

MR. CHAIRMAN: They have to make up their mind.

(Interruptions)

SHRI S. M. BANERJEE: This is a very serious matter.

SHRI SOMNATH CHATTERJEE (Burdwan): This is a right of the Private Member's Bill to introduce a legislation. If it is not unconstitutional, then it.....

(Interruptions)

MR. CHAIRMAN: The Chair does not know anything about the Coconut Bill.

(Interruptions)

Mr. Somnath Chatterjee is to continue his speech.

(Interruptions)

I called upon Mr. Chatterjee to speak. Please sit down.

(Interruptions)

SHRI P. K. DEO (Kalahandi): We would like to record a protest

MR. CHAIRMAN: No protest

(Interruptions)

SHRI DINEN BHATTACHARYA (Serampore): What do you understand?

(Interruptions)

MR. CHAIRMAN: Mr. Chatterjee wants to speak. Did you not want to speak?

SHRI K. LAKKAPPA (Tumkur): My Bill is also coming. What is the time allotted for it?

SHRI SOMNATH CHATTERJEE: You will get your turn.

15.34 hrs.

DEFENCE OF INDIA (AMENDMENT)
BILL—Contd.

(Amendment of section 6)

by Shri Somnath Chatterjee

MR. CHAIRMAN: We now take up further consideration of Defence of India (Amendment) Bill. Only 75 minutes are left.

Shri Somnath Chatterjee to continue his speech.

SHRI SOMNATH CHATTERJEE (Burdwan): Sir, on the last occasion, I had placed before the House what Mr. K. C. Pant had said while piloting the MISA Bill in 1971. He justified the Bill on the ground that there were various safeguards, like, that there will be advisory boards to look into the matters of detention; that there will be writs of *habeas corpus* available to the detenus; that the maximum period of detention will be twelve months and no more and, therefore, there should not be any misgiving in the minds of the hon. Members and in the minds of the people. But we have seen how each one of the assurances has been violated and we have seen how this Government, in spite of this solemn assurance given on the floor of the House has used this draconian measure against political opponents, against workers, against trade unionists, against teachers, students and what not.

Now, that assurance having not been kept, having been performed only in breach, I want to draw the attention of the House that at least some of the serious provisions of the Bill may be somewhat diluted. When the Defence of India Act came into force, it made three changes in the MISA. One was enlarging the powers of the subordinate officers to make detentions also on the grounds of security of India. The second change was—it is much more serious—enlarging the period of detention from a fixed period of one year to an indefinite period so long as the Defence of India Act will remain in

[Shri Somnath Chatterjee]

force and the Defence of India Act will remain in force so long as the Emergency remains in force in this country and for six months thereafter. Therefore, until the Emergency is withdrawn the period of detention will continue. The third change that was made was, inserting Section 17A in the Act which provided for detention without reference to the advisory board for a period of one year.

After the Emergency, I want to point out and bring it to the notice of the hon. Members that the position has radically altered so far as the minimum protection was there under the MISA. There is no advisory board now; no grounds are to be supplied; no representation is to be given, no disclosure of material even to the courts; the *habeas corpus* petitions are, it is contended by the Government, not maintainable any longer and, over and above, there is a possibility of a life imprisonment so long as the Emergency remains even without trial. This was intended to be done in the name of Emergency

My Bill seeks to have a very limited objective. I want to make this suggestion for the kind consideration of the House. One amendment is to do away the rights of the subordinate officers to make detention on the grounds of security of India. This was left to the Government and high officers. Why should that power be bestowed on the subordinate officers? The second amendment which is very important is that the detention period should be fixed for a period of twelve months and that it should not be for an indefinite period till the Emergency lasts. The third amendment is to delete Section 17A from the Act which has already been declared *ultra vires* by the Supreme Court. Therefore, according to the law of this land, it is an *ultra vires* piece of legislation. It cannot remain on the statute book.

I will sit down after reading out a quotation from a very well-known Judge of the Supreme Court, Justice Krishna Iyer who has spoken about this indefinite detention. He says:

"The fact remains that the petitioner was arrested in September, 1972, and has been in deterrent incarceration for nearly a year and half. Prolonged imprisonment without trial alienates the individual against society and makes him a vengeful enemy when he ultimately emerges from the prison cell. Indeed, it is a serious injury inflicted on an individual by the State which can be justified as a measure of social defence only in extreme circumstances. But to jail a man on subjective satisfaction of possible prejudicial activity and to forget about him after the statutory formalities have been performed is not fair to the Constitutional guarantees."

