detenu desires to be heard, the Advisory Board may hear him. But very many detenus are not educated. Unless the detenus are told that they can have personal access to the Advisory Board, they will not know that they can do that. If it was made obligatory on the Advisory Board to hear the detenu, that would have been fair to the detenu, and they could have heard all that the detenu had to say. But no such provision has been made in the clause.

In clause 10, we find that although the Home Minister was very adamant in the Select Committee, he has yielded in the Lower House and the maximum

[Shri Rajagopal Naidu.]

period of detention is only 12 months from the date of commencement of detention. I certainly congratulate the hon. Minister on showing at least this concession.

As regards clause Ii, we find that this is less stringent than the terms of the previous amendment. Any one who is arrested can be detained only on fresh facts arising. That is certainly a concession.

I want to put forward one or two points about the objects of this Bill. The hon. the Home Minister as well as the House is aware that such enactments are more or less war-time measures in other countries. Why should we enact this measure in our country in peace time ? Three years after the termination of hostilities this Act was introduced in our country. The objects are given in section 3 of the parent Act. The objects are : firstly, the defence of India and the relations of India with foreign powers, and the security of India. The second object is: the security of the States or the maintenance of public order. The third object is maintenance of supplies and services essential to the community. Now, we are not at war with any country. I do not know why, when we are at peace with other countries, the hon. Minister should have brought this measure. We have no enemy at all in the whole world. Why should this enactment, passed in 1950, be continued till 1954. Many hon. Members have dealt with the first and second objects. Coming to the maintenance of services essential to the community, my hon. friend Mr. Guruswami has dealt with it yesterday and I shall not deal with it now. I shall deal with only one aspect, namely, maintenance of supplies. It is certainly reasonable to say that blackmarkets should be rooted out in India. But can we root out blackmarkets through the enactment of such a legislation as this? Is not the hon. Minister aware that giving too much power to the Executive by passing such legislation is dangerous? In trying to check black-

marketeers, the Executive W-iv step upon innocent merchants whom they do not like.

Let us take, for example, an analogous law in England. In the year 1920 in England they passed an enactment. It was called the Emergency Powers Act, 1920. Let us compare the provisions of that Act with this Act.

MR. DEPUTY CHAIRMAN: The hon. Member has only two minutes. He will be encroaching upon the time of other hon. Members.

SHRI RAJAGOPAL NAIDU : I will finish soon, Sir.

The Emergency Powers Act, 1920, which was enacted in England, was enacted only with a view to putting down blackmarketing. Let us compare the provisions of that Act with our present Bill. The King was to issue a Proclamation of Emergency. The Proclamation remained in force for one month only. There was a provision made for trials by courts of summary jurisdiction. The maximum sentence that could be awarded under that Act was only three months. In our country we have got the Essential Supplies Temporary Powers Act. We have introduced very stringent provisions in that Act. Why should we not invoke that Act to deal with black-marketeers ? Why invoke this Preventive Detention Act to put down blackmarketeers ? Why think of this preventive detention when there is no war, when we are at peace with other countries ? I do not know what is in the minds of those hon. friends who find this Act advantageous. *(Time bell rings.)* I shall deal only with one or two points and stop. I shall not encroach upon the time of others. I want to refer to legal aid. That is most important.

*(Time bell rings.)*

MR. DEPUTY CHAIRMAN : I think enough has been said.

SHRI H. C. MATHUR (Rajasthan): Mr. Deputy Chairman, when I heard

the hon. the Home Minister, his demeanour, his emotions and his speech left no manner of doubt in my mind that he very sincerely and very honestly feels that the Preventive Detention Act [ is not only necessary but expedient ] in the interests of the good health of this country. Naturally, therefore, when there were severe criticisms and amendments moved, he felt touched. I myself confess that the number of amendments moved and the manner in which they have been moved have not left a very happy impression. But I do feel that it would be most unfortunate if I did not carry conviction with this House and with the Government of India that most of our troubles which we suppose to exist would be remedied by this Act. But I am definitely of the opinion that our troubles all over the country and particularly in Rajasthan have little or nothing to do with the field covered by the Preventive Detention Act. Last time when I mentioned about dozens of murders having been committed in Rajasthan during elections, according to the statement made by the hon. Prime Minister, I did not do it just to refer to the statement here and have the pleasure of challenging it. It has got a direct bearing on the present Bill. The hon. Prime Minister made the statement in justifying the extension of the Preventive Detention Act all over the country and particularly in Rajasthan. In complete contradiction of that statement I read out a passage from the address of the Rajpramukh. And could I have been more fair than in requesting the hon. Home Minister to lay on the Table of this House the report of the Regional Commissioner particularly in connection with this matter? The hon. Home Minister has not said a word about it and has left us to draw our own conclusions. But to my utter surprise my friend from Jodhpur Division further tried to support the statement that hundreds of dacoities had been committed and murders perpetrated to terrorize people into not voting for the Congress. And in the face of my statement, the Rajpramukh's address and the Regional Commissioner's report he mentioned, in justification of

the retention of this Act, reports of the Intelligence Department to which I certainly have no access. He mentioned that that notorious dacoit of Saurashtra, Bhupat, was stalking the length and breadth of Rajasthan terrorizing people. Eloquence cannot alter facts. How can we disbelieve the statement in the address of the Rajpramukh? And in that very address the Rajpramukh has made another statement that the crime position in Rajasthan is improving. As a matter of fact, Sir, most of our friends might have observed that my friend who spoke on this subject was absent most of the time during the last session of the Council. He was helping his chief in Jodhpur to win a by-election. And what happened? They lost the seat to the Communists. I do not think that Bhupat was stalking the streets of the Jodhpur City. And, Sir, another by-election to the House of the People was also lost by them. The Maharaja of Jodhpur was not there. The House perhaps does not know that out of the 35 seats in the Jodhpur division, the Kisan Sabha and the Congress put together got only four seats and they lost all the four seats to the House of the People.

MR. DEPUTY CHAIRMAN :  
Please speak on the Bill.

SHRI H. C. MATHUR : They say that murders are being committed, dacoities are being committed to terrorise the People of Rajasthan so that they may not vote for the Congress. This statement in justification of this Bill is absolutely false and baseless. This is not going to help the situation which will remain as it stands. So my submission is that the Preventive Detention Act is not justified on this ground.

Well, Sir, I myself submitted that the law and order situation in Rajasthan was not very happy. I submitted and I told the Council that it was almost an ideal state of affairs in 1947. Why has it deteriorated after that? I would submit, Sir, that if we could do only two or three things, the whole position will improve.

[Shri H. C. Mathur.]

There are dacoities. It is true. But what has unfortunately happened? There is no Ministry functioning. There is no Police functioning. During the whole of last year the Chief Minister of Rajasthan and the Inspector General of Police were quarrelling with each other. Either the Chief Minister should have been removed or the Inspector General of Police should have been removed. If the police cannot function, how can you have law and order? Then our Ministers unfortunately go and make reckless speeches and they make reckless commitments to please this section or that section of the community. Certain orders are passed, orders which they cannot implement, orders, the implementation of which requires a lot of preparation, and which are thoughtless orders, and it is such reckless orders that are responsible for the murder of two innocent people there and all this trouble over there. If you could only stop that, Sir, the situation would considerably improve.

Then they talk about the Jagirdari element which is a very great menace to the state of Rajasthan. It was about four years back that I told my Congress friends, the Ministers there, that Jagirdari could be completely finished in Rajasthan in a few months' time and not a hair would turn. (*Time bell rings*) But it has taken us four years to draft out the Jagirdari Abolition Ordinance and our friends are not fighting against the Jagirdari system, Sir. They are fighting against the Jagirdars. They fought with Jagirdars and they called them names and hurled abuses. Then what was the occasion to fight the Bhoomias, Chut Bhais and the Rajputs? You will be surprised to know that the Rajputs, Chut Bhais and the Bhoomias were not at all friendly with Jagirdars. As a matter of fact there is an age old conflict between them and the Jagirdars. But whatever has happened is because of the reckless policy of the Government. The trouble in Rajasthan is because of that. (*Time bell rings*.) It is because of the policy of the Government .....

MR. DEPUTY CHAIRMAN :  
The time is up.

SHRI H. C. MATHUR : I leave my speech unfinished.

SYED NAUSHER ALI (West Bengal): Sir, I do not feel, I confess, Sir, quite happy and I dare say that none in this House not excluding the hon. the Home Minister could possibly feel happy about the subject we have been debating and deliberating on all these four days. Sir, I am sure it was no pleasant task for the Home Minister to come forward with a Bill for a further lease of life to the dying, detested Preventive Detention Act. Sir, I can tell you that a section of the Members of this side of the House found it too trying for them to reconcile themselves to the idea of continuing, for a further period of two years in times of peace, in times not unusually or exceptionally grave or abnormal, curtailment of the liberties of the citizens, liberties of yourself, of myself, of the Home Minister himself and of the 360 millions of the citizens of India. And it must have been a very sad experience for the Opposition who fought tooth and nail without the desired effect, though the fetters were indeed gilded a little here and there. Sir, I am not at all happy. I feel, Sir, at the same time, that, the Government brought forward this Bill from a sense of duty and responsibility in the honest belief that the measure was necessary in the interests of the security of India and for the reconstruction of society as conceived by them. And the supporters of Government supported the Bill also from a sense of duty and discipline demanded by the circumstances of the situation. And, Sir, I am also sure that the Opposition played its role in focussing attention on the undesirability of and the dangers and the grave risks involved in investing the executive, in peace-time, with extraordinary powers of detaining free citizens without trial on the information of undisclosed secret agents not always reliable or respectable. But, Sir, at the same time, I believe a duty has been done and it has been done by all sections of the House according to their own lights.



The Government fulfilled their duty by bringing forward this Bill, the supporters supported it and as I have already said, the Opposition opposed it each according to its own light. And I think the duty has been done truly and well, honestly and conscientiously, by each and every section of the House, nay by each individual Member thereof in its or his own way in shaping the Bill. And the Bill, Sir, has gone through the second reading and is now awaiting the final seal of approval of this House on its onward journey to the Statute Book with the assent of the President. Now here the matter ends and here the matter rests so far as the present session of Parliament is concerned. But there a new chapter begins, a new and fresh, and I believe, more important chapter in the life of the Bill, already an Act, namely, the administration of the Act. I propose, Sir, with your permission, to presently revert to this point again.

Before proceeding further, Sir, I should like to touch upon the constitutional aspect of the question. It appears to me that the point has not been clearly appreciated. It is undeniable, Sir, that Parliament is quite competent to legislate on the matters covered by the Bill. It is equally clear that no declaration of emergency by the President and no prerequisite as a condition precedent is necessary under the Constitution to the undertaking by Parliament of legislation on Preventive Detention and allied matters covered by item No. 9 of the Union List and item No. 3 of the Concurrent List. Parliament is quite free to legislate on these matters as and when it chooses and pleases; and as and when it considers necessary or desirable. There is no other authority to guide or challenge its decision in this regard. Thus the Bill, when enacted, will be a valid piece of legislation, unimpeached and unimpeachable from any quarter whatsoever on the ground that no necessity for this legislation exists. But that is not all, Sir, that is not all, I most respectfully submit. What has been troubling me, what has been paining me, what has made me unhappy, Sir, is quite a different matter. It is a question which

vitaly affects the nation much more than this temporary legislation on preventive detention. The question is : Whither are we drifting to ? Are we proceeding on right lines, on correct principles ? Are we, as the Parliament of new India under the new Constitution of India, creating sound, salutary, healthy precedents, conventions and traditions ? My answer is, an emphatic "NO". Here I beg most respectfully to differ from the Government. I would respectfully beg of the entire House and the Government to calmly and dispassionately consider the question I am now going to submit to them for their consideration. Certainly Parliament has got the authority to legislate on these subjects. But Parliament has, at the same time, to consider carefully under what special circumstances to legislate.

*(Time bell rings.)*

I hope, Sir, you will grant me some indulgence, because I seldom speak. I am formulating a principle for the serious consideration of the House irrespective of any party allegiance. Let me begin by giving certain facts. On the 15th August 1947 India became free from the fetters of foreign rule. It was preceded and followed by holocausts, by great upheavals—murders, massacres, loot, arson and abductions on a scale unprecedented in the annals of human history. I believe, Sir, the Defence of India Act and the Rules ceased to have any operation then. There was no Preventive Detention Law, I believe, then in force or even in the imagination or brain of anybody, and even if any such law existed, I am sure it could not have been applied to the situation that had arisen then. The turmoil subsided and the situation improved. The Constituent Assembly of India framed the Constitution and the Constitution came into force on the 26th January 1950 and India became a Sovereign Democratic Republic on that date. The Constituent Assembly was transformed with slight modifications into the Provisional Parliament, which I may be permitted without any disrespect to that body or the Members thereof to

[Syed Nausher Ali.]

describe as a hotch-potch body. It was constituted with Members some of whom were nominated, some elected on separate communal electorate and others on joint electorate with reservation of seats. That was the character of the Provisional Parliament, elected not on adult franchise but indirect or restricted communal franchise. In February 1950 a Bill for Preventive Detention was introduced in the Provisional Parliament by Sardar Patel and was adopted by it. There was practically one party rule at that time, but still the opposition to the Bill, though of the few, was not feeble. Its life was to be for one year only. It was expected that the situation would improve or rather it would not be necessary to continue the operation of the Act for more than a year. In 1951, when the situation had further improved, there was .....

MR. DEPUTY CHAIRMAN: You have already taken five minutes more.

SYED NAUSHER ALI : Then I will just say this, Sir. You will see that the life of the Act is being extended in arithmetical progression, first one year, then one and a half years and then two years. Now, Sir, according to the Prime Minister this Act is necessary for meeting communal activities, Communist activities, terrorist activities, and Jagirdari activities—all based on violence. To this have been added by the hon. the Home Minister general strike and blackmarketing. Now, Sir, I will say with the greatest respect to all concerned that if this argument is to be accepted as valid we have got to be ready to place the Preventive Detention Act permanently on the Statute Book either a permanent Preventive Detention Act or no Preventive Detention Act would be our choice. And if I am given my free choice I will say at once without the least hesitation "No Preventive Detention Act". My reasons are these. First I am not a believer in Preventive Detention, in repressive laws. Repression, like war, solves no problem.

MR. DEPUTY CHAIRMAN : Your time is up. Mr. Madhavan Nair.

SHRI K. P. MADHAVAN NAIR (Travancore-Cochin) : Mr. Deputy-Chairman, Sir, but for certain important reasons I would not have intervened to take the time of the House when so many hon. friends are anxious to speak. Some references were made to my State and to the Ministers there and references were made also to me in person. I am therefore constrained to take a few minutes of the House. An old co-worker of mine coming from my own State referred to the way in which the Act has been working in our State. I must say that the Central Act came into force in 1950 and long before that, when Travancore and Cochin were two States, in both there were similar legislations. In Travancore it was called the Prevention and Detention Act and in Cochin it was called the Criminal Law Amendment Act and they were being enforced. I heard my friend remark that the Act was applied immediately some people started an agitation against the increase in price of paddy. I was wondering what he was saying. So I consulted friends and I have not been able to find out wherefrom he got the information. It is not necessary for me to refer to the various acts of incendiarism in the State but just to show that it was not the increase in the price of paddy which resulted in the use of this Act, I shall refer only to one incident that happened in 1946 and another in 1950. In 1946 it is not my intention to create any heat at this closing stage, comparatively today we are in a calmer mood, but just to show how my friend's version is foreign to the fact I am stating—the facts omitting all embellishments—a mob led by a party—I don't want to mention the name though everybody knows it—attacked the police camp, killed the sub-inspector, head constable and two constables and the raiders went away taking with them the available rifles in the police camp. This happened in 1946.

