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Mr. M. R. Masani's speech in the course of the
discussion on the Preventive Detention (Continuance)
Bill (1960) in the Lok Sabha on December 1, 1960.

Shri M. R. Masani: Sir, I cannot claim the privilege, claimed by my hon. friends who spoke before me or of their associates who have experienced preventive detention under the present law. But both my colleague, Professor Ranga, and I have undergone the same process of detention under British rule and therefore we can sympathise with the present victims of this Act.....(Interruptions).

I think, Sir, it is necessary again to recall the circumstances in which this Bill was accepted in the first instance by Parliament. It was on the 25th February, 1950, a Saturday, that Sardar Vallabhbhai Patel came before this House and made the plea that the Bill should be passed by the House because, he pointed out, 350 of the most dangerous Communist detenus were in danger of being released on Monday morning by the Calcutta High Court if this Act was not put on the statute-book. It was only under this immediate threat to the security of the country and the clear and present danger that this House was persuaded or, in a way, bludgeoned into passing that Bill. Sir, as a back bench Congress Member at that time, I took the liberty to voice my grave concern and disquiet about the Bill that was being placed before the House by the Deputy Leader. I said then that the Bill was a "hasty improvisation" which should be replaced at the earliest possible moment by "a more principled, well conceived and well thought out measure which does not shirk the issue, which goes to the root of the mischief and which frankly takes its stand for the defence of democracy against totalitarian aggression from within or without."

Acharya Kripalani: They have done that now.

Shri M. R. Masani: Sir, Sardar Patel in his reply was very apologetic. He did not show the smugness that was exhibited earlier this afternoon. He was unhappy and he was apologetic in his reply and he said:

"As has been pointed out by my friend Shri Masani, the Bill has been brought in to meet an emergency. It requires to be closely examined whether a better substitute of a more or less permanent nature based on scientific principles can be brought in or not."

That, Sir, was his assurance, that the Bill would be there for just one year and before the year was out a thorough examination of the kind that has been suggested, by the Law Commission or otherwise, would be undertaken and this Bill, which was an unprincipled Bill, would be replaced by something based on better principle.

Well, since then we have been waiting for ten long years. This three-yearly renewal has become a mockery. I am glad it is there because it gives Parliament every three years a chance to scrutinise that measure but, for all practical purposes, it has become a permanent blot on our statute book.

Is that emergency which we faced then in existence or not? Sardar Patel in justifying the measure referred to the sacrifices and sufferings of millions of our people in the achievement of independence which was then so new. He said:

"It would be a poor return for those sacrifices and sufferings if we fail to preserve the liberties which we have won after so much struggle and surrender them....."

-- he was referring to the communists --

"...to the merciless and ruthless tactics of a comparatively small number of persons whose inspiration, methods and culture are all of a foreign stamp and who are, as the history of so many countries shows, linked financially, strategically, structurally and tactically with foreign organisations."

Now, either that emergency exists or it does not. There is one emergency that does exist -- the attack on our frontiers and the existence of a Fifth Column in this country which actively subserves the aims of the foreign aggressors. But, Sir, I

listened to the hon. Minister. He talked of goondas, as if this Act was passed for goondas and, in any case, you can use it as you like. This, Sir, is an Act of policy at a very high State level and in the reasons given by the Minister Chinese aggression and the subversion of its Indian agents was never referred to. The one thing that might have justified the continuation of this measure was absent from the Government's thinking.

Sir, ironically enough, the fact remains that this Act which was fashioned to fight communist subversion of this country is being used for all purposes except for dealing with that subversive element. If a Bill, Sir, were introduced in this House on a principle of that kind to outlaw that Party or to make its activities difficult, I for one would be prepared to examine it if it comes from the Government of the day. It is for the Government of the day to decide whether the truncation of that liberty is necessary, if there is a clear or present danger or not. Sir, the best democrats have admitted and accepted this proposition that Communists and Fascists have no right to exist in a free society because they stand for destruction of that freedom the moment they come to power. They believe in establishing a one party dictatorship the moment they get to power, and therefore their sincerity in questioning a measure of this kind cannot be very well accepted. Therefore, I should like to make it clear that we on these benches oppose this Bill, we will vote against it, but for extremely different reasons, very different motives from those which the Communist Party may have.

That is the real issue, but the Government is funking it. This Government has not got the guts to come out with a straightforward anti-subversive measure against those who are trying to disrupt the unity of our country. They are going about it in a round about way. In not fighting the real menace they are endangering the liberties of every individual Indian, however patriotic he may be, and I say this, Sir, that this Act has been grossly misused. It has been used for party warfare, it has been used against patriotic Indians when it should have been used against traitors against whom it is not used.

Let me give some examples. We, first of all, had the long detention of Shaikh Abdullah - I am glad to say that later on it was transformed into a proper prosecution, very belatedly.

Shri A. K. Sen: Sir, may I object to that case being referred to? It is sub judice. The charges on which he was detained under the Kashmir Act are very similar to the charges on which he is prosecuted now.

Shri M. R. Masani: I referred to his long detention, and I am very glad that the Government have come forward now with the charges.