Then, he goes on to say:

"The compassion and conscience of law must be actively changed by the men who operate the machine from executive cells."

That is my request. At least listen to the observations of one of the brilliant judges who cannot be even thought of as advocating the cause of vested interests.

There is at present a law for the foreign exchange manipulators and smugglers and black-marketiers which is known as the COFEPOSA. My Bill does not deal with the COFEPOSA detenus; it is completely a separate thing. Although, on principle, I am against preventive detention, my Bill is with regard to the MISA detenus only—men like political opponents, students, teachers, working people etc. Therefore I am placing this Bill for the consideration of the Hon. Members to make the maximum period of detention 12 months as was originally provided for—and, it was given out that one of the reasons was for allaying the fear in the minds of the Mem-

bers of this House and the public. Under the present Sec. 14 (2), even if a person is released after 12 months' detention, he can be re-detained again on the same facts and then his detention will continue indefinitely. This power is there. Therefore, if you find after 12 months, even on the basis of subjective satisfaction, that after his release a MISA detenu is allegedly abusing his freedom, then you have the power under the new provision to re-detain him. Then why put him under indefinite detention without a fixed period of imprisonment? As Justice Bhagwati had said, this is nothing but life imprisonment. Therefore, my request to the Hon. Members is that they should not consider this Bill from a purely partisan point of view. My attempt is to make the MISA a little more civilised. Not knowing when the Emergency will come to an end, not knowing when the DIR or the DI Act will come to an end, it is now completely uncertain how long the period of detention will continue, nobody knows. I wish the Hon. Minister could give us an assurance that the Emergency will come to an end and, within six months the Defence of India Act will come to an end. Not only has the previous Emergency not been withdrawn but we have a duplicate Emergency and we may have a triplicate or a quadruplicate—and then the Financial Emergency and what not. There-detection. I am putting this question: fore, nobody knows the period of is this a civilised piece of legislation? A person who is guilty of murder or who is given life imprisonment knows how long he will be in jail, but a person imprisoned under MISA does not know how long he will be in jail. This was deprecated by Justice Krishna Iyer as not being a civilised system of Government.

Therefore, my request to the Hon. Members is to consider this Bill not from a Party point of view, but to consider it from the point of humanitarian considerations and from a civilised point of view. If they want to keep the people muffled for all times then, the country has already been converted

and will continue to be converted into a jail. I submit that muted people and muzzled people certainly cannot be free people. If you want slaves under your administration, then you can have this Bill and you can continue to have this present provision. But my earnest request to the Hon. Members is that this Bill is very limited in its objective, it is not to do away with the MISA. We know our capabilities and that we cannot get rid of the MISA through this House. Therefore, my appeal to you is to make it a little less rigorous and a little less Draconian than at present.

With these words, I am commending this Bill to the Hon. Members for their kind consideration.

श्री भूल चन्द शर्मा (पाली) : सभापति महोदय, एक बात के लिए मैं उन्हें धन्यवाद देता हूँ कि आपने जो इरादे प्रकट किए हैं वे अच्छे हैं। एक वकील के नाते, एक लायर के नाते उन्होंने अच्छी बातें कही हैं। मगर सवाल यह है कि क्या देश के अन्दर एमरजेंसी लागू है या नहीं? मैं आपके बिल के स्टेटमेंट आफ आइजेंट्स एण्ड रजिस्ट की तरफ आपका ध्यान दिलाना चाहता हूँ—

"Happily, the war has come to an end, and although the proclamation of Emergency has not yet been withdrawn, the situation of emergency does no longer prevail."

आप खुद ही मानते हैं कि आपातकालीन स्थिति जो लागू की गई है वह संमूह द्वारा पारित किए गए कानून के तहत लागू की गई है। दोनों हाउसेज ने उस को मान लिया था।

श्री चटर्जी ने स्वयं एक आर्टिकल लिखा था, जिसका शीर्षक था :

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इसके कुछ वाक्य ही मैं आपको पढ़ कर सुनाना चाहता हूँ :

"It would be significant to note that in answer to an unstarred Question as to how long the Emergency would continue and what was the

[श्री मूल चन्द डाणा]

rationale for its continuance, it was stated on behalf of the Government of India in Lok Sabha on August 21, 1974, that the question of continuance of Emergency is kept under constant review, in the light of the relevant security considerations, progress of the normalisation of relations with Pakistan, and the overall economic situation in the country."