SHRI M. MANJURAN : It is not a fact. May I know which is the station ?

SHRI MADHAVAN NAIR : I will now come to 1950. This happened in my own village. A number of people attacked the police station.

(Shri M. Manjuran rose.)

MR. DEPUTY CHAIRMAN : No interruptions. You may refute when you speak.

SHRI MADHAVAN NAIR : They killed a sentry, overpowered three constables on duty, one of whom died later, and then cut the sentry to pieces. Not satisfied with that.....

(Shri Ai. Manjuran rose.)

MR. DEPUTY CHAIRMAN : No interruptions, Mr. Manjuran.

SHRI MADHAVAN NAIR : They made an impression of their palm on the wall of the police station with the blood. They shook hands with some of the criminals in the lock-up after dipping their hands in the blood of the constable and how did they go away ? They went away taking with them—I don't exactly remember the number—the available muskets, cartridges and things like that. Yet our friends come here and say because there was an agitation by people who did not know anything but who were only concerned with their stomachs, this Act was put into force. I wish to give a few figures with regard to the way in which the Act has been enforced in our State. In 1950 at the time the Central Act was made applicable to our State, there were only 21 detenus. Members are aware that if at all there is any necessity for this Act to be applied anywhere it is in the State from which I come. In spite of it, in the years 1950-52 on the whole there were only 22 detenus belonging to the group or party which the Opposition Members, some of them I mean, represent, and there were 13 people arrested for blackmarketing. On the whole there were thus only 35 people in detention against whom action was taken under this Act. There were also eight warrants issued, but those persons were not underground.

Again a reference was made that in our State the Government has a precarious majority and therefore they should not be entrusted with this power of taking action under this Act. Till now we were hearing one side of the plate that we had a 'brute' majority, a 'brutal' majority and a 'brutish' majority, and that we were doing as we liked with this majority ; but here comes the other side of the plate. Now they say 'There is a precarious majority and so don't allow them this power'. If any safeguard is necessary against misuse of this Act, the greatest safeguard is the precarious majority itself—What is the present position in the State as a result of the application of this Act ? There is nobody in detention under any of the provisions and there can therefore be no question that the law has been misused.

SHRI C. G. K. REDDY : Then why do you want it ?

SHRI MADHAVAN NAIR : I will come to it—that is a general question. Then there was a personal reference made to me about what happened in 1942. Whatever may be my personal opinion, and however much I may differ from the versions given by my hon. friend, I don't want to shirk and I am prepared to take up the vicarious responsibility for everything that then happened in my State. I am fully prepared to say that I take up the entire responsibility for all that and I don't want to run away from that, but you all know what happened in 1942, and under what circumstances that happened. We are today in 1952, five years now after 1947, the year of Independence, and I wonder what comparison can be made between things which happened in 1942 and things happening now.

Now I shall very briefly refer to a few general points also. My friend who just spoke before me referred to the history of the legislation—what happened in 1950, what happened subsequently at Rajaji's time and what is happening now. That is exactly what I want hon. Members to note. It is

[Shri Madhavan Nair.] well established that the Government of the day has the responsibility to govern, it must govern. Some Members of the Opposition have been calling the Government "a weak Government", "a useless Government" and others, "a Government for repression and oppression". Whatever it is, so long as the Government is there, it has got the responsibility and it has to govern. It felt that for the proper governance in this country it should have a particular legislation. That legislation was introduced in 1950. They found that some changes were necessary. So those changes were brought about in 1951. A review of the working of the legislation was made and as a result we have now before us a Bill. And for those hon. Members who may not be fully aware of what has taken place I may refer to the changes that the draft Bill underwent after public opinion had expressed itself. The Bill was introduced in the House of the people and at a later stage the scope of the discussion was widened and the parent Act itself was made the subject of discussion. What happened in the Joint Select Committee? The Committee sat day after day and worked for hours and hours and various kinds of suggestions were considered one after another, and certain improvements were effected in the various provisions. Not satisfied with that, even after the Select Committee submitted the report, a small Sub-Committee of our Party sat from day to day minutely scrutinizing the many amendments sent by the oppositionists, and as a result of these deliberations the Bill has emerged with still further amendments.

Now Sir, I have gone through the amendments and I feel that the many objections could be brought under two or three categories. One is that it should be used only in the case of an emergency and that it should be applied piecemeal, to this State or that, according to the discretion of the President. I want the question to be considered from a practical point of view. How is the President to exer-

cise his discretion ? In a democracy the President does not exercise it purely according to his own opinion. He has to act according to the opinion and advice he gets from the Government of India. And the Government of India gets its information from the States concerned. Therefore, in practice, what difference does it make if the President acts on the advice of the State Government concerned or the State Government does it on its own accord ? Therefore there is not much point in saying that the President should, from time to time, decide in which State the law should be applied and in which it should not.

Objection has been taken to the extension of the life of the measure. To meet this objection the assurance has been given on the floor of the House that at the end of one year there will be a review of the whole thing on a motion brought before Parliament. A question has been raised as to the form it should take, whether it should be a Bill or a Resolution. I do not know what difference it all makes. We have so many ways open. There can be a statement and after considering the situation prevailing at that time, Parliament can decide that the Act should be altered in such and such a manner or that it should be administered in such and such a manner. Necessary amendments can be made to the Resolution. As a practical proposition therefore I ask whether it makes any difference if the thing comes in the form of a Bill or a Resolution. As long as the Government has a majority they can carry their measure in spite of impediments. Therefore it does not matter whether the subject comes here in the form of a Bill or a Resolution. It gives an opportunity to express our opinion and Government will certainly take the opinions into consideration.

*(Time bell rings.)*

Just one or two minutes more, Sir.

With regard to the opposition to the Bill from the Communist Party, I am not worried very much, obviously it

has to be there. I must say that I agree with the leader of the Socialist Party that political ills should not be treated by repression. But I do not know whether that is what is being done. According to him, if this measure is used for political reasons that will be repression. I agree. He said if somebody is put in jail for political reasons, he usually becomes a martyr. I again agree. In this connection let me, Sir, refer to what happened in my State just before the general election. At that time the Communist Party there was banned and there were some Communists in detention. Some of us in the Congress Party felt that if the ban was lifted and those in detention released it would be helpful to us and harmful to the Communists. But the Government considered the matter in all aspects and decided otherwise ; they placed the interest of the country above that of the Party. The ban continued and the detenus remained in prison. There was a peaceful election and soon after the election, the ban was lifted and all the detenus were released. Thus, I say Sir, there are enough inherent safeguards against unnecessary use of the powers by the political party in power. No political party will resort to the extraordinary power unless the need and emergency are such, otherwise it will be against its own interest. (*Time bell rings.*)

12 noon.

Sir, I have no time and so I do not touch upon the other points, but shall just make a brief reference to the appeal made to the hon. Home Minister by the leader of the Communists that those standing for by-elections at least should be released. This request if agreed to will result in many people resigning and many others who want to be released standing for by-elections in their places, I mean those who are in prison and others who are underground can easily get released. So this is not a desirable position.

Finally I would appeal to the Opposition that this is no time for creating

quarrels. Let us all get together and cooperate and work for this new democracy of ours. Let us unite and let us work together for the betterment of humanity and our people.

Thank you, Sir.

SHRI C. G. K. REDDY : Sir, before I commence I should like to make a submission. Yesterday when we agreed on this side of the House that the discussion should stop at 4 o'clock, it was on the condition that two-thirds of the time was to be given to the Opposition and one-third to the Government benches, including the speech of the Home Minister. So in case some of us have to say something, and we take a little more time, I would request your indulgence and the indulgence of the House.

MR. DEPUTY CHAIRMAN : You have taken more than two-thirds of the time.

SHRI P. SUNDARAYYA : No.

MR. DEPUTY CHAIRMAN : Yes, I am recording the time.

SHRI C. G. K. REDDY : Well, Sir, I leave it at that.

Sir, there are one or two things which have been raised by the Congress benches that I should like to reply to, even at this late stage. I am aware that we have almost passed this Bill. I do not think that we can make any impression on our friends or the hon. Minister. Arguments that may be put forward from this side of the House will have no impression at all and will certainly bear no impression on the Bill itself. But we would be failing in our duty if we did not focus the attention of the public on certain fallacious arguments that have been trotted out by the supporters of the hon. Home Minister.

First of all I should like to refer to the statement of an hon. Member from my own State who said the other day that he was shocked and surprised at Acharya Narendra Deva's contention

[ Shri C.G.K. Reddy. ] . that *Satyagraha* as a peaceful agitation, and demonstration was an inalienable right which you cannot take away. The Father of the Nation was also quoted by him as having said that *Satyagraha* was not a weapon to be used only against a foreign Government, but that it could be used even against a national Government. To that my hon. friend posed this question, "When coal was nationalised, did the Conservatives go on *Satyagraha* ? When there was austerity, did the Labour Government do *Satyagraha* ?" Sir, after hearing my hon. friend I remember the Sanskrit saying *Tfair arfo^Tfmr WPT* and also that half knowledge is a little more dangerous than complete ignorance My hon. friend and perhaps other friends who think like him may remember that in 1938 when the Munich debacle was going on, there was a huge procession of people going right down to io Downing Street and they made a big demonstration asking Chamberlain to quit. Later, in 1946, after the Labour Government came in, the people who did not have houses went and occupied flats right opposite to io Downing Street and refused to quit. Again, under the Labour Government, the trade unions did not give up their right to go on strike. Sir, I should like to put this proposition before this House. Short of subverting the Constitution, short of using violent means to overthrow the Government, the people have the inalienable right, the fundamental right, the democratic right to express their opposition, their condemnation and certainly criticism of the Government. If this right were to be given up, there can be no democracy whatever. We cannot afford to wait till the next general elections to dethrone a Government which misbehaves the very next day after one general election. Of course, the hon. Home Minister would say, "Let us unite. Come back to us. Let us fight the elements that are trying to subvert the State." But I am not going to walk into his Dhritarashtra's embrace. We have gone out of it and we are not willing to go back there.

Nor is it the same party to which we belonged, the Congress. It is not the same body to which we can walk in. I do not recognise, at least looking even at individuals, the same people who were there when we were there.

Sir, I would only say, if the hon. the Home Minister says 'Peace is what I offer you and you must take it', I refuse to accept the peace of the grave-yard ; if he says "freedom, take it " I say, I refuse to accept the freedom of a corpse in a coffin. I declare war against this peace of the graveyard and I fling, on behalf of my Party, my glove and invite the Home Minister to pick it up. I am not willing to give up the right of the people of this country and my right to demonstrate our opposition to the Government when we feel like it.

Having said this much, Sir, I should like to refer to one other thing that becomes very prominent in these discussions. With due deference to my Communist friends, I would say that to some extent, their advocacy has done some injustice in so far as this Bill is concerned. A bad advocate sometimes, Sir, loses the case. It is very difficult for the country to forget that in 1942 when all of us were languishing in jail, fighting for our freedom and fighting against the foreigners, our friends did not raise a voice, nor did they conduct such a huge agitation as ought to have been conducted for the freedom that we were fighting for. The country cannot forget that. So, naturally, those who did not lift their little finger to speak in the name of freedom and democracy and speak in the name of the P<sup>eo</sup>P<sup>l</sup>^ and the country, a people who had been made slaves for 200 years and more—the arguments coming from advocates of that reputation would naturally be not accepted by the country or even the Congress.

SHRI P. SUNDARAYYA : But, the people have accepted.

SHRI B. GUPTA : You saw it in the elections. In West Bengal you have been wiped off completely in the General Election.

MR. DEPUTY CHAIRMAN : Mr. Gupta, order, order.

SHRI C. G. K. REDDY : I am here to state and I am only stating the fact which cannot be forgotten by anybody. I was only saying that a disservice was done to this Bill and to the opposition to this Bill because the advocacy was bad. The advocates were not of a very high reputation and the country could not forget so easily things that happened only a few years ago in the midst of our freedom struggle. But, that does not mean that opposition to this Bill does not come from the > country. I am sure that men in public life, to whatever party they belong are opposed to this Bill. Only just now we saw, Sir, and I congratulate him, that even in the ruling party there are j people who have the courage of con- I viction to say that they are in opposition to the Bill and they do not like this Bill. In spite of the fact that they are forced to vote for the Bill, still they have expressed their opinion. I am sure, if there was no whip and the members of the ruling party had not left their hearts ! and brains in the Lobby and merely brought their hands into the Chamber, | I am sure that what I say today, what I am saying here, would be said by several of my friends opposite and I know in private conversation also that they do not want it. In spite of that, for some reason, I do not know, the Government wants to push through this Bill and get it passed somehow. Doubts were expressed by my Deputy Leader, Shri Ghose when he said that there may be a private deal between the two sections so that the Preventive Detention Act would suit both their purposes. I also feel, Sir, that there may be a deal, not that they shook hands over it, but it suits both these sections because I feel and I tried to touch on it that day. With your permission, I will take only a few minutes to elaborate.

MR. DEPUTY CHAIRMAN : Ten minutes are over, Mr. Reddy.

SHRI C. G. K. REDDY : If you go through history you will find that the Conservatives have never liked to

fight anybody but the Communists and the Communists have never liked to fight with anybody else except the Conservatives. Between them, they would polarise all the political forces in any country that they had the good fortune or misfortune to rule or be in the opposition. This polarisation has taken place and has been helped by everyone so that there could be a direct and sharp conflict between these forces. I do not want to charge the Government with this intention but I do say that if they read history there cannot be any other conclusion than this that by pushing through this Act they are only trying to sharpen this conflict so that it will be easy for them to make a clean fight and a straight fight between them and the other force. I think they are doing the greatest injustice to the country and the people by doing this. If I may characterise these two forces, one force says 'I offer you freedom ; bread will come later' and the other force says 'I offer you bread here and now ; freedom will come later'. But, those of us who know the value of freedom and bread and the implication of these things, know that there cannot be freedom without bread and bread without freedom. Freedom and bread must go together and by sharpening this conflict you are posing two deceptive propositions before the country and you are asking the people to take freedom or to take bread. That would be the death-knell of democracy, if such a choice were to be put before the people and they could not choose what they really want, that is, freedom and bread together.

I would say, in conclusion, Sir,, that just as I fight, whether I polarise myself by this or whether I liquidate myself by this, even so long as I stand alone or even when I am dying, just as I will fight relentlessly the peace of the grave-yard and the freedom of the corpse in the coffin that the hon. the Home Minister is offering, I would equally fight the bread soaked in blood that is offered by another section. What I want and what we will take, and what the people want is freedom

[Shri C. G. K. Reddy,] and bread. To those who put the de- | •ceptive proposition of freedom or bread, I would say that they are doing a great injustice to the country. On that principle also, I oppose this Bill because this Bill only helps to buttress those deceptive propositions. It will really be the end of democracy if this Act remains any longer in force in this country.

SHRI B. GUPTA : Mr. Deputy •Chairman, I would not take the time of the House by replying to my hon. friend who sits here. These arguments are nothing new. They are only faint echoes of what Attlee and Blum had been saying elsewhere in the world. I can tell the champion of the Third Force that their destiny, if they pursue this line, has been long determined. They accuse the Communists, yes, they do Sir, they pretend to fight the reactionaries and after a while land in jail, as they did in Germany. And only then did they start talking about unity. I would not be provoked by my hon. friend, the right wing leader of the Socialist Party. That is not my business here. The only advice that can be given is that it is better for Socialism and for the ranks of the Socialist Party that this futile path be abandoned. I can only give that advice—advice not of an individual's experience, but from the bitterest lessons of history of the current era when the Socialist leaders taking that path landed Germany and Italy into the disaster of Nazism and Facism. I hope that path, they would not beat again. They are important, not because of their policy but because of the aspirations of their ranks. Therefore I cannot disregard them, speak derisively about them in the manner in which they speak about us, with the facility with which they develop their sickening logic. I am not going into that any more.