Shri A. K. Sen: The hon. Member said "patriotic Indians" and then immediately referred to Shaikh Abdullah.

Shri Ranga: There was no need to have detained him.

Shri A. K. Sen: Opinions may differ very much on this point. But immediately after saying that "patriotic Indians have been detained" to mention the name of Shaikh Abdullah would certainly not raise unanimous support from this House.

Shri M. R. Masani: I am not asking for the unanimous support of this House. Every one has a right to judge one's fellow citizens until they are found guilty in a court of law. Here we live under the rule of law and believe that a man is innocent until he is found guilty, and in my opinion Shaikh Abdullah remains a patriot until he is found guilty in a court of law and the proper facts are established.

The next case is a much less controversial one, which even the hon. Minister would not deny, and that is the case of Master Tara Singh. I make bold to say that his patriotism is as good as the patriotism of any hon. Member of the Treasury Bench, absent or present today. What is his crime? He advocates a reorganisation of a territorial nature. We may agree with that reorganisation or we may be opposed to it. (Interruption) We may have our own views on the subject whether or not it is a communal movement. Surely, being a communalist is not a thing to be brought under the Preventive Detention Act; in that case millions of people in India would be locked

up today. Being communal is a bad thing. I am against communalism in any state or form; I have never practised it, I abhor it. But that does not mean that if a man is communal I would lock him up. Then again, who decides who is communal? Therefore, what I am saying is this. A person makes a claim of a territorial nature for a re-organisation of a State as has been done in other parts of India. You may fight it politically. I may agree with you if you fight it politically. But have you any right to use this Preventive Detention Act and to lock up a patriotic Indian who is exercising his civil liberty of agitating peacefully for a particular solution, for a particular right? (Interruption)

An Hon. Member: He created violence.

Shri Masani: He created no violence. You locked him up before anything happened. You were responsible for that violence.

My third example - my hon. friend Shri Asoka Mehta referred to my hon. friend Shri Nath Pai. I also would like to refer to that. Several hundred trade unionists were rounded up throughout India on the eve of that strike. In the city of Bombay alone there were 36. Shri Nath Pai might have been leading the strike. But I know of a more gross case of a friend of mine who was opposing the strike, who was actively canvassing his own union to stop the workers going on strike when the police came and rounded him up for the alleged act of supporting a subversive movement! This, Sir, is the lawless way in which this lawless law is being operated.

A strike may or may not be right. If you want to declare it illegal, pass an Ordinance and prosecute people under that Ordinance. But you have no right to use the Preventive Detention Act to fight a strike, which may be justifiable or unjustifiable, but certainly the fundamental right of an Indian worker.

Let me give another example to show how the Act is misused incipiently. I have with me a copy of the notice served by the Chief Minister of Madhya Pradesh on the Maharaja of Bastar. The terms are that the Government of Madhya Pradesh have come to the conclusion that you must leave Bastar and stay in some other place which we shall nominate. I, therefore, ask you to come and see me within one week of the service of this notice. It was served on him on the 17th November this year. Then it says that if you do not come and see me within one week so that I can tell you where you should stay, the Government of Madhya Pradesh will be forced to take other steps to deal with you - an obvious reference to the Preventive Detention Act. This disgraceful notice, which no Chief Minister of an Indian State should have the impertinence to serve on any Indian citizen, could never have been served if the Preventive Detention Act was not there, because then the Chief Minister's threat would have been worthless. He is in a position to address such a communication to a free Indian citizen, violating his fundamental rights of residing as he likes and moving as he likes, because he has got this disgusting weapon which has been provided by our Parliament to him with which any Indian citizen can be bludgeoned into leaving his home and going into exile within this free country. We do not want that Indian citizens should be sent to exile within India, as the Czar used to send Russians in exile to Siberia.

An Hon. Member: Hear, hear.

Shri M.R. Masani: Not only this. When someone on behalf of the Maharaja goes and sees the Chief Minister - a former Minister of the State, Mr. Agnibhoj - and says to him: All right, I will persuade the Maharaja to come and see you. Will you give him facilities to go back home safely without hindrance? - the Chief Minister says: No. In other words, they want to decoy this man to Bhopal, away from the Adibasis who are loyal to him and devoted to him, so that he can be kidnapped and taken under detention under the Preventive Detention Act. This is the way in which the Preventive Detention Act is being misused not only when it is worked but when it is dangled over the heads of innocent citizens. These are the reasons why I and my colleagues will vote against this measure.

I mentioned Shaikh Abdullah, and I would refer to him to this extent to say that at least one of the things that should be done is that if this Act is going to be placed in the statute book, let it be made operative to Jammu and Kashmir also,

because ~~the~~ worse things prevail under the law there. There is a reign of terror under the State law there - people can be detained continuously for ten years without interruption as against one year in this country.

As my hon. friend Shri Asoka Mehta said, the least that we expect is for all Indian citizens - since Kashmir is part of India, they also are our citizens - there should be uniformity - not centralisation, for, I will not accept that word - but certainly uniformity of rights in so far as the Fundamental Rights of Indian citizens are concerned.

Sir, I oppose this Bill and we shall vote against it.