यह आपके ही घाटिकल में से है। क्या आप सप्रभता हैं कि हिन्दुस्तान की हालत सुधर गई हैं और हम रिस्क ले सकते हैं? आपने बंगला देश की हालत को देख ही लिया है। वहाँ क्या घटनाएं घटी हैं, इन को आपने देख ही लिया है। अगर एमरजेंसी को हटा दिया जाए तो पता नहीं क्या हालात बनेंगे। आप तो हिन्दुस्तान में सम्पूर्ण क्रान्ति लाने की बात करते थे और ला रहे थे। आपने बहुत-भ्रष्टा स्वप्न देखा था। आपने सोचा था कि देश में भ्रराजकता फैलेगी तो आप उसमें लाभ उठा लेंगे। लेकिन सरकार ने आपकी भाषा को झूल में मिला दिया है। जयप्रकाश जी ने भी वही स्वप्न देखा था। सम्पूर्ण क्रान्ति वे लाना चाहते थे। आपने भी उन तत्वों का साथ दिया। आप भी उसमें शामिल हुये और भी पार्टियां उसमें शामिल हुईं—

श्री सरजू पांडे (भाजीपुर) : ये लोग सम्पूर्ण क्रान्ति में शामिल नहीं थे।

श्री मूल चन्द डाणा : भ्रष्टा है ये उससे भलग रहे। लेकिन और बहुत सी पार्टियां उसमें शामिल थी। एक हवा फैली देश में भ्रराजकता की। रेल हड़ताल हुई और वह खरम की गई। उसके बाद विरोधी पार्टियां एक मंच पर आ गईं। भार० एस० एस० जनसंघ तथा दूसरी पार्टियां मिल गई और उन्होंने देश के काम को रोकना शुरू कर दिया। उस समय जो कदम उठाया गया बिल्कुल ठीक उठाया गया और बहुत समय पर उठाया गया। 25 जून 1975 को यह कदम उठाया गया। आज हिन्दुस्तान की 58 करोड़ जनता ने तथा सारे संसार ने

इस कदम को एप्रिसिएट किया है। सब ने माना है कि यह सही कदम पर सही कदम उठाया गया है। एक दिन आ गया आप भी कहेंगे कि यह बिल्कुल ठीक कदम है। अगर यह कदम नहीं उठाया जाता तो मेरे ख्याल से देश में भ्रराजकता ऐसी फैल जाती कि उस पर काबू पाना मुश्किल हो जाता। कभी कभी देश के हित में ऐसे अप्रिय कदम उठाने भी पड़ते हैं। श्री पन्त ने जिन्होंने तब बिल को पायलट किया था उन्होंने भी नहीं कहा था कि इस बिल को लाकर हमें प्रसन्नता अनुभव हो रही है या यह सराहनीय कदम है। लेकिन मजबूरी में ऐसा कभी कभी करना भी पड़ता है। देश की सुरक्षा की खातिर जो जरूरी कदम हैं, उनको उठाना पड़ता है। हम गफलत नहीं कर सकते थे। अगर यह कदम न उठाया गया होता तो देश में जो बवण्डर उठता उसमें आप भी आ जाते। बुराये में आपकी क्या हानन होती, यह आप मोच लीजिए। घाटिकल 19 कांस्टीट्यूशन में रखा गया। लेकिन देखा यह गया कि मुश्रीम कोर्ट और हाईकोर्ट में गुंडे, स्मगलज आदि छूट जाते थे—

SHRI SOMNATH CATTERJEE: This Bill is different.