Let me now turn to the bigger person—the hon. the Home Minister of India. Now, Sir, when this first Parliament met, people thought I some light would emanate from ft- \*1

the dirkness would be lifted and probably a new dawn would break upon the path of India's advance. Unfortunately, however, the people have been disappointed. Darkness continues to engulf the political situation of the country- and this present measure, dark as it is, only adds to the mounting darkness of the country and that is the greatest danger, Sir. Now, Sir, I know by the counting of heads, this noble battle that we have been fighting here for a number of days will be lost. But even if it is lost in this Parliament, this battle which is sacred and which carries forward the mightiest traditions of our mighty thinkers and leaders would be carried forward by a million men into the broader Parliament of India's awakened humanity. With this confidence we shall go from this House.

It is no use talking about the principles of this Bill, Sir. There is not an iota of democracy in it. It is not something which the Communists are saying ; it is something which the big Judges of the Supreme Court have themselves said. I want them to go on record—these pronouncements of the Judges of India's Supreme Court. They do not belong to the Communists whose *bona fides* you are questioning. They do not belong either to these Cinderella Revolutionaries who dig out 1942 to prove their credentials in the year 1952. I will read out what Justice Mahajan has said about the Preventive Detention Act. I want these things to go on record. He says :

"preventive detention laws are repugnant to democratic constitutions and they cannot be found to exist in any of the democratic countries of the world. It was stated at the Bar that no such law was in force in the United State. "

DR. K. N. KATJU : On a point of order, Sir. Is my friend reading from the Judgment on Gopalan's case ?

SHRI B. GUPTA : Yes, Sir, it is Gopalan's case.

DR. K. N. KATJU : Is that the Dissenting Judgment ?



SHRI B. GUPTA : Yes, it is.

DR. K. N. KATJU : Then you ought to say so.

MR. DEPUTY CHAIRMAN : Please say it is from the Dissenting Judgment.

SHRI B. GUPTA : I have not got the original here, Sir. Now, Sir, there is another observation in the same case—Gopalan's case—by Justice Mookerjee :

"It is undoubtedly unfortunate and it cannot but be regarded as a most unwholesome encroachment upon the liberties of the people."

Then, Sir, here is another judgment taken from a report in the *Times of India* published on September 14, 1951. I am taking an extract from the judgment from that report. Here the Madras High Court has said about this measure :

"Nonetheless it is rather difficult to reconcile detention in any real sense of the term with the fundamental freedoms guaranteed by the Constitution."

That is how the great lawyers of this country have viewed the matter. We may have differences with them. Many people may have differences in the political field with them. But that is how they have understood the Constitution in their own lights and how they have viewed the matter. These are sufficient. Now, Sir, the hon. the Home Minister has said so many things. I would not just hold out a case against him for throwing epithets at us and accusing us ; he has questioned our *bona fides* even. I can tell him that the Communists have sprung from the soil of this country and the only mandate they owe is to the people of this country. Had it not been so, in the areas where repression was ruthless, we would not have won. But we have won and won victoriously in the last elections. Look at Telangana ; look at Andhra and look at even West Bengal. Therefore in the movement of the people the greatness of the Party, and its ideals have

established themselves beyond any doubt. I hope even if he does not look, at us, the hon. the Home Minister will at least look at the fact. It is no use deriding the masses ; after all, it is the masses who make history. It is no use telling me to go to them and to persuade them through advocacy. After all, I get my inspiration not from the law books that I read some time back, nor from the jejune arguments of effete politicians, but from the noble struggle of the masses of the people, and the flaming patriotism that the people of Telangana have displayed in the course of their struggles. But those days are past ; a new path is opening out and it is no good that a responsible Minister should speak irresponsibly. He should not, when he faces an Opposition, question the *bona fides* of the Opposition. On the other hand, it is his bounden duty to appreciate the Opposition's point of view, to try and understand their point of view. Assuming that there do exist differences—that cannot be denied unfortunately—our Home Minister has taken the line as if a democratic opposition is annoying to him, as if the Opposition is the

most disconcerting feature in the whole Parliament. I hope the hon. the Home Minister will please abandon this attitude, because that is not the path of democracy, nor is it the path of parliamentary practice. It is repugnant to normal healthy parliamentary conventions and the sooner he gives it up, the better for all of us.

Now, Sir, much has been made of the statement made by our Leader here about the surrender of arms. Now, we made that statement because the hon. the Prime Minister had said something in Parliament. We made that statement in a forthright manner. We made that statement and that statement was seized upon, mutilated, and distorted with a view to securing some debating points when their case was lost on other scores. It was not a question of the Communist Party-storing some arms somewhere and then waiting to surrender to you ; it was a

[Shri B. Gupta.]

question of the people in Telangana who in the course of their deadly struggle with the Razakars came to possess some arms ; it is a question of allowing these patriotic people who have been driven into jungles to come back to normal life and participate in the democratic movement of the country. It was not a question of dictating terms, as some hon. Member said, nor was it in the least a question of truce talks as has been suggested. Why do you make all these fantastic suggestions ? It was a simple statement made with a view to facilitating the surrender of arms; it was a statement made in good faith so that we can persuade those people in those areas to surrender those arms. Sir, they are living in jungles ; they are persecuted ; they are hunted out and they are driven away from political life, they are torn away from the normal life of their homes, from their dear and near ones. We want these people back amongst us. It is very rightly said that the Communist Party do not need any arms. We want to travel along the democratic path despite the fact that at every stage obstacles and hurdles are placed on our path by the malevolent rulers of our country. Even so, it will be our endeavour to break through along the democratic path, so that we can play our part. We are not going to oblige them by going underground ; we wish to remain overground, fight along with the people to broaden the horizon of democracy, and open a new path so that India's humanity can advance despite the obstacles and difficulties placed in our way by those sitting there. I say it was a very responsible statement. I wish our statement was understood in that light and accepted instead of being seized upon for the purposes of argument. I say it is not any dictation to the Home Minister. All that we have said is that if you create these conditions, it would be easier for the arms to be surrendered. Gandhiji also at one time—I know from my own knowledge—during the negotiations with the terrorist party, wanted to have something to this

effect done. I know, because I had been in that movement for a long time. They are annoyed at the talk about negotiation. Are they not negotiating with the big tax-dodgers for getting hidden incomes disclosed for purposes of income-tax ? If this is a sacred job, a hundred times sacred is the job if you negotiate with the people's valiant fighters of Telangana. The hon. Mr. Mahavir Tyagi goes on beseeching those multimillionaire tax-dodgers to disgorge taxes.

*(Time bell rings.)*

One minute, Sir. There the honour of the Government is not hurt. There the prestige of the Government is not lowered. There their self-respect is not hurt. But when it comes to the question of carrying on certain negotiations for the purpose of creating an atmosphere for better democratic functioning of the State, for democracy for the people, I find that the self-respect of the hon. Minister and some hon. Members of this House is hurt. I can only say that that is not the correct way. After all, we have only made a very reasonable suggestion.

SHRI TAJAMUL HUSAIN (Bihar) : On a point of order, Sir. The hon. Member, I find, is addressing the gallery and not the Chair.

SHRI B. GUPTA : I am certainly not addressing the hon. Member. I am addressing the Chair. I cannot reach the hon. Member—I cannot reach that stone wall. I am addressing you, Sir. You understand. The Chair is always understanding.

Therefore, Sir, what I am saying is this. Don't interpret a noble proposal in an ignoble manner. We are not dictating terms. Let it not be understood in that spirit. The Preventive Detention Act will not hold back the march of the people. It is an Act which, in the first instance, will be directed against Communists but it is an Act which, in the final analysis, is bound to land me and my hon. friend here and that hon. friend

there in jail to share a common destiny. Therefore to fight against it is to fight for all.

SHRI ABID ALI : Mr. Deputy Chairman, Sir, it has been demonstrably proved by my hon. friends opposite that they want to break the Constitution and want to disturb the peace of the country. We want to follow the Constitution. After all, there can be no compromise between one who is *muni pujak* and another who is *murti-todak*. I want Government to appreciate fully what has been demonstrated here. Although the genuine intention of bringing the Bill was to check blackmarketeers and anti-social elements and of course those who want to disturb the peace of the country, as the saying goes in Hindustani "चर की दाढ़ी में तिनका" (The guilty conscience always fears), the people who are determined not to allow Indian citizens to live in peace are certainly afraid. They have every reason to be afraid. I do not think what has been happening here from the Joint Committee stage could happen in any other part of the world. Those only who agree with the principles of the Bill can go into the Select Committee.

SHRI C. G. K. REDDY : Our position was clearly stated before we went into the Select Committee.

SHRI ABID ALI : I appreciate that. But that very action was wrong.

MR. DEPUTY CHAIRMAN : The hon. Member should not go back to the Select Committee stage now.

SHRI ABID ALI : As regards the Defence of India Rules, it is true that we opposed those Rules. But the Defence of India Rules were brought in order to perpetuate imperialism. These friends supported the Defence of India Rules. All that happened is not a secret. This Bill has been brought to strengthen our *azadi*, and these friends are opposing this Bill—these very friends who were then supporting the Defence of India Rules.

SHRI P. SUNDARAYYA : Absolutely wrong.

MR. DEPUTY CHAIRMAN : Order, order.

SHRI ABID ALI : They are opposing this Bill because they want to revive imperialism. That is well known. In the name of democracy these friends want to bully the Government by saying that this is not the democratic way. It is said that in the old days, when an invading army was approaching to attack a town in India, they placed cows in front, so that the defenders might not use arrows. When a Muslim king was fighting, a part of his rebel army went into a mosque and said, "Now we are protected. Nobody will touch us in the mosque". But the king said, "it is no mosque. It is a mere brick wall. Remove the wall and catch the rebels". That is the way democracy should be used here. Our friends say, "You are murdering democracy". Where is the question of murdering democracy? It is well known that our friends opposite do not believe in democracy at all. They have been asking us to quote instances similar to such enactments and when precedents from the British and American Statutes were quoted, they were laughing at them. Now I quote from Russia ; they would be angry. It is from page 36, Volume 47 of the Soviet Encyclopaedia :

■"Forced labour is one of the basic measures of punishment of Soviet Socialist criminal law. Persons may be condemned to forced labour by secret police without trial or opportunity to defend themselves. They may be convicted without having been asked for any explanation. This is done by secret police."

There is no trial, and no appeal. We do not follow that. These friends wanted some precedent from the courts which inspire them and I have given it.

The hon. the Home Minister was kind enough to tell us what one old woman had told him. I liked that story very much. It would be a very

good thing if the Hon. Minister followed the advice which the old woman gave him. The old woman told the hon. Minister :

**अगर यह काम अच्छा है तो उसे सच्ची तरह से करना चाहिये, नहीं ती नहीं करना चाहिये ।**

\*[If this thing is good it should be done well, otherwise it should not be done.]

Now, Sir, the hon. the Home Minister has already told us that those who actually commit murders, arson and loot will be sent to prison for 7 years and 15 years, and some may be hanged. But this law is being brought for getting at the people who may be behind the scenes. And they can be kept in jail for a maximum period of one year only. It is not very satisfactory that those persons who make innocent people commit such crimes as would send them to the gallows, should be in jail only for a year. Is it justice, and is it fairness ? Much has been said about elections, confidence of the electorate, etc. Why go round the world for such things ? Look at this very House. You will find on this side not even one man who has been disowned by the electorate, whereas on the other side, most of the persons, particularly persons sitting on the front benches, have been disowned by the electorate. And yet we are being classified as undemocratic, as violating the verdict of the electorate. None of us has any quarrel with any individual or any party here. We have to preserve our freedom and we have to deal with the traitors. The Chairman asked us not to use such words. But there is no other appropriate word in the dictionary. They have themselves proved that they want to fight unconstitutionally and with violent means.

SHRI S. MAHANTY (Orissa) : Is the hon. Member going to have the Home portfolio ?

•English translation.

SHRI ABID ALI : I am no Minister yet. I was discussing about democracy It is this country, Sir, which has had general elections on such a gigantic scale within such a short period. Even in Russia after 35 years of revolution, they have not been able to have one free general election. Kemal Pasha also had the same system. But as soon as he was able to complete the constructive part of the programme, there was a general election in Turkey.

The Congress is trying to make substantial and quick progress but very unfortunately obstacles are there and sometimes we are bullied. According to the British jurisprudence, no man against whom there may not be proper proof can be put in jail but that is so far as man against man is concerned. But when any one commits offences like treason and behaves like a traitor and those who want to disturb the peaceful life of the country, certainly very serious action should be taken against such people and we should not then be worried about what these people shout. The future will endorse that those who achieved freedom knew how to preserve it also.

SHRI T. V. KAMALASWAMY (Madras) : Mr. Deputy Chairman, Sir, I am one of those who think that this Government is weak and vacillating in its policy and that this Preventive Detention Act is not going to serve its purpose. Sir, it is directed against those subversive elements which want to work against the Constitution and overthrow this Government. Sir, the Government knows that in many parts of the country there are political agitators who want to mislead innocent people and even on the floor of this House they have said that it is the right of the people to react violently, with violent means to overthrow a Government, which the people think is tyrannical. Then, Sir, it is the duty of this Government to ban this party which is adopting this policy. But the Government is not able to do that. They think that if they do that, it will embarrass the relation!' with foreign powers.

[Shri T. V. Kamalashwamy.]

Sir, as regards the blackmarketeers and anti-social elements, the Government have not so far taken very drastic steps against the biggest of the blackmarketeers. They take action against only the smaller people because the Government is afraid of rich people. And even in cases where they have taken action against the bigger fry, by their efforts they keep the grounds of detention secret and they do not give publicity to these grounds. I would only say that in this way they are only defeating the very purpose for which the Act is there. Sir, in the case of a blackmarketeer, he holds some position in society and if all the grounds of detention are given due publicity, it is a social stigma and he will lose his position in society. But by keeping these grounds of detention away from the gaze of the public it is open to these people to say that they have been in prison for political reasons, that they have been the victims of prejudice by certain highly placed persons in the Government or in politics, I only give one or two instances in support of these things. In the South one of the millowners was detained under this Act. He said: "Well, if I am detained, there are hundreds of such cases of persons who should be detained also." Further he said that the real reason for his being detained was that one of the political bosses asked him for a contribution of one lakh of rupees for the party fund and that he offered only Rs. 25,000, which was not accepted. For that reason he was kept under detention. But all the same he was for more days on parole than under detention. Sir, such things show that by misusing these powers you are not really putting down blackmarketing. In another case, Sir, in the South where considerations of caste, community, etc, still hold sway, a merchant dealing in rice was brought within the purview of Preventive Detention. Probably he was guilty of blackmarket activities. His contention was that if he was found guilty, there were hundreds like him who were more guilty than he. They ought to have been chosen first. The reason

for the choice falling on him was that he bought a house—he being a lower caste man—straight in the middle of the uppermost community there, and not only did he buy a house there but he had the temerity to go and occupy that. Sir, people knew perhaps that he was guilty of blackmarketing. But they also knew that the reason for taking action against him was that particular officials did not like his occupying that house. So it will be seen that this Act was used in this case to satisfy those vested interests. These instances will show that these powers will result in great hardship not to the real culprits but to the innocent people.

Sir, in the old days when there were totalitarian States, a king called upon his minister and told him : "Look here, by tomorrow 12 o'clock you must tell me the case of a man who committed a crime, the motive of which should be much more reprehensible than the actual crime." This was the method which the king selected to dismiss his minister. So the poor minister could not find any such man as desired by the king. He was hauled up before the king. His head was about to be chopped off. The king was there and the queen was by his side. Then the minister.....