श्री मूल चन्द डाणा एक सपरपट यह था मीसा लाने का कि कई बार सबूत नहीं मिलना और एमरजेंसी डिक्लेयर की जाती है तो कुछ राइट्स सस्पेंड हो जाते हैं, सिविल लिबर्टीज पर कुछ रोक लग जाती है। यह भी देखा जा होगा कि देश की शान्ति खतरे में न पड़ जाए। आप अपने देश को शान्ति को प्राथमिकता देते हैं या कुछ चन्द धादमियों को। आप सी० भार० पी० सी० की धारा 107 और 151 को देखिये। कांस्टीट्यूशन के घाटिकल 352 और 356 में प्राथमिकता है। एमरजेंसी लागू करने का एक ही मकसद होता है कि जब कभी राष्ट्रपति या राज्यपाल वह सोचें कि देश के किसी काम में खतरा पैदा हो सकता है,

तो उस समय वह कदम उठाया जाता है। इस कदम के उठाने से लोगों की लिबर्टी खत्म हो जाती है। आप किसी जज का कोर्टेशन देते हैं, और मैं किसी जज का कोर्टेशन देता हूँ, लेकिन उससे काम नहीं होता है। इसको सम्भालने का काम कार्यपालिका का है, एग्जीक्यूटिव का है। उसको पार्लियामेंट पावर देती है। जब वह पार्लियामेंट में आता है तो कानून बना दिया जाता है। आपात-काल जब लागू हुआ तो उसका इस हाउस ने सम्भालन किया। जब यह कानून बन गया तो आपने रीजन दिये हैं, उसका क्या अर्थ रह जाता है।

वार खत्म होने के बाद भी आप आज हिन्दुस्तान और पाकिस्तान के रिश्ते देख रहे हैं। पाकिस्तान फौज बढ़ा रहा है, हथियार जमा कर रहा है। उसको अमरीका से हथियार मिलने हैं, अरब राष्ट्रों से हथियार मिल रहे हैं, चीन वाले भी मदद दे रहे हैं। हमे बराबर उसमें खतरा है। आज ही आपने हमारे विदेश मन्त्री का भी भाषण सुना है। आपकी तरफ से भी यह बात हुई थी कि अभी भी हमें खतरा है। आपने यह बिल 4 साल पहले पेश किया था। अब जब आपात-काल लागू हो गया है तो देश के अन्दर और बाहर की सिचुएशन को देखते हुए आपको इस बिल को वापिस लेना चाहिए।

SHRI ARJUN SETHI (Bhadrak):
Mr. Chairman, Sir, at the outset I oppose the Bill moved by the hon. Member, Shri Somnath Chatterjee. The Bill seeks to amend or relax the Defence of India Act which was passed in 1971. Since then the things have undergone a change. I consider, therefore, the present Bill has no bearing on the existing situation of the country at the present juncture. So, I oppose this Bill.

Moreover, the House will agree with me that if there was any necessity of certain extraordinary law, it was to deal with the present situation prevailing in the country. To be more precise, the Defence of India Act, as we know, is a law meant to deal with extraordinary and exceptional circumstances. In this context, I would like to quote two sentences from the Prime Minister's speech while replying to the President's Address in January last:

"...I did say so, but I would submit that the circumstances which developed later were exceptional and extra-ordinary. And, when something entirely extra-ordinary and exceptional takes place, you have to have exceptional measures to deal with it."

So, in this context, the hon. mover of the Bill will agree that this is a Bill which seeks to do certain things entirely different from the normal situation in the country. Therefore, I do not understand his logic that this Bill is necessary.

While moving his Bill, the mover has stated that always the Government come forward before the House with the same old arguments and, according to him, "worn-out argument." The constitutional provisions may be worn out, may be irrelevant according to him, but to preserve the integrity and sovereignty of the country this provision in Article 22(6) is very much relevant and, in effect, the Act is according to the provisions of the Constitution. Therefore, I oppose this Bill.

Similarly, before summing up, I would like again to quote the hon. Prime Minister who said in her speech while replying to the debate on the Motion of Thanks to the President for his Address:

"As I pointed out the other day, it takes a long time to construct,

[Shri Arjun Sethi]

whether it is a building, whether it is a dam or a project, it takes a long time, it takes a great deal of money and resources and involves many people. But to destroy, what is needed? One person can throw a bomb. One person can set fire."

Considering all these points I oppose this Bill and I request the mover to withdraw it in the context of the present situation.

SHRI B. V. NAIK (Kanara): Before I start, I would say I had sent in an amendment to the amendment proposed by Mr. Somnath Chatterjee. My amendment, for the benefit of the mover of the Bill, Mr. Somnath Chatterjee—Mr. Somnath Chatterjee has obviously, I believe, moved it with good intentions....

16.00 hrs.