SHRI K. N. KATJU : Which country was that ?

SHRI T. V. KAMALASWAMY : This is from an old chronicle. The minister then suddenly began to pull down the robes of the king. The king was wondering whether the minister was going to assault him personally. He cried, "How dare you unrobe me like this in public ?" Then, the poor minister said, "Your Majesty, please hear me first." Then the king of course cooled down. The minister said, "Your Majesty, far be it from me to offer any disrespect to your person. I merely mistook you for the queen."

SHRI P. C. BHANJ DEO (Orissa) : Mr. Deputy Chairman, Sir, I made it quite clear to the House that my opposition to this Bill is based on purely

moral and ethical grounds. May I again appeal to the good sense of justice and equity of the hon. the Home Minister for whom I have very great respect to consider seriously the in-auspiciousness of introducing this measure at the very dawn of our freedom? In one of his speeches recommending this Bill he said that this Detention Bill is a very good measure because the poor detenu's sins would be wiped out and his past forgotten just by one year's detention. Alas, alas, when I think upon these words, how vividly I am reminded of the words of imperial tyranny in the old days when the rule of the prerogative was upon us all; especially when I myself was turned out of my own hearth and home without trial, without enquiry, with the only consolation, "A few years residence in England will dissolve all the distrust and displeasure that the Political Department has against you, and everything will be forgotten." The party on the other side has made great use of the phrase "law and order" in bolstering up their arguments for this piece of legislation, which is being foisted on the nation. It was my privilege, Sir, to hear the Prime Minister himself correct the hon. the Home Minister publicly saying that he himself wished that his colleague had not used that expression "law and order", because it reminded him of the old order of things in the setting of which that phrase was trotted out constantly to justify a regime that stood for the negation of all justice, all democracy, all freedom and fraternity. It is because I have regard for the Home Minister—I regard him as a father—for his goodness, because I am anxious that his good name and his unimpeachable honour should not be associated with a type of law and order which has stood for the negation of all justice in the past that I stand here today to express my wholehearted opposition to this Bill. It is known to the Members of the House, that in our history we had a period called the 'Ananda' Period; that era was deliberately made nameless being associated with a rule of tyranny, injustice and autocracy

which was practised by the Nanda usurpers of this freedom-loving country. It is because I do not wish this historical era of ours, this dawn of our freedom, to be deliberately blotted out of the memories of the future generations as an era advocating imprisonment without trial and advocating the negation of justice and liberty, that I humbly request the hon. the Home Minister in his goodness to remove this blot from our Statute Book and restore the good name of this era as an era of good rule and freedom for the consideration of posterity.

SHRI B. K. MUKERJEE: Mr. Deputy Chairman, Sir, though reluctantly, I have got to stand here and take part in the debate on this Bill pending before the House for the last four days. At the outset, let me offer, Sir, through you, my blessings to this piece of legislation on the eve of its entering into the third span of its life. Though the life of this Bill is two years, I hope it will achieve the object for which the Government has been compelled to bring in a legislation of this kind. We are compelled in the same way to approve of its life for two years. This Bill seeks to perform a duty to elevate, from the present situation, the society and it aims to improve the moral standards of the people of this country but I am doubtful that this Bill during these 2 years may not be successful in achieving the objective for which it is found necessary to extend its life. Some people are now against the law of the society of the land and there are persons to encourage that sort of tendency among our people. I feel that, it is a sort of disease and as the disease is becoming more and more serious every day, the medicine to be prescribed to cure these ills is also to be more potent and as you all know, when a man suffers from a very serious disease like malaria, quinine, which is a very bitter drug, is prescribed by the doctors and there are certain patients, especially the children who do not like to swallow the bitter pill. They need sugar coating over that and our friends sitting on the Opposition, though they stated in the beginning

[Shri B. K. Mukerjee.] that they will oppose the Bill tooth and nail, in their speeches, wanted to make it sweet, a sugar coated one. As our experience shows, when doctors prescribe sugar coated pills, the pills after they are swallowed, take more time to dissolve than the bitter ones. Therefore we want you to swallow that bitter pill so that the efficacy of that pill may be exhibited in no time, or sooner than the sugar coated pill.

Now I have got to warn my Government too on two points mainly. Some of my friends on the Opposition side have made out a case that this Bill might be used or they are asking Government whether these measures will be used, against the trade union movement. But I do not find anything of that kind in the Bill itself. This is not aimed against the functioning of trade unions or against trade union leaders and if they have made out a case I request the Government not to submit itself to the ideas they have tried to implant in the minds of the Government. This Bill must not be applied against the trade unions or trade union leaders.

SHRI C. G. K. REDDY : Release the trade union leaders then.

SHRI B. K. MUKERJEE : They made out a case and I request the Government not to apply the Act against the trade union movement and its leaders and in that connection they have accused us who belong to the Indian National Trade Union Congress. I will presently give a few instances how the I. N. T. U. C. is a democratic organisation but before I go to that question I want to warn the Government as I find many of these provisions have been taken in this Bill from the Criminal Code that is operating in U. S. S. R., the country for which some of our friends sitting in this House and a few others outside this House have got more sympathy and love than for the land in which we ourselves live, and I am quoting from a book which I have got here.

MR. DEPUTY CHAIRMAN : Will the hon. Member take more time ?

SHRI B. K. MUKERJEE : I will take five minutes more.

MR. DEPUTY CHAIRMAN : He may resume after lunch.

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

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

SHRI B. K. MUKERJEE : Sir, before the House rose for lunch, I was imploring our Government not to apply this legislation against the trade unions and the real trade union, leaders.

The next thing that I would implore of our Government is not to apply this legislation harshly for I find that "many of these provisions have been borrowed from the Criminal Code in the U. S. S. R. Though my hon. friends of the Opposition benches say that this „ piece of legislation is a black Bill, I do not find anything black in this Bill except the ink in which the Bill was unfortunately printed. I would like to submit to you and to the House, Sir, with your permission, a few quotations from a book which deals with certain of the legislations we find in the U. S. S. R. I do not think anybody can say this book is a black book—it is actually a red one as every one can see.

SHRI B. RATH (Orissa) : Produced by the American Embassy.

MR. CHAIRMAN : Don't bother. Don't bother whoever produced it. Go on.

SHRI B. K. MUKERJEE : Section 84 of the Criminal Code in the U. S. S. R. deals with provisions like the one we are going to pass today,

SHRI C. G. K. REDDY : How are you so sure ?

SHRI B. K. MUKERJEE : Section 84 (1) says :

" The People's Commissariat for Internal Affairs U. S. S. R. have the right to apply the following measures against people who are regarded as socially dangerous :

(a) Deportation for a period of up to five years under supervision in those localities listed by the NKVD.

(ft) Exile for a period of up to five years under supervision, with deprivation of the right to live in capital cities, large towns and industrial centres of the U. S. S. R.

(c) Confinement in corrective labour camps for a period of up to five years."

And in section 59 of the same Code you have the description of the people who are regarded as socially dangerous as referred to in section 84 (1). Article 59 says :

"Any act which, though not directly aimed »t overthrowing the Soviet regime and the Workers' and Peasants' government, nevertheless leads to the disturbance of the smooth functioning of the organs of the government or of the national economy and which is accompanied by resistance to the organs of government and hindrance of their activity, by disobedience to the laws or by other activities causing a weakening of the force and authority of the regime, is considered a crime against the system of government."

Now, another thing that we find in section 84 (1) is confinement in corrective labour camps. This term "corrective labour camps" was adopted in July 1950.

SHRI B. C. GHOSE : What is that book ?

MR. CHAIRMAN : They want to know what is the book you are quoting from.

SHRI B. K. MUKERJEE : I shall come to it later.

MR. CHAIRMAN : You can mention the name of the book.

SHRI B. K. MUKERJEE : The book is "Slave Labour in the Soviet World".

SEVERAL HON. MEMBERS : By whom ?

SHRI B. K. MUKERJEE: By A. Fi of L. Hon. Members on that side say that they are the representatives of the workers and the working classes. But this is also a leaflet sent to us by the American Federation of Labour—an organisation of the working classes of America. I can quote from other literature also if there is time and .....

MR. CHAIRMAN: Not much time.

SHRI B. K. MUKERJEE : I know, I know, Sir. As I was saying, they had these forced labour camps in the U. S. S. R. and this they have changed by the 1st of July 1950 into these corrective labour camps.

SHRI B. C. GHOSE : Is it the suggestion that we should emulate them ?  
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SHRI B. K. MUKERJEE : What I want to implore of our Government is— and probably the Opposition friends will not oppose me in this—that this measure should not be applied with severity on our people. I am trying to help the Opposition friends. They wanted to swallow this Bill after coating it with sugar. But I want to implore the Government not to apply the provisions as I find them in the U. S. S. R. Criminal Code with the severity with which the U. S. S. R. applies them. Our people are physically weak. Our people are mentally weak. Therefore, the application of this legislation must be done with very great care. Secondly, I would request our Government to see that our officers, those who will implement this legislation, are warned to apply these provisions properly. They must not misuse the provisions of this Bill. The friends of the Opposition have been swearing by the name of labour, by the name of the *kisans* of our country.

{Time bell rings.)

I will give just one instance. I find that between 2nd August and September 24, 1951 as many as 57



[Shri B. K. Mukerjee.] workers from that portion of the world -which you call behind the iron curtain —57 working-class people left their country and sought asylum in different countries. I will cite the instance of one of these 57. He was a seaman in Poland. He was recovered by the Norwegian police under instructions from the Norwegian Seamen's Union and in one minute I will read the quotation. And this is a document that I have got from the International Transport Federation to which many trade unions are affiliated and to which many of our hon. friends of the Opposition are also affiliated. It reads thus :

"The two customs officers in question had been watching the *Wielun*—due to leave port at any moment—with a feeling of growing suspicion. In their own words:

We sensed that something funny was going on aboard and we decided to pay another visit to the ship in order to see for ourselves whether or not our suspicions were well founded. The crew of the vessel were obviously taken by surprise when we boarded her once again. Nevertheless, everything seemed quite normal until we came to a locked cabin aft. One of the crew was standing guard outside the door, but we ordered him to open up. This he eventually did, but showed clear signs of extreme uneasiness, watching our every movement. Inside the cabin we found a man, dressed only in a blood bespattered T-shirt lying on a bunk and obviously in a very weak condition. Although by now highly suspicious of the whole business we nevertheless carried out our normal inspection of the cabin without making any comment."

MR. CHAIRMAN : Mr. Mukerjee, that will do. Mr. Imbichibava.

SHRI E. K. IMBICHIBAVA (Madras): (*Spoke in Malayalam*) \*Mr. Chairman, after having had the experience of the Bill for the last so many years and being a victim to it I would, to be honest to myself, rather call this Bill an antidemocratic Bill. Hon'ble Minister Mr. Katju moving the Bill says that it is intended to prevent subversive activities. This is simply a repetition of what Sardar Patel said once before and which was inherited from the imperialist Maxwell. I don't find any difference between what Maxwell said

♦English translation of the speech

then in support of the Bill and what hon. Home Minister says now under Maxwell's Act. I was arrested and detained in 1941. The reason stated then was that I made a series of speeches against British rule and in support of the national movement here. National movement was something which he could not tolerate. But, we could not give it up. We fought both inside and outside against the Bill. The 19 long days' hunger strike in jail in protest against the inhuman treatment meted out to us passes before my mind's eye at this moment and I am sure hon. Mr. Ranga will not forget that, because he was a witness to all that happened inside jail.

Maxwell left this land, but left behind all the repressive Acts and Bills as a heritage to the Congress regime. When we raised our voice on behalf of the starving millions of this country, we were dubbed as saboteurs and those engaged in subverting the Government establishment, etc., and the long arm of the Preventive Detention Act was used against us. I was arrested and detained in 1947 under the Preventive Detention Act. The Congress Government found it sufficient reason to detain me because firstly I was a good speaker, and secondly I strongly opposed blackmarketing and corruption.

KHWAJA INAIT ULLAH (Bihar) : Sir, will the hon. Member kindly let us know what language he is talking so that we could try to learn it ?

MR. CHAIRMAN : He is speaking in Malayalam. He is not familiar with either English or Hindi and so he has given a translation of his speech. This will go into the proceedings and since many people do not follow it, and since this is going into the proceedings, he will not take much time.

SHRI E. K. IMBICHIBAVA : \*I ask the Government Benches, I ask you, do these constitute any reason

why a person should be detained without trial in any civilised country? This explains why the Government does not even want detenus to be brought before a Court of Justice; for, any Court of Justice will pass strictures on a Government which arrests and imprisons people without sufficient grounds.

I can prove, Sir, that it was not I alone who fell a victim to this sort of lawlessness at the hands of the police. Com. P. K. Balan's detention order is yet another example of the scant respect the Congress Administration paid to political workers. His detention order shows that he was arrested simply because he was the Manager of *Deshabhimani* a Malayalam daily which was published legally from a duly licensed printing press at Kozhikode. Yet another example is the arrest and detention of Com. E. M. S. Namboodiripad, who was arrested and detained because he once opposed Shri M. P. Govinda Menon, a Congress candidate in an election! All this shows without a doubt that the Government's plea of 'maintaining law and order', and their talk of 'anti-social activities' and what not, are only simple excuses and that the Act will be brought against all people who fight for justice and fair play in this country. This Act is a Damocles' Sword on all decent and honest men in our country.

In Malabar, at a time when food was not available in the open market and families were starving, the people organised themselves and demonstrated their protest peacefully and demanded food in one voice. It was the Government, who were fully aware of hoarded food and who were in league with blackmarketeers and money-lenders and big landlords that made a vicious onslaught, a brutal attack on our people throughout the length and breadth of the country and beat them up and threw hundreds of people into jail, concentration camps and police lock-ups. The Government which

proved itself completely incapable of providing food to the people, which went a step further and actually defended the hoarders and blackmarketeers openly, wanted to stifle the people, wanted to silence the cry of hungry women and children and men of Kerala and other parts and therefore, they resorted to brutal repression.

The Government wanted to terrorise the people into submission, to cow them down and leave them to perish like cattle. And, we Communists came out against this policy. All honest patriots came out against this policy we were prepared to fight for people's food and bare necessities at all costs and the Government pounced on us and killed many of our comrades and imprisoned many. *(Interruptions)*.

SHRI S. N. MAZUMDAR : Hon. Members do not understand the language and they have no right to disturb him.

MR. CHAIRMAN : But they can understand the spirit of it.

DR. R. B. GOUR (Hyderabad) : Sir, it is one of our languages and it is being insulted. Nobody has a right to laugh at it.

KHWAJA INAIT ULLAH : We are enjoying it.

SHRI E. K. IMBICHIBAVA : \*I shall place before you, Sir, and through you before this House one or two instances of inhuman acts perpetrated by the police under the Congress regime, standing in the shade of this lawless law we are discussing today.

Sir, I may be permitted first to refer to what is well known in Malabar as the Kairalam incident. If Dr. Katju, our hon. Home Minister values human life and human qualities, I challenge him here and now, Sir, to order an immediate enquiry into this incident.

\* English translation of the speech.

[Shri E. K. Imbichibaava.]

Even the Chief Minister of Madras, could not silence the strong demand of the Opposition in the Madras Assembly to conduct an enquiry into this Kairalam incident. Not only could he not silence the demand, but he had also to make a statement that he would order an enquiry into the incident.

There is also another incident relating to an act of brutality and inhu-manism committed on a helpless woman of my own taluk, Ponnani. I ask you, Sir, is this the tradition of these erstwhile followers of the Father of the Nation ? Is this the great civilization w hich you boast of in your attempt to pass stinking pieces of legislation like the one before us ?

There is no necessity today for such a black Bill, unless you want again to stifle the people's demsnd for food, work and shelter. Shri Rajagopala-chari has interpreted the meaning of the word "sabotage" for you. In reply to the demand of the nurses for better wages, Shri Rajagopalachari has stated that their demand is a "financial sabotage". You are passing on this Bill to Chief Ministers of the type of Shri Rajagopalachari. The consequences are clear.

This anti-people Bill, Sir, instead of preventing any danger to the country, as is claimed by the Treasury Benches, is going to be a menace to the nation, whose problems this Government refuses to solve. I oppose this Bill as a most inhuman piece of legislation in the history of any civilised country in the world, and I wish the House will throw this Bill out without any more delay.

SHRI H. P. SAKSENA (U.P.) : May we be favoured with the purport of this speech, Sir ?

MR. CHAIRMAN : The purport of this speech is that of the usual speech.

SHRI C. G. K. REDDY : There were some really good points made?

MR. CHAIRMAN : You will get it in the proceedings.

SHRI BASAPPA SHETTY (Mysore): Is it in support of the Bill or in opposition to it ?

MR. CHAIRMAN : Mr. Ismail So many things have already been said on this subject in the three days that we have had. Unless we have some special contribution to make, we should try to restrain ourselves.

JANAB M. MUHAMMAD ISMAIL SAHEB (Madras) : Mr. Chairman, Sir, I straightaway say that I support the measure. Law and order and peace and tranquillity are the foundation and starting point of every progress and prosperity. Every citizen who values these things must support the Government in such an action as this. It is not only an ordinary duty of every citizen to maintain law and order but it is one of the foremost and sacred duties of every one inhabiting this land. Sir, on this occasion, I would only wish that Government had agreed to make a provision enabling the detenu to have the grounds of his detention before he is being heard by the Advisory Board. It is the right of even an accused, Sir, to be told for what purpose his liberty is being curtailed, for what purpose action is being taken against him and then Government should have also definitely provided for enabling the detenu to consult a lawyer of his choice if he so wished before he was to appear before the Advisory Board. Here, Sir, I wish to refer to the tirade that has been launched by the hon. the Home Minister and certain other Ministers of Government. They have said certain very hard and unkind things about lawyers which are unjustifiable. The lawyers not only in our country, but the whole world over are fighting for freedom, for fairness, for decency and for propriety in life.

SHRI C. G. K. REDDY : Including the hon. the Home Minister ?

JANAB M. MUHAMMAD ISMAIL SAHEB : Sir, it is the class of lawyers who are really the guardians of these things which are very valuable things indeed in life. They are fighting for these things not only in the law courts but also in public life. They have become an indispensable ingredient of life, a civilised, free and decent life. The attacks upon lawyers by responsible persons are calculated to unsettle things. It will make people think that the Government are maintaining a hush-hush policy. They do not want to be questioned. They fight shy of applying the light of legal knowledge to their actions. It is such an impression that is being created by these tirades and the attacks which are being indulged upon by persons in authority. It is not good to the Government and it is not really good to the people either.

Now, Sir, the objections to this Bill are mainly based upon two points. The first point is that this means a curtailment of civil liberty. The second point is that the abuse by Government of the provisions of the existing Act in their administration of it in the past precludes the Government from being entrusted with the continuance of such powers in their hands any more. Now coming to the first point, civil liberty, people must have. It is a birthright. But when we say civil liberty, we do not mean anything absolute. Sir, civil liberty is always conditioned by certain qualifications. In every country of the world, many times such curtailments have occurred of civil liberty, not only during war times but also during times of emergency. Therefore it is nothing new that Government should be clothed with some special powers for meeting some emergency. Whether there is any such emergency can be seen by what is happening in our country for some time now. Trains get derailed ; bombs are being thrown on authorities and people ; there is sudden emergence of commotion and disturbance and trouble is caused to people. Then all of a sudden certain people who are wanted go underground. Apart

from all these, it has been admitted here in this House that there are certain friends of ours who are in possession of arms without licences. They might have obtained these arms from anybody, but then they know the law of the land that if they want to possess these arms they must be in possession of the appropriate licences for them. If they happened to come into possession of these arms—they know very clearly—it was their duty to hand over these arms to the Government. The fact that they are in possession of these arms without licences shows an extraordinary situation. Then, Sir, it is openly advocated that certain friends have got a right to indulge in violence and carry out revolutions in the country. Then the fact that those people who go underground, are not prepared to come and face the law as any ordinary citizen should, shows that there is something extraordinary. Therefore, Sir, in short, these are very important grounds justifying such a measure as this. I do not want to go very elaborately into these, since my time is limited. I have mentioned these salient features which, in my opinion, justify the enactment of such a measure as this.

Then, I come to the second point, the misuse or abuse of the provision, of the existing Act. Sir, here, I have to admit that there have been cases of misuse of the provisions. The provisions have been grievously abused in the past, as a result of which hundreds of innocent people have been incarcerated, have been detained under the provisions of this Act. I can cite hundreds of cases. I will cite one typical instance. Sir, once upon a time—about three years ago—there was a man who got certain parts of handlooms made by carpenters—certain sticks, reeds and certain other things. He was reported to be preparing arms, lathis and other things and he was straightaway taken into detention. He did not care to know his antecedents—what kind of man he was, whether he had any

[Janab M. Muhammad Ismail Saheb politics in him at any time of his life and so on. But he was simply taken into detention—a poor, innocent, helpless, illiterate man. And he was there much longer than many other people. Then one day the Minister concerned had to go to the jail where he was detained and then he happened to see him. The man went before the Minister. Now the Minister came back and told me and my friends (*Time bell rings.*) that that man's case seemed to be a very pitiable one. Nobody on earth could have thought of him as anything except an innocent person; he did not know how he came to get himself into this trouble. This was what the Minister said, Sir. Even then it took weeks for the man to be released. I can cite many other instances of this kind.

Sir, these abuses have been there. But then on that account are we to say that we will not require such a measure as this? We may say, and we have to say, that the Government should really see to it that the provisions of this Bill are not abused even as the provisions of the existing Act were undoubtedly abused in the past. Then again, there are some signs of hope. Before the elections and during the elections and after the elections we see that the position has improved. We do not have so much complaint as we had in the past. Therefore, we earnestly hope that this measure will be administered with all fairness and for the purpose for which it is being enacted. Abuses have been there. Yet there are dangers which are lurking in so many corners of the country. The Government have abused their powers, it is admitted. But then I say that a bad Government any day is better than no Government. If the Government are not given any such authority, then the result will be chaos and confusion. Therefore, I say there ought to be law and order even if there have been abuses of the power.

SHRI KISHEN CHAND (Hyderabad) : Mr. Chairman, Sir, I am very glad to learn that the hon. Members on Congress Benches realise that there

J are defects in this Bill and that it is J likely to be abused. The speaker J who has just sat down has admitted that there are hundreds of cases....

HON. MEMBERS : No, no.

SHRI KISHEN CHAND : The speaker who has just sat down has admitted that there are many cases where it is abused.

SHRI J. R. KAPOOR (Uttar Pradesh) : The opposite parties have begun to realise that it is necessary.

SHRI KISHEN CHAND : I will bring one instance to your notice. There is one Dr. Lohia, a prominent Socialist leader. He was taken by third-class night mail from Shimoga to Bangalore and kept there for one whole night. He was placed before a Magistrate the following day and then brought back the same night. Can you expect a person to keep awake two nights consecutively? This is how the Bill is going to be used to crush opposing parties. This Bill is going to be used in the name of putting down black-marketeers and profiteers in order to crush the members of the opposing parties. It is going to be abused by the Government. I would certainly say that it will give a handle to political parties to detain a person under any sort of excuse and then release him after two or three days. I request the hon. Minister to collect statistics of persons against whom detention orders are issued and who are detained for two or three days and then released. He will find that a very large number of persons are detained only for two or three days and then released. This is how the police can collect corrupt money from the people. The police can threaten them that they will be detained if they do not pay some money. Therefore, I draw the attention of the Home Minister to the need to examine very carefully all such cases and to see that political opponents are not oppressed in this way.

SHRI H. P. SAKSENA : How much, money did Dr. Lohia have to pay?

CAPT. A. P. SINGH (Vindhya Pradesh) :

कॉन्टेन ए० पी० सिंह (विन्ध्य प्रदेश) :

सभापति महोदय, मुझे बोलने की इच्छा नहीं थी परन्तु मेरे एक सोशललिस्ट मित्र ने यहाँ पर यह कहा है कि इस एक्ट का यानी इस कानून का विन्ध्य प्रदेश में दुरुपयोग किया गया है। खास तौर से उन्होंने यह कहा कि जिस समय मैं मुख्य मंत्री था, उस समय मैंने इस कानून का और भी दुरुपयोग किया। मुझे अत्यन्त आश्चर्य हुआ और मैं तो समझता था कि वे मुझे धन्यवाद देंगे कि सबसे अधिक दुरुपयोग विन्ध्य प्रदेश में ही इस कानून का किया गया है, क्योंकि वहाँ कोई भी ऐसा आदमी डिटेन्शन (detention) में नहीं रखा गया जिसको एक महीने से ज्यादा रहना पड़ा हो। बल्कि प्रायः यह देखा गया कि १२ दिन और १५ दिन से अधिक किसी भी व्यक्ति को डिटेन्शन में नहीं रखा गया था। जो भी डिटेन्शन में रखे गये उसका कारण यह था कि हमारे यहाँ के सोशललिस्ट भाई जो हैं वे स्पीच देने में कम्युनिस्ट भाइयों से कम नहीं हैं। वे अपनी स्पीचों में जनता को वायलेंस यूज (violence use) करने का बढ़ावा देते हैं, वायलेंस के लिये लोगों को उकसाते हैं। वे लोगों को इकट्ठा करके दूसरों की जायदाद पर कब्जा कराने की कोशिश करते हैं। जब इस तरह की शिकायतें आईं तो मैंने उचित समझा कि उनको अधिक तकलीफ न दी जाय और उनको अलग अलग कर दिया जाय। जो उनके नेता थे उनको दस-बारह दिन के लिए ऐरेस्ट (arrest) कर लिया गया और डिटेन कर लिया गया। इसका परिणाम यह हुआ कि जो लोग ३००-४०० की भीड़ में इकट्ठा हो कर भिन्न भिन्न जगहों पर हमला करने का प्रयत्न करते थे वह सब बन्द हो गया।

एक गुण हमारे सोशललिस्ट भाइयों में यह

है कि वे लड़ाई लोगों में करा देते हैं और जब लड़ाई शुरू हो जाती है तो खुद वहाँ से विसर्क जाते हैं। यह गुण उनमें बहुत बड़ा है।

दूसरी बात जो उन्होंने यह कही कि उनको तीन-चार मर्तबा ऐरेस्ट किया गया वह सत्य है। हाँ, उनको दो बार डिटेन किया गया, एक बार १० दिन के लिये और दूसरी बार शायद २० या २५ दिन के लिये डिटेन किया गया। तीसरी बार उनको कॉन्टेम्प्ट ऑफ़ कोर्ट (contempt of court) के कारण सजा मिली। मैं उस समय मुख्य मंत्री नहीं था। शायद इस सजा को भी वे डिटेन्शन समझते होंगे। चौथी बार उनको छः महीने के लिये सजा हुई थी। इसका कारण यह था कि उन्होंने एक पैम्फलेट निकाला था। वे इस पैम्फलेट के बारे में सही बात नहीं बता सके और मानहानि की वजह से उनको अदालत ने छः महीने की सजा दी और यह सजा उन्होंने भोगी। आज वे यहाँ पर कहते हैं कि इस कानून का विन्ध्य प्रदेश में दुरुपयोग किया गया है। वे यह तो नहीं मानते हैं कि 'हमने ही गलती की जिसकी वजह से हमको सजा भुगतनी पड़ी'।

उन्होंने एक बात यह भी कही ...

[For English translation, see Appendix: I, annexure No. 95]

(Time bell rings.) SHRI N. B.

DESHMUKH (Hyderabad)

श्री एन० बी० देशमुख (हैदराबाद) : मोह-तरम सदर, हमारे वजीर दाखिला ने जो बयान दिया कि मुखालिफ पार्टियों को दबाने के लिये यह कानून इस्तेमाल नहीं किया गया है, यह ठीक नहीं है। मैं हैदराबाद के उस हिस्से का जिक्र करूंगा, जहाँ न किसी तरह की कम्युनिस्ट पार्टी की कोई एक्टिविटीज (activities) हो रही हैं और न वहाँ पर कोई नक्से अमन ही हो रहा

[Shri N. B. Deshmukh]

है। मैं जिस पार्टी से ताल्लुक रखता हूँ उस पार्टी का वहाँ पर किसी तरह का कोई ऐसा प्रोग्राम नहीं है, जिससे कि अमन में किसी तरह से खलल पड़े। न मराठवारा में इस तरह की कोई हालत थी जिसे कि खराब कहा जा सकता है। तलंगाना में जो मेनेस (menace) के बारे में वहाँ पर कहा गया है उसका वहाँ कोई और किसी तरह से भी ताल्लुक नहीं है। वहाँ के लोगों को किसी तरह का आराम भी नहीं है। यह हालत होते हुए भी मेरी पार्टी के खिलाफ इस कानून के जरिये कार्रवाई की गई और मेरी पार्टी के जो कारकुन हैं, उनको इस कानून के जरिये जेल में भेजा गया, उनकी जमानत बन्द कर दी गई। इसके साथ ही साथ यह भी हुआ कि बाहर के चन्द लोगों को उस हिस्से को छोड़ने के लिये मजबूर किया गया और बाहर के कुछ लोगों को वहाँ आने से मुमानियत कर दी गई। उन लोगों का सिर्फ़ गुनाह इतना ही था कि पुलिस ऐक्शन (Police action) के बाद वे लोग, जो मेरी पार्टी में हैं, कांग्रेस से अलग हो गये और उन्होंने अपनी पार्टी पंजेष्ट एण्ड बर्कस पार्टी के नाम से फ़ार्म (form) कर ली। कांग्रेस के लोगों का यह ख्वाहिश थी कि यह पार्टी फ़ार्म न हो। कांग्रेस वालों ने हर तरह से यह कोशिश की कि इस पार्टी का किसी तरह से भी प्रचार न हो सके। इसलिये हुकूमत ने इस पार्टी को खत्म करने के लिये तरह तरह की तजवीजों को और यह बहाना किया कि यह पार्टी अमन में खलल डालने की कोशिश कर रही है। मेरी पार्टी सीधे साथे तरीके से अपना प्रचार कर रही थी। हिन्दुस्तान के दूसरे हिस्से में रहने वाले लोग वहाँ पर जो रिश्ततसतानी चलती है उसके बारे में बिल्कुल ही नहीं जानते हैं। वहाँ के पटेल और पटवारी, किसानों से, काश्तकारों से उनके सत में कितनी पंदावार होती है, यह इत्तिला देने के लिये और दूसरी इत्तिलाएँ देने के लिये