MR. CHAIRMAN: Mr. Naik, your amendments have already been disallowed by the Speaker. You may make a reference to them when clause by clause discussion stage comes. Now, if you want, you may make a general observation on the Bill.

SHRI B. V. NAIK: Very well.

The Defence of India Act is very complicated. There have been many amendments and changes. It is very difficult to get co-herent picture of the entire legislation including the intentions of the mover of the Bill—Shri Somnath Chatterjee to whose legal competence we will not be able to hold a candle. But as a lay man, what we read out from the Statement of Objects and Reasons as well as sub-clause f and clauses thereunder—c, d & e, the feeling of the hon. Mover seems to be that in the context of MISA, the provisions of this Act amount to, if not duplication, they amount to redundancy as far as legislation is concerned. There

are two things to which he has drawn attention—to the declaration of Emergency in the year 1971, i.e. 4th of December, 1971 on the eve of starting of the hostilities when this Act was brought into effect and now there is new Presidential Emergency which has been declared 'internal emergency'. There is a conflict between MISA and DIR as far as we are able to make out. May I submit here, if we look to the rule-making power of the Defence of India Act as laid down 'Emergency Powers Chapter II' the entire thrust at the time of formulation of the Defence of India Act 1971 was on the possible hostilities that may start between India and Pakistan in the wake of the developments in Bangla Desh and the principal target was the enemy who has been defined under the Act. It was meant for the purpose of dealing with an external threat and emergency was declared in the country as a result of external threat. But, however, most of the political detentions which seem to agitate the hon. mover have been, as far as I understand, covered by MISA. But there remains on the periphery of this political power structure those parties which are opposed to any Constitutional changes and Constitutional developments. They are on the border line. This periphery is composed of yellow journals, goonda element in the urban sectors, people with extremist activities, goondas in Mohallas in the towns, in the interior of India in the rural areas....

SHRI SARJOO PANDEY: What about S/Shri Ram Dhan and Chander Shekhar?

SHRI B. V. NAIK: The hon. member has been reading—the papers. They have not been considered as our partymen.

MR. CHAIRMAN: Please do not answer that.

SHRI B. V. NAIK: As it will go on record, it will appear as if I am unable to answer.

SHRIMATI T. LAKSHMIKANTHAMMA (Khammath): They were members of the Working Committee.

SHRI B. V. NAIK: These people have been detained under MISA, and due to the political compulsion. Whether it is you who are out today those people who opt for a political career have to take it as a necessary hazard that there will be an imprisonment. Otherwise, you would have been doing some better jobs like interior decorations and selling flowers. When we take action we know what we are doing and if your turn comes you can do the same thing we are ready for it, don't think we are chicken-hearted. If there is so much of duplication during the period of national emergency, regarding the provisions of the DIR, if it is practicable to deal with the second line of offence, you can keep it in a state of cold storage. After the emergency is revoked, there will still be a period of 6 months. At that time the protection given to State Governments in regard to the detention of detenus under MISA will not be available. The classified document showing the ground of detention which during the period of emergency is not subject to be produced before the court will thereafter have to be submitted for the Court's scrutiny. Then the Defence of India Rules as sought to be amended by me will be in operation during that no-man's period of six months. That is the main thrust of my amendment. I would urge upon Shri Somnath Chatterjee to withdraw his repeal amendment and accept my amendment to his amendment whereunder it is kept under cold storage till the revocation of emergency.

SHRI ERASMO DE SEQUEIRA (Marragao): When the original Bill which itself was a draconian piece of legislation came before the House, it was camouflaged as a bitter pill in a sweet covering, and the sweet covering was a number of safeguards. We

have seen how these safeguards have been removed one by one, by one draconian law after another. As a result, detention can be continued without any time limit. A person arrested in 1971 can now be detained without charge, without trial, without grounds, without any sort of a time-limit. This is actually life imprisonment without the rule of law. This is where external emergency becomes internal emergency. Arrests made to defend the country against external forces, have become arrests to defend the country against internal forces! This sort of reason exists only in the fertile imagination of this Government, and nowhere else. This is how Fascism has overtaken democracy in other countries, and we see how history is repeating itself, before our very eyes.