उन लोगों से पंसा रिश्तत के तरीके पर लेते हैं, वरना सही रिपोर्ट नहीं करते। इसी तरह से वहाँ पर गिरदावर यानी सर्किल इन्स्पेक्टर भी बहुत रिश्तत लेते हैं। वे लोग पटेल और पटवारियों से और मोजजिब लोगों को बुलाकर उनकी इमदाद से पंदावार की तहरी आनेवारी करने के लिये रिश्तत लिया करते हैं। वे हर तरह से रिश्तत लेते हैं और सरकार के पास रिपोर्ट और आनेवारी नहीं भेजते हैं। वहाँ पर होता यह है कि गल्ला और शक्कर लारियों में भरकर लातूर से अंग्रेजी इलाक़े में मोटर के जरिये जाता है और उस लारी के उतर पुलिस और करोडगिरी वाले बैठ कर पढ़्वाते हैं। इस तरह से वहाँ पर कालाबाजार बहुत जोरों के साथ चल रहा है। एक ओर तो वहाँ के बड़े बड़े जमींदार पुलिस की निगरानी में लारियों में गल्ला भर कर के दूसरी जगह पढ़्वाते हैं और इस तरह से कालाबाजार कर रहे हैं दूसरी ओर अगर कोई किसान अपना सेर दो सेर गल्ला हफ़तावारी बाजार के लिये अपने साथ ले जाता है तो उसको पकड़ लिया जाता है। अगर उस समय उन गरीब काश्तकारों या किसी दूसरे आदमी ने पुलिस वालों को और दूसरे महकमे के अफ़सरों को रिश्तत नहीं दी, तो उनके खिलाफ़ मुक़दमा चलाया जाता है। मेरी पार्टी में चूकि काश्तकार लोग हैं और वह काश्तकारों में ही काम करती है और इस तरह की रिश्ततसतानी और जो जल्म काश्तकारों पर वे लोग करते हैं, उनको रोगानी में लाने के लिये लोगों में प्रोपेगण्डा करती है। जहाँ भी वह मीटिंग करती है वहाँ पर वह इस तरह की रिश्ततसतानी के खिलाफ़ प्रचार करती है। कांग्रेस वालों ने और वहाँ की हुकूमत ने यह रिपोर्ट कर दी कि मेरी पार्टी प्रोक्योर-मेंट (procurement) में मदाखिलत कर रही है, इस बहाने से इस कानून के जरिये हमारी पार्टी के लोगों को पकड़ा जाता है। दूसरी ओर जो बड़े बड़े स्टाकिस्ट (stockist) हैं,

जो माल वसूल करते हैं, उनको नहीं पकड़ा जाता है क्योंकि वह लोग रिश्वत दे देते हैं। इसका नतीजा यह होता है कि स्टाकिस्ट अपने गोदामों में माल जमा कर लेते हैं और फिर उसको काला बाजार में बेचते हैं। जो लोग ज्यादा रुपया पैसा दे देते हैं उनको गाड़ियों के जरिये माल वाहर भेजने की इजाजत मिल जाती है। जो गरीब लोग हैं, जो पैसा नहीं देते हैं, उन लोगों के घर से माल निकाला जाता है और यह बहाना किया जाता है कि इन लोगों ने कानून की खिलाफ़द्वर्जी की है, इस तरह से उनका सामान भी ले लिया जाता है और उनको सजा भी दी जाती है। जब इस तरह के लोगों के खिलाफ़ हमारी पार्टी प्रचार करती है, तो हुकूमत हमारे कारकुनों को प्रिवेन्टिव डिटेन्शन एक्ट के मातहत गिरफ्तार कर लेती है।

तेलंगाना के बारे में यहां पर यह कहा जाता है कि इस प्रिवेन्टिव डिटेन्शन एक्ट की वहां पर बहुत जरूरत है। लेकिन मैं अर्ज करना चाहता हूँ कि हैदराबाद में पुलिस एक्शन १३ सितम्बर सन् १९४८ से १७ सितम्बर सन् १९४८ ई० तक हुआ यानी चार दिनों में रजाकारों को खत्म कर दिया, मगर पुलिस एक्शन के बाद मिलिटरी वहां की कम्युनिस्ट पार्टी को अभी तक नहीं दबा सकी। मैं बावदव अर्ज करना चाहता हूँ कि यह चीज ऐसी नहीं है जिसे आप प्रिवेन्टिव डिटेन्शन एक्ट से दबा सकें। क्योंकि कम्युनिस्ट पार्टी वहां के लोगों के मसाल लेकर बढ़ रही है। जब तक आप वहां के मसाल को अच्छी तरह से हल नहीं करेंगे तब तक सरकार कम्युनिस्ट पार्टी को नहीं दबा सकती है। खुद कांग्रेस के प्रेसिडेण्ट श्री रामानन्द तीर्थ ने इस चीज को तस्लीम किया है। यह ऐसी चीज नहीं है कि आप इसको पुलिस या मिलिटरी के जरिये दबा सकते हैं। बल्कि वहां के लोगों के जो मसाल हैं, जब तक सरकार उनको हल नहीं करेगी, तब तक यह चीज खत्म नहीं हो सकती है।

35 C. S. D.

(Time bell rings).

मुझे बहुत अर्ज करना है मगर सदर का हुकम हो गया है कि मैं अपनी तक्रार को खत्म करूँ।

[For English translation, see Appendix II, annexure No. 96]

SHRI S. MAHANTY (Orissa) : Mr. Chairman, Sir, with a heavy heart and a swamped spirit I am rising to oppose this Bill. Sir, very soon this piece of legislation will go to the Statute Book. Sir, I characterised this law as a lawless law, as a black law, and even now I stand by it. The hon. Minister is always wondering.

DR. K. N. KATJU : Why not call it 'white law' ? What is the harm there ?

SHRI S. MAHANTY : Sir, there are laws and laws. There are Ministers and Ministers. There are markets and markets. But even then there is a *white market* and a *black market*. There is a white Minister and a black Minister.

MR. CHAIRMAN : That is enough.

SHRI S. MAHANTY : I simply said it because he raised that point.

DR. K. N. KATJU : I was reminded that there is something like a 'white lie'.

SHRI S. MAHANTY : And that exactly is the colour of the hon. Minister's cap ! I have heard the very lucid speeches of the Home Minister. Sir, the Opposition with its limited strength and resources according to its own lights did put up a fight, however inadequate it may be. It wanted that the Bill should not be enacted. The end was known, yet it was carrying out a public duty. It was fulfilling a sacred duty. It was carrying out the mandate of the nation. Sir, at the same time I should be guilty of intellectual dishonesty if I did not admit that certain acts of commission on the part of certain



of a very dark chapter of Germany. It was possibly 1933 when the Reichstag fire gave Hitler a handle to clamp down repression on all political parties. Similarly that phase we are witnessing today. The wranglings between the Socialists and the Communists gave rise to a Hitler and God save India if the wranglings between the Communists and the Socialists are going to give rise to Dr. Katju. But I know he is too old for it!

Sir, while my hon. friend from West Bengal was trying to oppose this Bill, he was quoting from a judgment of Justice Mahajan. The hon. the Home Minister sought to dismiss it as a dissenting judgment. Sir, he was an eminent jurist. He should have known better that all great judgments are dissenting judgments. He takes his cue from dissenting judgments. My definition of a 'lawyer' is that he is a middle man between man and justice. He gets his commission. Hon. Home Minister is today a lawyer, however much he may deny it. He has got his brief. He is standing between the civil liberty of man and the interests of the State. Sir, I will quote another dissenting judgment.

SHRI RAJAGOPAL NAIDU : On a point of order, Sir. Can dissenting judgments be quoted?

SHRI S. MAHANTY : Why not?

So it is in *Liversidge v. Sir Johr, Anderson* case (1942). Lord Atkin said in that famous judgment.

" In this country amid the clash of arms the laws are not silent. They may be changed But they speak the same language in war and peace. It has always been one of the pillars of freedom, one of the principles of liberty for which we are now fighting, that the Judges are no respectors of persons and stand between the subject and any attempted encroachment on his liberty by the executive, alert to see that any coercive action is justified in law. In this case I have listened to arguments which might have been addressed acceptably to the Court of King's Bench in the time of Charles I. I protest even if I do it alone, against

strained construction put on words with the effect of giving an uncontrolled power of imprisonment to the minister."

I was reading a novel by Dostoevsky this morning and I came across a passage which I would be failing in my duty to this House, if I did not quote here for the benefit of those who have so stoutly supported the Bill.

The paragraph is this :

" Man is tormented by no greater anxiety than to find some one quickly to whom he can hand over that gift with which the ill-fated creature is born."

MR. CHAIRMAN : I will ask Mr. Sundarayya and then Dr. Katju.

SHRI P. SUNDARAYYA : Mr. Chairman, Sir, before I come to the Bill itself, I want to make one or two points clear. Some of the hon. Members again repeated in this House that we had not been fighting against British imperialism in 1942. It is now a ten-year old story.....

AN HON. MEMBER : It is a fact.

SHRI P. SUNDARAYYA : It is not a fact. It is an utter falsehood. We were fighting British imperialism. I have said so on the floor of this House ' half a dozen times, and if you want, you can go on denying it, but the people of India are not going to believe you.

Sir, the leader of the Socialist Party, Mr. C. G. K. Reddy, and also Mr. B. C. Ghose, made some astounding statements. Mr. C. G. K. Reddy said that—he did not actually mention the Communist Party, but by implication, by suggestion—that is the way in which one is expected to speak in Parliament—these people are the agents of foreign Governments, and should be de-citizenised.

SHRI C. G. K. REDDY : On a point of personal explanation, what I said was that if the hon. the Home Minister could prove to the satisfaction of the

[Shri C. G. K. Reddy] people of this country that there are any elements here who owe extra-territorial loyalty, we could not afford to give them the protection of the State, that this was not the way to deal with them but to treat them as some other Constitutions have done. If Mr. Sunda-rayya thinks the description fits his party, I maintain this view.

SHRI P. SUNDARAYYA : Here is the example of some parties asking for the banning of other parties, but I do not want to go into this question just now. There will be other occasions when I can carry on my quarrels with his party or the Kisan Mazdoor Party but the only thing that I would like to tell them is this that their dislike of the Communists should not be allowed to run away to this extent that you should become the tools of the capitalists and landlords and the Government that represents them.

Now, Sir, the question of violence has been brought up again and again. The hon. Home Minister says that it is the foremost duty of every Indian citizen, once a law is enacted, to obey that law, even if it be a black Act like this. Sir, with this proposition we cannot agree. There are laws and laws. There are different kinds of laws. They say we are responsible for violence. Again and again I have said that neither the Communists nor the people are responsible for this violence. The people who are really responsible for the violence are the landlords, the capitalists, the blackmarketeers and the Government, with its huge coercive machinery, who is there to protect their interests. If you want real peace and tranquillity in the country, if you want the Indian citizens to obey your laws, then make good laws, laws in the interests of the vast millions of the Indian people. If you make laws in their favour then the people will obey them. If you make laws to protect the interests of the landlords, the capitalists and the blackmarketeers, then of course, whatever be your laws, whatever be your repression, the people will not obey them, people will carry on their fight against those laws, which is their in-

herent right. How do you expect the peasants whose lands have been seized by the landlords for centuries—let alone centuries, even during the last two decades—landlords who own hundreds and hundreds of acres, thousands and thousands of acres, while the landless hungry peasants starve and die—to obey your laws ? How do you expect these peasants to put up with these inh. um. ja conditions ? How long do you expect the peasants to continue to suffer like this ? Unless you abolish this landlordism, not merely the statutory zamindars but also all the lazy l mts who do not cultivate their own land and who cultivate them through agricultural labour and whose land actually belongs to the people who till the soil, there cannot be any peace in the country. You may use your police against them, but they will continue their struggle till they actually possess the lands. As long as you do not make the conditions of the labourers worth living, giving them proper wages, giving them decent housing, giving them medical facilities, giving them proper and reasonable hours of work, there will be strikes. Whatever your laws may be, in spite of the Preventive Detention Act, in spite of your Trade Disputes Act, in spite of your repressive machinery, they will continue to go on strike, so long as their grievances are not met. So long as you do not put down black-marketing and corruption, the people who have to starve because of this blackmarketing, because of hoarding, are bound to demonstrate; whatever your orders under section 144 may be, whatever your laws may be, the people are not going to be silenced. The people, the peasants, the labourers and the middle classes are not going to obey your laws so long as your laws are not in their favour. If you threaten them with Acts, if you use your police or the military, the people are not going to tolerate it. It may not be in the immediate future, but people are bound to rise, people are bound to destroy any regime which is oppressing them

Then, a friend asked me, "What is the use of the Detention Act? In T<sup>^</sup>lan-gana for the past four years, or three

or more years, this Act was there. Only so many people have been arrested. Your police is inefficient; you cannot get at them." My hon. friend must know why, in spite of their military forces in spite of their huge strength, in spite of the huge concentration of forces there, the Government could not catch the Communists. It is because the Communists have been working for the people. Our heart is with the people.

SHRI GOVINDA REDDY : Because they were trained for underground work.

SHRI P. SUNDARAYYA : Yes, the Communists have been underground in the service of the people. They are not acting in an abominable manner by staying in palaces in the service of the landlords, in the service of the capitalists, in the service of the black-marketeers. There is nothing to be ashamed of in being underground. I would be underground if I could be of some service to the people.

4 p.m.

You yourself at one time—at least in 1942 • whatever Mahatma Gandhi said went underground because you thought it was your duty to fight from underground.

DR. K. N. KATJU : No.

SHRI P. SUNDARAYYA : Dr. Katju might not have been there but many Congressmen were there. If you want to deny, if the Congressmen want to deny their own past, if they are ashamed of accepting their own past, then it is not for me to defend them. They are welcome to disown their own good past whatever little it may be.

Sir, we are not responsible for violence. If anybody is responsible for violence, it is the blackmarketeers, capitalists, landlords and the Government.

MR. CHAIRMAN : You have said that before.

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SHRI P. SUNDARAYYA : In this Act itself, we wanted to mend it, to improve it so that the victims of this Act may have some safeguard. We tried to say that this Act should come into force only in those areas where at least some disturbance takes place, where an area could be declared as a disturbed area. Even that was rejected. We suggested that this Act should be applied in the interest of the security or defence of India as well as to maintain supplies and services. We wanted that this Act should be applied against the real culprits who prevent these things— they are the blackmarketeers, hoarders, jagirdars etc.—against whom this Act should be applied so that there may be peace and tranquillity in the country.

SHRI B. B. SHARMA (Uttar Pradesh) : May I ask one question of him ? If he wants to proceed against the blackmarketeers, landlords' and all those persons, is it not necessary, according to his own theory, that these laws should be there in order to be able to apply against those very persons ?

SHRI C. G. K. REDDY : Not Preventive Detention.

SHRI P. SUNDARAYYA : I have moved an amendment also that blackmarketeers, jagirdars, capitalists etc. who go on exploiting the people should be put in detention. My amendment itself is there but even then, not only are we not satisfied with putting them in detention, but we will also bring them in the shortest possible time, put them before the public and ask the people to judge them and mercilessly shoot them also.

HON. MEMBERS : Hear, hear.

SOME HON. MEMBERS : You want to shoot them ?

SHRI P. SUNDARAYYA : If the people want to shoot them, they can.

SHRI B. K. MUKERJEE : May I know the definition of the word 'people' ?

SHRI P. SUNDARAYYA : People means 90 per cent, of the population .

MR. CHAIRMAN : Order, order. Conclude your speech, Mr. Sundarayya.

SHRI P. SUNDARAYYA : We wanted that there should be sufficient cause before there is detention. We wanted that Members of Parliament should not be detained without the previous permission of Parliament. We suggested that all particulars connected with a detenu should be supplied to him so that he could prove his innocence. We suggested that the maximum period of detention—if the purpose of the Minister is to prevent people from doing some prejudicial acts—should not be more than three months. We suggested, after all these things are done, if you stand by your own Act, with a maximum detention period of twelve months for which any person could be detained, then the existing detenus who have been serving all these two or three years should be released. None of these amendments have been accepted and we know how this Act will be implemented. I will give only one single instance. I have already given many. This one I will give so that the Government may not treat lawyers with too much contempt. I will not read the whole of it, for I am prepared to lay it on the Table of the House. These are grounds for the detention of Shri N. Shunmugham Das of Tinnevely dated the 31st May 1952. Of course there are a series of grounds of which I shall read out only one : if you want, Sir, you can get them read. One of the charges levelled against this person is "He encouraged violent activities of the party workers by defending them in court and entertaining them in parties". Probably this is the reason why the hon. Minister Mr. Katju was so furious against lawyers who are prepared to defend the detenus because that way they will indirectly encourage these activities.