I would like to tell Mr. Naik with my tongue slightly in my cheek that he was absolutely right when he said a few minute ago, that any of us could have been assured that anyone in the Congress, the politician, would not be arrested like that. But, now they have set a precedent; it is a precedent which will continue and, after the elections, it is quite possible that they shall find themselves in trouble under the laws that they themselves passed if they remain on the statute book. I do not think it will really be necessary because, I am sure, we shall find always under the common law.

But, one thing I would like to caution the Government about, is this. That is that they keep on repeatedly saying that one of the reasons why the emergency cannot be lifted, and why the draconian laws cannot be done away with, is that there are forces growing in the country who believe in violence. I want to caution the Government against its getting into a vicious circle where, because these forces are growing, there is no relaxation and, because there is no relaxation, these forces continue to grow.

[Shri Erasmo de Sequira]

Sir, to our mind, the emergency was unwarranted; its continuation is completely unjustified. The quicker it is withdrawn, the quicker shall we have normalcy and the quicker shall we go back to our democratic way of life, where it is a tussle between the parties, rather than a confrontation between a government which has usurped power like this, and the people and this country.

SHRI B. V. NAIK: In spite of Baroda bomb case?

SHRI ERASMO DE SEQUERIA: If you had heard what I said earlier, I do not think you would have said this. Obviously, you were not listening to me.

Sir, my friend, Shri Arjun Sethi, will probably agree with me that the only extraordinary thing, the only exceptional thing at present is, that a Parliament, which was elected in 1971 and was to run out of mandate on the 18th of last month, has decided to extend its own life at a time when this Government itself should seek a fresh mandate. It is the people who should decide this; it is the people who have got the right to decide who should run the country and, in what fashion; and unless they have the election when it is due and the free expression of public opinion becomes a way of life, nobody can call any country a democracy; it may be anything else. But, a democracy is not, what India to-day is. It is for this reason, Sir, that I fully endorse this Bill.

In fact, I would like to go much further—I have a Bill pending in the ballot—for the removal of the MISA Act which has been misused, from the statute book. We must know things through practice, rather than go by assurances, which—we all very well know—this Government makes, and, by the time it reaches the lobby, that promise is not even worth toilet paper.

श्री सरजू बाई (वाजीपूर) : सभापति जी, जैसा कि स्वयं इस जिल के प्रस्तावक ने कहा है कि उनका उद्देश्य पूरी तरह से एम० आई० एस० ए० की हटाने का नहीं है, बल्कि वह चाहते हैं कि एम० आई० एस० ए० में जो प्रोबेशन किये गये हैं जिसमें किसी आवामी को बहुत अधिक दिनों तक जेल में रखने की व्यवस्था है, उसको समाप्त किया जाय। ऐसा इस जिल की मंशा है। आप जानते हैं कि किसी भी सभ्य देश में जहाँ पर प्रजातान्त्रिक सरकारें हैं उनमें किसी भी आवामी को बिना अपराध सिद्ध किये जेल में रखने का अधिकार नहीं है। और ऐसा सारी दुनिया के लोग मानते हैं कि अच्छा नहीं है न सरकार के लिये और न जनता के लिये।

यह बात ठीक है कि हमारे देश में कुछ ऐसे लोग थे, शक्तिया थी, और भाज भी हैं, जिन्होंने इस देश के परम्परागत डेमोक्रेटिक राइट्स पर या उसकी बुनियादों पर हमला किया और अब भी करते हैं, और मैं समझता हूँ यह तब तक जारी रहेगा जब तक हिन्दुस्तान में पूँजीवादी अर्थ-व्यवस्था है। इसको सिर्फ कानून से और एम० आई० एस० ए० से नहीं हटा सकते क्योंकि उसका आधार मौजूद है। भाज भी हजारों परचे निकलते हैं, अखबार निकलते हैं। मुझे एक तार मिला जिसमें लिखा था कि मोरार जी देसाई को जहर दे दिया गया, और माननीय जगजीवन राम को भी जहर दिया जाने वाला है, सेनायें बग़ावत करने वाली हैं। इस तरह के परचे और अखबार भाज भी निकलते हैं। क्यों नहीं इस को आप स्टॉप करते ?