Finally I have to submit that I have made our position clear again and again. But I do not expect the Government benches or the big press owners to properly represent my case. It is bound to be misrepresented again and again. That is what we expect. You

cannot complain of these things in the present society, as long as the present state of affairs continues. But once again I want to say we are here not because we have been cured of Communism; we have come here not because we have big hopes of the Government ! adopting radical measures and transforming society. In fact Dr. Katju the Home Minister himself has told us "We are here to suppress. We are in the midst of agrarian revolution, in a social revolution. And this Act is necessary to stop all that". We do not expect any radical reforms from his Government. We have no illusions about that. But we have come here and we want to continue to be here so that the starving people, the people who are suffering so much misery, can at least have some relief by our sitting here and bringing their cases again and again to the notice of this House and to the notice of the Government. With these words, I conclude and say that we have made our position clear and it is for the Government now to do what it considers fit with this Detention Act. The people also will judge and they will also decide what steps they should take in order to redress their grievances.

MR. CHAIRMAN : The ladies have not yet spoken and I would like to give a chance to them. Do you wish to speak, Begam Aizaz Rasul ?

*(Dr. K. N. Katju rose in his seat.)*

MR. CHAIRMAN : The ladies, DR Katju.

BEGAM AIZAZ RASUL (Uttar Pradesh) : If the Home Minister is going to speak.....

MR. CHAIRMAN : No, if you wish to speak, I want to give you some time.

BEGAM AIZAZ RASUL: Howmuch time will I be allowed ?

MR. CHAIRMAN : Five minutes.

SHRI P. V. NARAYANA (Madras J : Are they all to be from the Congress benches ?

BEGAM AIZAZ RASUL : Mr. Chairman, I am grateful to you for this opportunity. I did not expect that this opportunity would be given to me.

I wish to congratulate the hon. the Home Minister on the masterly manner in which he has piloted this Bill in this House. There is no doubt, Sir, that there has been a great deal of discussion -on this measure that will in a short time become law. There are various opinions that have been expressed from the floor of this House. There is no doubt that no one is glad that such a measure should be passed because after all civil liberties are the first and fundamental right of everyman and no one is happy if those civil liberties are to be curtailed. The hon. the Home Minister has several times repeated here and the Prime Minister in another place that they are not happy about it. The Constitution has given certain fundamental rights to the people of this country and we are enjoying these rights. (*Hon. Members* : No). But when it comes to a question of the liberty that is to be misused, then certainly every Government has the right to put forward certain legislation which should put a stop to those civil liberties which are meant to be misused and that is why, Sir, this article 22 in our Constitution has been incorporated. Even John Stuart Mills, the greatest exponent of civil liberties and the rights of men has said that "Liberty consists in doing what one desires but the liberty of the individual must thus far be limited. He must not make himself a nuisance to others". Therefore, Sir, we had to say for whom this legislation is being enacted.

SHRI C. G. K. REDDY : For all.

BEGAM AIZAZ RASUL : It is not for people who are peace-loving who abide by law and order. It is only for those who indulge in subversive activities and who, by their activities, create chaotic conditions in the country. There is no doubt, Sir, after hearing the debate and the speeches on this Bill during the last four days, there is a feeling in the minds of the Members of this

House that it is only those people whose intentions are not very peaceful who have been opposing this measure. As I said, no one is happy if the civil liberties of an individual are curtailed but it is only those people who intend as I said to indulge in subversive activities who are opposing this because, after all, why should we fear if a certain legislation is to be enacted for certain people who do not wish to live in peace in this country? The greatest democracies that are in the world today have also this sort of legislation which curtails the liberties of any individual who wants to create chaotic conditions in the country and who wants to exploit the peace-loving people and who want to exploit the economic conditions. There is no doubt that the economic conditions in our country are such as could not be called very satisfactory, but to exploit them in order to create conditions which are not helpful for the peace and security of the country, cannot be called in any way patriotic or a thing that should be done by any law-abiding person and, therefore, it is, to my mind, a very right thing and the correct thing for Government to come forward with this legislation. Many a time it has been said that Government is weak. We also realise and most of us think that if Government were to take strong measures then there would be no such people living in this country who could indulge in this sort of activity. We have so much freedom in this country; we have freedom of the Press; we have freedom of speech and freedom of expression of those ideas which we have been hearing on the floor of this House, in the other House and we see them in the Press. Therefore, it cannot be said by any stretch of imagination that the civil liberties of the people are being in any way curtailed. It is only for those people who do not want to keep to those peaceful conditions which are necessary for the country that this measure is being enacted.

And one word, more, Sir. It is the duty of every Indian and every patriotic person to join to build up this country along the lines of prosperity and peace and in a country like ours where we

L.BegamAiz asul]

have just started on the lines of democracy, in a country which has just gained freedom, it is necessary and it is the duty of every human being to try and create conditions which will be helpful for our progress.

SHRIMATI SAVITRY NIGAM (Uttar Pradesh) :

श्रीमती सावित्री निगम (उत्तर प्रदेश)  
अध्यक्ष महोदय, मैं आपके सम्मुख भारतीय नारी का दृष्टिकोण इस विषय पर रखन चाहती हूँ। इसलिये यदि दो-एक मिनट अधिक लग जाय तो आप क्षमा करें।

लोक-सभा और सिलेक्ट कमेटी ने इस बिल के सभी पहलुओं पर इतनी सूक्ष्म आलोचना की थी, इतने आवश्यक संशोधन स्वीकार करवा लिये थे कि उसकी वजह से जब यह बिल राज्य-परिषद् में आया तो इसमें कुछ भी दम बाक़ी नहीं रह गया। परन्तु हमारे यहाँ इसकी आलोचना, प्रत्यालोचना और विश्लेषण ही नहीं बल्कि छिद्रान्वेषण और खूब पिष्टपेषण भी हुआ। लोगों ने मनमाने तौर पर बिना किसी प्रतिबन्ध, संयम और लगाम के इस बिल पर अपनी राय जाहिर की।

आवेश और तैश में आकर लोगों ने अपने दिलों के गुप्त रहस्य और अपनी दमित पड़्यन्त्रकारी इच्छाओं का भी विस्फोट और वमन कर दिया। मुझे दुःख है कि हमारे कुछ कांग्रेसी भाई भी अपना पूर्व संचित संयम कायम न रख सके। इस तमाम कड़ुवाहट, ग्लानि और लज्जा के बीच हम स्त्रियों ने केवल एक निष्कर्ष निकाला है और एक ही भावना हमारे मन में शेष रही है कि हमारे भारतीय क्षितिज पर विपत्ति के जो काले बादल मंडरा रहे हैं, वे सिमित कर भारतीय स्वतन्त्रता के नवोदित सूर्य को ढकने के लिये बढ़ते जा रहे हैं। इतना ही नहीं हम लोग स्वयं भी धीरे धीरे विनाश-पथ की ओर बढ़ने जा रहे हैं और उस विनाश

पथ को ओर बढ़ते जा रहे हैं जहाँ पहुँच कर हम अपने तर्क, कुतर्क, वितर्क के बल पर असत्य को सत्य, पाप को पुण्य ही नहीं बरन् बड़े से बड़े जघन्य कार्य, घृणास्पद हिंसा को भी सद्कर्म, पुण्य और कर्तव्य साबित कर अपने कार्यों का औचित्य साबित करने में गर्व का अनुभव करेंगे। पर यह एक बहुत ही बड़े खतरे की घंटी है, और एक बहुत बड़ी चेतावनी है। श्रीमन्, राजनीतिक दल चाहे कुछ भी सोचें, पर यह विवाद सुन कर शांति की पोषिका नारी का आसन डोल उठा है। इतिहास इस बात का साक्षी है कि नारी पुरुष और देश की युद्ध-संघर्ष-बर्बरता की प्रवृत्ति के खिलाफ हमेशा जिहाद बोलती आई है। अपने त्याग, स्नेह, मातृत्व, क्षमा द्वारा ही उसने बर्बर युग के अहेरी हिंसक पशु मानव को सम्य और पालतू बनाया था, क्योंकि उसके वात्सल्यमय हृदय में शत्रु के पुत्र-बध और अपने पुत्र-बध में समान दुःख, समान पीड़ा होती है। पुरुषों की भांति शत्रु का जलता हुआ घर देख कर भी वह खुश नहीं हो पाती। इसीलिये पुरुष की दानवता, साम्प्रदायिकता, प्रतिशोध और हिंसा को वह युगों से बुझाती आई है और उसने शांति की अग्रदूती नारी की उपाधि पा ली है। फिर भला अपने देश के इस विध्वंसकारी भविष्य को देख कर वह कैसे मौन रह सकती है।

श्रीमन्, विदेशी ताकतों द्वारा फूसलाये गये और दिशा विभ्रम में पड़े हुए इन नवयुवकों के प्रति मुझे कुछ भी नहीं कहना है। ये नव-युवक थोड़ी सी सहानुभूति, अनुशासन तथा बंडाकुश द्वारा सुधारे जा सकते हैं और फिर हमारी जनता ज्यों ज्यों शिक्षित होती जाती है, त्यों त्यों उसके भड़काये जाने की सम्भावना भी कम होती जायेगी। पर स्वतंत्रता के धीरे धीरे आचार्य नरेन्द्रदेव के मुख से शांति और एकता के सम्बन्ध में प्रकट किये हुए विचार

सुन कर मुझे बड़ा क्षोभ हुआ है क्योंकि उनके प्रति श्रद्धा और सम्मान से नत होते हुए भी उनके शब्द पचाये नहीं जा सकते हैं। यह देश का दुर्भाग्य है, यह शांति की अग्रदूती नारी का दुर्भाग्य है कि अर्ध-शताब्दी तक वे जन जीवन की दुर्गम राह पर शांति प्रेमी अशोक, बुद्ध और बापू के पदचिन्हों पर चल कर ही उन्होंने देश-सेवा की थी और आज उनकी यह चुनौती कि यदि अहिंसा से काम नहीं चला तो वे हिंसा-मार्ग का अनुसरण करेंगे, उनके सिद्धान्तों के पतन की अशुभ सूचना दे रही है।

(Time bell rings.)

इतना ही नहीं वे गृह मंत्री डा० काटजू की शांति की मांग को कन्निस्तान वाली शांति की मांग कह कर जिस शांति की उपेक्षा कर रहे हैं उसके लिये हम शांति की पोषिका नारियां बड़ा से बड़ा त्याग, बड़ा से बड़ा बलिदान करने को प्रस्तुत हैं। यह नज़रबन्दी कानून तो बड़ी साधारण चीज़ ह.....

[For English Translation, see Appendix II, Annexure No. 97.]

Mr. CHAIRMAN : That will do Madam.

DR. K. N. KATJU: Mr. Chairman, there has been a great debate on this measure in both Houses of Parliament and in the country outside. It is proper that there should have been this great debate, because vital issues were involved. Many things have been said, but I think there will be general agreement that the most striking contribution to this debate has been made by my hon. friend of the Communist party opposite. He has spoken several times, and I tell him with great admiration that every time that he has opened his lips he has shed greater and greater light on the workings of his mind and of the minds of those who are associated with him.

I do not wish to dwell upon the arms episode. That has been dealt with. But I ask hon. Member here and everybody in this country to consider the implications of what was said a few minutes ago. The hon. Member said, "We are not responsible or liable for this violence j Government is liable for it." In what way "Well, you are the tyrants." And a little later, "the oppressors are the landlords, the profiteers, the blackmarketeers, the great millowners who starve their workers", and so on. The charge against the Government is that they are not sponsoring legislation to alleviate the suffering and distress of the masses—the peasants, the workers, the consumers—everybody including myself. Therefore, what is the next step in the argument. "If you do not do that, the masses are entitled—the peasants, the workers— are entitled to take the law in their own hands". That is the teaching. I am speaking quite frankly. That is the teaching. Let there be no mistake about it. The landlord ceases to be a citizen of India; the industrialist ceases to be citizen of India. They are not entitled to the protection of the laws. They become out-castes. They become outlaws—outlaws according to my hon. friend's way of thinking and the instruction? Let there be no mistake about it again, because there will be a great debate in the country about it. The instruction is that "if the tillers of the soil do not get proprietary rights in the soil and if the Government does not pass suitable legislation, then what should you do? You should go and take possession of the land". Appoint guerillas. Please remember this. I use the word repeatedly, and I use it significantly. "Guerilla" means one definite thing. It means, "Arm yourself, and if the police come, shoot them. If the landlord comes to recover his property, shoot him. Injure him. Assault him". That is the teaching. Now, is that the democratic instinct? Is that the sort of democracy that you want to have? That is the one solid question which should be answered by every citizen of India.

[Dr. K. N. Katju.] Whatever may be the grievances, the law is there. Under articles 31 to 35 of the Constitution, every one is entitled to the protection of the laws. You may dispossess the landlord without paying him a penny of compensation; or pay him one per cent, compensation. I have nothing to do with it. But so long as Parliament does not enact the law, he is entitled in this democratic country to be protected. And any party, any group, any individual no matter how highly placed he may be and whatsoever may be his profession about his love of the country, love of democracy, love of peace and all that, if he goes into the village and says to the workers "shoot, because the land is yours and this man is your oppressor". I submit he is a traitor to the country.

SHRI P. SUNDARAYYA: Sir, I have not said that he should shoot.

*(Interruptions.)*

MR. CHAIRMAN: Order, order.

SHRI B. GUPTA: Nobody has said it.

SHRI P. SUNDARAYYA: The hon. Minister may draw his own conclusion. That is a different thing altogether I have never said that he should go and shoot.

DR. K. N. KATJU: You hear me I have heard you. I have heard you for four days here and for 14 days there. Shooting, beating, massacring and all things have been done. Do anybody want these things in this country? That is the real question. There is no other question. We are not concerned with the rights or wrong of a particular thing. This Government is embarking upon a legislation of its own. I ask the House to realise all seriousness the meaning of the word "guerilla". It is a matter of great importance. This word has come into common use since the word "Guerilla" is an individual who is not part of an organised army working in units, but working behind the enemy, trying to disrupt commun-

ications, disrupt supplies, disrupt organised life. And I ask you, Sir, if any party goes and says in so many words, no matter how gentle they may be: "You are entitled to break the law. Take the law in your own hands. If there are biswedars of PEPSU, go and seize the land and do not give any rent to them. Do not let them enter the village so that they may go elsewhere", are we going to tolerate it? I ask my hon. friends who represent the Socialist Party and the K. M. P. Party, that is the question that has got to be answered. Unfortunately I have got a poor memory, otherwise I would have quoted what exactly was said by my hon. friend. What was done in Telangana? I have said it over and over again. "The police started it, the military encouraged it. Therefore they killed them, burned them, looted them". Whom? Not the police. I can understand if you do so by way of defence. The police had gone away. The military had gone away. They shot somebody else. Are we prepared to tolerate all these things? And the Preventive Detention Act is not intended for anything except checking this. It is not a question of this Act coming in 1950 for one year, then again for six months or twelve months. I very frankly tell you, Sir, that if this mentality remains, if this instruction remains, this Act will have to remain on the Statute Book for ten years. Let us be quite frank about it. When we are worshipping the goddess of liberty, individual liberty, then we must not be individual worshippers, must not pay lip service to our goddess, but we must be genuine and devoted worshippers, are you those devoted persons?

SHRI P. SUNDARAYYA: We are devoted.

DR. K. N. KATJU: I can say with confidence that, whatever your professions may be, you are using it, I tell you, purely for propaganda.

SHRI K. L. NARASIMHAM - I (Madras): It applies to you also.



DR. K. N. KATJU: My hon. friend spoke about blackmarketeers. They are a hateful fraternity, I agree. They should be detained. He went further and said that they should be tried by people's courts and shot. Please consider this. The whole of yesterday was passed on the beauty of the pleading of lawyers, legal rights, the right of legal representation through lawyers, cross-examination, putting up of the case through lawyers, etc. and now my hon. friend comes here and says this. All that forum has disappeared. He discloses his mind, the working of his mind, and I know where he gets it from. He gets it at the source, the Gangotri, Jamnotri, and the source of the Kavery. No question of legal representation there. As I said in the other House, the people's courts, as we know of them, have no lawyers, nothing. My hon. friend approves of it.

SHRI P. SUNDARAYYA: People's courts can have lawyers.

DR. K. N. KATJU: I know that all. Sir, I do not want to take up more time, but this is a matter of some importance. I should like you to consider this. I am not going to read it. My hon. friend is fond of punishing blackmarketeers. This point was brought up in the course of the debate in the other House that if you get rid of clause 3 altogether, i.e., essential supplies and essential services, then black-marketing would stay, and then this amendment came, "You eliminate workers, viz., essential services and you put in black-marketing". At page 12—hon. Members will read it at home—there is an elaborate minute of dissent by two hon. Members including my hon. friend there, in which not a word was said about blackmarketeers being detained. Read it at page 12. It is all about internal disturbances. Well, Sir, I do not want to take the time of the House unnecessarily. Every aspect has been examined. I should like to make two comments. We have the judgments read out to us of some of our eminent Judges, Justice

Mahajan, Justice Mukerjee and Justice Bose. May I suggest resp-^ah/— you cannot consult Judges; they will not give you any legal opinion—that you consult lawyers, some of the Supreme Court lawyers and take their legal opinion on the possession of illegal arms and be guided by their opinion. Do it. You are fond of carrying in your pocket the judgment in Mr. Gopalan's case. If you are so very fond of judicial pronouncements, if you are so prepared to go by the law, then take legal advice on the possession of illegal arms, take legal advice about the way and the things you say to the workers, to the people in the villages, and benefit by that advice.

The second thing is—my friend Mr. Reddy mentioned it—in connection with *Satyagraha*. That is a great philosophical question as to how far there is a right to start a *Satyagraha* movement under the present conditions. In today's morning paper, I read with great interest—hon. friends might have read it—a statement attributed to one whom I hold in great regard and esteem, Mr. Jai Prakash Narain, who says that there is that right. But he also said that the *Satyagraha* started in connection with the Hindi movement or rather the anti-Hindi movement in the South was entirely unjustified and Gandhiji came to this conclusion that the starting upon a fast unto death and starting upon *Satyagraha*, was being so extensively misused that he said in his lifetime that there was only one individual who was competent to start a *Satyagraha* and a fast unto death and it was himself and nobody else. It was becoming a joke. Who is a *Satyagraha* I can understand anyone protesting against tax like William Hamsdan 300 years ago. If there is a tax and you think that is immoral, don't pay it. Let your property be liquidated or sold. I can understand it. If you are compelled to drink, don't drink and go and suffer. If there is a law of conscription and you are a conscientious objector, don't obey. I am talking of another thing—organizing, exciting people to break the law— those things we are not going to tolerate.

Mr. Reddy remarked that we have a right to demonstrate our opinion. Has that right been denied?

SHRI C. G. K. REDDY: Yes.

DR. K. N. KATJU: I ask him, I ask every hon. Member to take the newspaper, the language newspaper and the English newspaper, or go to any public meeting—I am not talking of the privileged speeches delivered here—is there any restraint placed upon anybody expressing any opinion, either condemning or restraining or dissenting ?

SHRI C. G. K. REDDY: I would quote examples if I would be allowed by him.

DR. K. N. KATJU: I have become tired of hearing *ex-parte* cases. I have always followed the dictum that we should never form any judgment upon one sided statement without hearing both sides. Therefore I venture to say that today throughout the world, in India we have the utmost liberty given to the individual—liberty of expression, liberty of opinion, liberty of association, liberty of press, platform, etc.

SHRI C. G. K. REDDY: Did I hear him right when he said 'throughout the world, in India, there is the utmost liberty ?

DR. K. N. KATJU: Yes, I said it deliberately. I shall enter into an argument with him about it. YOU go to England and try to sell any Communist literature and get it published by newspapers, leaving aside the 'Daily Worker'.

SHRI B. C. GHOSE: That is in this country also.

DR. K. N. KATJU: I don't enter into any discussion with him. That is what I wish to say. I agree on one point. The Government would be acting not wisely at all if it were to depend entirely on the Preventive Detention Act and keep order or maintain peace and tranquillity on the basis of it. Everybody recognised that

there are economic problems of utmost urgency, of food, landless labour, of the workers, proper wages, standards of living, etc. Do you mean to say that we of the Congress Party or other people are unaware of those problems ? We are doing our best. The Government is doing its best. You may not agree with the details or with the procedure. That is a different matter but everybody will agree that we are doing our best. This morning I took away half an hour with permission to go away to a meeting—the National Advisory Board—which was being inaugurated by the Prime Minister and it was attended—please remember again—not only by the Congress people and Members of the Planning Commission but by representatives of all parties. I know the names, but I will not mention them. What was under discussion there. Under discussion were ameliorative measures, public health, wages, more food, conditions of workers, housing, all these questions. We are doing our best. We will be foolish if we do not do our best. But we want time to do that. We want five or ten years. Everybody would want it. Suppose my friends there were to come to these hated benches, they too will want time. They are not magicians, nor jugglers. They are not going to do it in the course of the night—a sort of Alladin's Lamp. They would require time. They may liquidate a million or five millions, but even liquidation will take time. But the question is, during this time, you have got to maintain peace, and the Government insists that that peace should be maintained.

Sir, I should like to end this great debate on another note. I have said, though my hon. friends probably have thought I was saying it in a lighter vein, but I say that I look upon myself, I treat myself, I consider myself, as a great communist and socialist. And I am the disciple, in that respect, of the Father of the Nation, and of one even greater than the Father of the Nation. Tomorrow, throughout India crores of people, tens of millions, will observe with fasting and prayers, the legendary

[Dr. K. N. Katju.] anniversary of an individual whose birth took place, behind prison bars in the dead of night and whom I consider was for all time to come, the greatest Communist and Socialist that lived. What did he teach us? Sir, you know it much better than I do and it is not for me to dilate on it. What did he teach? He said, the whole of humanity should be organised on the basis of functions. And then he also said—work incessantly. He condemned the profit incentive, the profit motive. His teaching was—work and work for the public good, but work without attachment to the fruit of your action. And then he said, whatever you have, not only things in the shape of material wealth, but your brains, your intelligence, your wisdom, your spiritual powers, indeed, everything you have got, use it for the service of the community, for the welfare of the community. That is the teaching that sustains us. That is the teaching which sustained Gandhiji. He used to say that he drew inspiration from it. We are humble people here, lakhs of us. But when I was in prison, I tell you from personal knowledge that out of four hundred people there, almost everyone had a copy of the *Bhagavat Gita* in his possession there and he drew sustenance from it. That is my sustenance; and I venture to claim that I am a better and a wiser communist and a more patriotic communist and socialist than anybody here in India, because I do not believe in violence, I do not believe in hatred. I want to achieve my ends without violence and without hatred, but through compassion. What did Gandhiji use to say. That is our guiding star. He said, "Treat yourself as the trustee of the nation, whatever you may have got." "If you do that the profit incentive disappears. Even the institution of property disappears. That is what sustains us and what guides us. In that spirit we go on doing our work. So long as the people have confidence in the Congress Party, the Congress Party will be in power and carry on. If the people have no such confidence, well, out we go

as the Prime Minister said many times.

We all go. They have referred again and again

to the atrocities. They mentioned about the years 1946, 1947, 1948, 1949 and 1950. I have no doubt all those were put forward before the electorate I during the general election and you I see the result. *(Interruption.)* They say they represent five million. On this side we represent 50 million. The same people. I am not saying that you have come here as a sort of gatecrashers; nor have we come as gatecrashers. Both of us have come through the proper and valid door. I do not hear much about any misdeeds in the second half of 1951 or the year 1952. I do not want to go into the details, but I can only assure the House that this Act shall remain on the Statute Book for the time you have passed; The powers it gives shall be exercised with the utmost caution. Let me repeat to the House once again that no one shall be happier—it is not a question of myself personally—no one on this side of the House would be happier than if we find that the conditions have become so restful and preaching of incitement to violence and the preaching of incitement to the breaking of the laws has ceased to that extent that we can say that we don't want this Act any more; it should be sent to the scrap heap.

SHRI C. G. K. REDDY: Sir, I may make one submission, a request to the hon. the Home Minister. There was a point made regarding the treatment of detenus. I should like to ask the hon. the Home Minister, if he can, to assure us that some sort of rules may be made under the Act, if the Act itself does not provide it, so that some humane conditions, e.g., family maintenance and daily allowances and things like that which we used to get, if he remembers, even in 1942, are given to those victims—innocent as some of them may be and some of them really guilty—who are detained without trial.

DR. K. N. KATJU: I think I had given a very adequate assurance on that point.

You had better ask your neighbour, my hon. friend Mr. Gupta, who will tell you what the conditions in Bengal are, and I don't want to repeat it because people dislike that. What I said was there are Jail Manuals for the States. What I shall do is this: I shall, if all the rules are available in the Ministry, look into these; if they are not available, I shall send for them from the States, look into them and then address every State Government to do the best it could for their comfort and convenience so that the conditions of the detenus may be proper. I will not use the word 'humane' it may be taken in a light spirit; we do not want to give anybody any trouble. I will go even further and include the convicts, under-trials and everybody, but that is a larger question. My hon. friend may rest assured on this point.

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 passed.

The House divided

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AYES—

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Abdul Shakoor, Molana. Abid Ali, Shri. Agrawal, Shri A. N. Agrawal, Shri J. P. Ahmad Hussain, Kazi. Aizaz Rasul, Begam. Akhtar Husain, Shri. Amolakh Chand, Shri. Anant Ram, Pandit. Barlingay, Dr. W. S. Bhuyan, Dr. S. K. Bisht, Shri J. S. Biswasroy, Shri R. Borooah, Shri L. Budh Singh, Sardar. Chandravati Lakhanpal, Shrimati. Chaturvedi, Shri B. D. Chauhan, Shri N. S. Das, Shri Jagannath. Dharam Das, Shri. Dinkar, Prof. Doogar, Shri R. S. b e, Dr. R. P.

I Faruqi, Moulana M. Gilder, Dr. M. D. D. Gopaldaswami, Shri N. Gupte, Shri B. M. Hardikar, Shri N. S. ' Hensman, Shrimati Mona. ! Indra Vidyavachaspati, Shri. I Ismail Saheb, Janab M. Muhamma ! Jafar Imam, Shri. ' Jain, Shri Sriyans Prasad. I Jalali, Aga S. M. Kalelkar, Kakasaheb. Kapoor, Shri J. R. Keshvanand, Swami. Khan, Shri A. S. Khan, Shri P. M. Khan, Shri Samiullah. Kishori Ram, Shri. Kunzru, Shri H. N. Lal Bahadur, Shri. Lall, Shri K. B. Leuva, Shri P. T. Madhavan Nair, Shri K. P. Maitha, Shri S. N. Maithilisharan Gupta, Shri. Majumdar, Shri S. C. Mazhar Imam, Syed. Misra, Shri S. D. Mitra, Dr. P. C. Mookerji, Dr. Radha Kumud. Mujumdar, Shri M. R. Mukerjee, Shri B. K. Naidu, Shri Rajagopal. Narayan, Shri D. Narayanappa, Shri K. Nausher Ali, Syed. Nihal Singh, Shri. Onkar Nath, Shri. Pande, Shri T. Pheruman, Sardar D. S. Pillai, Shri C. N. Prasad, Shri Bheron. Puri, Shri M. L. Pustake, Shri T. D. Raghbir Singh, Dr. Rao, Shri Rama. Rao, Shri Krishna Moorthy Ray, Shri S. P. ledly, Shri Channa, ledly, Shri Govinda, iaksena, Shri H. P. lambhu Prasad, Shri.

Sarwate, Shri V. S. Savitry Nigam, Shrimati. Seeta Parmanand, Dr. Shrimati. Shah, Shri M. C. Sharda Bhargava, Shrimati. Sharma, Shri B. B. Shetty, Shri Basappa. Singh, Capt. A. P. Singh, Babu Gopinath. Singh, Shri Kartar. Singh, Shri R. K. Sinha, Shri R. B. Sinha, Shri R. P. N. Sobhani, Shri O. Srivastava, Dr. J. P. Sumat Prasad, Shri. Tamta, Shri R. P. Tankha, Pandit S. S. N. Tayyebulla, Maulana M. Thakur Das, Shri. Thanhlira, Shri R. Thimmabovi, Shri L. H. Vaidya, Shri Kanhaiyalal D. Valiulla, Shri M. Varma, Shri C. L. Vyas, Shri K.

## NOES-23

Banerjee, Shri S. Bhanj Deo, Shri P. C. Deshmukh, Shri N. B. Dube, Shri B. N. George, Shri K. C. Ghose, Shri B. C. Ghosh, Principal Devaprasad. Gour, Dr. R. B. Gupta, Shri B. Imbichibava, Shri E. K. Kakkilaya, Shri B. V. Kishen Chand, Shri. Mahanty, Shri S. Mathur, Shri H. C. Mazumdar, Shri S. N. Misra, Shri C. G. Narasimham, Shri K. L. Narayana, Shri P. V. Ranawat, Shri M. S. Rath, Shri B. Reddy, Shri C. G. K. Sundarayya, Shri P. Suryanarayana, Shri K.

The motion was adopted.

## THE RESERVE AND AUXILIARY AIR FORCES BILL, 1952 5 P. M.

MR. CHAIRMAN : Now Shri Gopalaswami Ayyangar to move:

That the Bill to provide for the constitution and regulation of certain Air Force Reserves and also an Auxiliary Air Force and for matters connected therewith, as passed by the House of the People, be taken into consideration.

THE MINISTER FOR DEFENCE (SHRI N. GOPALASWAMI): I beg to move:

That the Bill to provide for the constitution and regulation of certain Air Force Reserves and also an Auxiliary Air Force and for matters connected therewith, as passed by the House of the People, be taken into consideration.

Sir, we have just finished what my hon. colleague called a great debate. I am now initiating a very small one. That great debate aroused a great deal of controversy. I do not think much dust is likely to be raised over the Bill I am just moving and if the House would only co-operate with me, it is quite possible to conclude this small debate within the one hour before us. That is entirely for the House to consider.

Sir, so far as this Bill is concerned it is a very simple and straightforward measure. The principles on which it is based have had quite a large amount of support from all sides of public opinion. The object of this measure is to create two Air Reserves and an Auxiliary Air Force. Now the Bill gives in different chapters the way in which these Reserves and Auxiliary Air Force are to be constituted. The two Air Reserves are the Regular Air Force Reserve and the Air Defence Reserve.

The Third set-up is what is called the Auxiliary Air Force. To the regular Air Force Reserve certain persons with specified qualifications are to be transferred. These categories are:

"(f) Any officer or airman of the Air Force who under the terms and conditions of his service is liable to serve in any Air Force Reserve if and when constituted;