आप तो जानते ही हैं कि बीसा के चलने हजारों आवामियों को जेलों में बन्द कर दिया गया है और ऐसे लोगों को बन्द कर दिया गया जो देश के अच्छे नागरिक थे जिनका सम्बन्ध इस तरह के आवामियों से नहीं था जिनको आपकी बन्द करना चाहिये था। डी०एम०बी० एस० डी०एम०की ही जेल में रखने का अधिकार नहीं है। एक पुलिस कांस्टेबल को भी यह पावर

मिली हुई है कि वह जिस को चाहे जेलखाने में बन्द कर दे। मुझे याद है कि दिल्ली यूनिवर्सिटी के एक कालेज के एक प्रोफेसर के खिलाफ उसने एक रिपोर्ट लिखाई कि वह स्टेज पर श्रीमती इन्दिरा गांधी के खिलाफ नारे लगा रहे थे और उसको पकड़ करके जेल में बन्द कर दिया गया। जैसा हमारे पूर्व बक्ता ने कहा कि जब यह बिल इस सदन में पेश किया गया था और उसको पास करवाया गया था तब सरकार की तरफ से यह धारवाशन दिया गया था कि इसका बेजा, नाजायज, इस्तेमाल नहीं होगा। इसका इस्तेमाल स्मगलर्स के खिलाफ होगा, ऐसे लोगों के खिलाफ होगा जो भ्रामात्मिक तत्व हैं। लेकिन हम देखने हैं कि इस बिल का इस्तेमाल या तो उनके खिलाफ हो रहा है जो आपके राजनीतिक दुश्मन हैं या उनके खिलाफ हो रहा है जो इनोसेंट हैं और किसी तरह से गैर कानूनी कार्रवाइयों में हिस्सा नहीं लेते हैं। इसका इस्तेमाल आपकी नौकरशाही बुरी तरह से कर रही है। तमाम जो वैधानिक रान्ने थे वे आपने इनके लिए बन्द कर दिए हैं। कोई झपील नहीं कर सकना है। किसी को वजह भी बताना जरूरी नहीं कि उसको क्यों जेल में बन्द किया गया है। अदालतों को भी यह बताना जरूरी नहीं है कि उसको क्यों गिरफ्तार किया गया है, उसका क्या जुर्म है। दुनिया के किसी भी सभ्य देश में इस तरह का कानून नहीं है कि किसी को जेल में बन्द भी कर दिया जाए और यह भी न बताया जाए कि उसको क्यों गिरफ्तार किया गया है। यह बड़ी अजीब बात है। अपराधी को यह तो भाखूम होना चाहिये कि उसका अपराध क्या है ?

संविधान में यह लिखा हुआ है कि हिन्दुस्तान के हर नागरिक को कानून के समक्ष बराबरी का अधिकार होगा कानून के सामने सब बराबर होंगे। जोर हो, डाकू हो, गुंडा हो, बध्माल हो, मर्डरर हो, लुटेरा हों हर किसी को कोर्ट में डिफेंड करने का अधिकार है। आपको साबित करना होगा कि उसने क्या

जुर्म किया है। गहावतें पेश करनी होंगी। लेकिन सैकड़ों लोगों को बिना कारण बताए हुए जेलों में डाल देना मैं समझता हूं किसी भी सभ्य सरकार के लिए उचित नहीं है।

फिर एक बात और है। सिर्फ सजा देने से अपराध नहीं रकते। अगर आप समझते हैं कि छोटे मोटे कानून बना कर कुछ लोगों को जेलखानों में डाल देना काफी है या कुछ छोटे मोटे परिवर्तन करके देश में शान्ति स्थापित की जा सकती है और शान्ति भी सिर्फ कृषि पार्टी के इंटरेस्ट में, मूलक के इंटरेस्ट में नहीं तो यह आपकी गलतफहमी है। अभी श्रम मन्त्री बोल रहे थे। वह कह रहे थे कि हमने बहुत के लोगों को जो श्रमिकों के खिलाफ काम कर रहे थे जेलों में डाला है। मुझे तो पता नहीं कि ऐसे लोगों को डाला गया है। मैं तो समझता हूं कि भ्राम तीर से श्रमिकों को ही जंस में डाल दिया जाता है। अभी इस सदन के माननीय सदस्य श्री रामावतार शास्त्री को पकड़ कर जेल में बन्द कर दिया गया और उनका अपराध यह था कि वह आपकी पानिसी और आपके पक्ष में प्रचार कर रहे थे। यह कहा का न्याय है ?

माननीय सदस्य ने अभी कहा है कि बीसा को हटाने का प्रश्न नहीं है। लेकिन जो अनलिमिटेड पावर इसके अन्दर मिली हुई हैं उनको कम करने का इसका मंशा है। मैं समझता हू कि इस विधेयक को आपको स्वीकार कर लेना चाहिये। जहां तक बीस प्वाइंट प्रोग्राम का सम्बन्ध है मैं समझता हू कि बुनियादी परिवर्तन लाए बिना वह सफल नहीं हो सकता है। आपने कहा है कि भूमिहीनों को भूमि मिलेगी। अब आपने लोगों की भूमि की धूख को जया दिया है। आपने गरीबों के अन्दर चेतना पैदा कर दी है, उनको जागृत कर दिया है। अब अगर गरीबों को जमीन नहीं मिलेगी तो उनको बीसा के अलावा और क्या

[श्री सरजू पांडे]

मिलेगा, वह आप हमें बता दें। आप किसी भी स्टेट में चले जाएं इस प्रीवाम पर अमल नहीं हो रहा है। गरीबों में जो चेतना अभी है, जो भाषा का संचार हुआ है उसकी जब पूर्ति नहीं होती है और उसके लिए वे लड़ते हैं तो आप भीसा लेकर खड़े हो जाते हैं। मेरा निवेदन है कि जो बिल पेश हुआ है इसको आप स्वीकार कर लें। इससे इसके बंधा इस्तेमाल पर रोक लगेगी। इसके साथ साथ यह भी देखा जाए कि इतने लम्बे अर्से तक लोगों को जब आप जेल में डाल देने हैं तो इससे आपका ही नुकसान होगा क्योंकि अनता में इनके प्रति सहानुभूति जगेगी।

मैं आमंत्रता हू कि यह बिल अर्च्छा है और इसे आपको स्वीकार कर लेना चाहिये। डाया जी चले गए हैं। वह जो बोल रहे थे वह तो मेरी समझ में नहीं आया है। यह बात ठीक है कि विरोध करने के लिए विरोध नहीं होना चाहिये। मुल्क के प्रति जितनी जिम्मेदारी आपकी है उतनी ही अपोजीशन की भी है। मैं आशा करता हू कि आप इस बिल को स्वीकार कर लेंगे।

श्री अर० बी० बडे (खरगोन) माननीय सभापति जी इस बिल का मैं समर्थन करता हू, इस वास्ते नहीं कि मीमा का हमारे खिलाफ ज्यादा उपयोग किया जाता है, बल्कि इस वास्ते कि मीमा का जूना उनको भी काटने लग गया है। जब यह सब को काटता है, तब इस जूते को बदल देना चाहिये। यह अभी यहा कहा गया है। मैं इस बिल का स्वागत करता हू।

इस मीमा को कुछ प्राचीजन ऐसे हैं कि उसके अन्दर किसी को भी पकड़ लिया जाता है। हमारे मध्य प्रदेश के कुछ लोगों को पकड़ा गया है, जब वह लोग अर० एस० एस० के हैं या नहीं, लेकिन उनको पकड़ कर जेल में डाल कर दिया गया है। उनको पकड़ कर ले जाने के बाद उनके जी डिमेंटेंस हैं, परिचारक के लोग हैं, वह बेवारी भूखें मर रहे हैं, उनको

10 नहीं ही नहीं है। जो लोग अर्च्छा करती हैं, उनके बेवारे-पैरे ही रखे गये हैं। इन लोगों के बारे में नकीम से पूछा गया जो उसने कहा कि इसके खिलाफ कुछ नहीं हो सकता है।

ऐसा कोई कानून बनाना उचित नहीं है जिसके खिलाफ कोई व्यक्ति कोर्ट में न जा सकता हो। यह कैसा कानून हो गया। बकील ने कहा कि अगर आपने कुछ ज्यादा करना हो तो ज्यादा-से-ज्यादा आप धोम मेहता के पास जाओ। जब धोम मेहता के पास जाते हैं तो वह कहते हैं कि हम देखते हैं, देखते हैं। देखते-देखते 3, 4 महीने यो ही निकल जाते हैं। तो ऐसा कानून क्यों बनता है।

कानून में ऐसा प्राचीजन होना चाहिये कि अगर कोई पकड़ा जाये तो वह उसके खिलाफ अपील कर सके। लेकिन इसमें कुछ नहीं दिया गया है। अगर पुलिस वाले के मन में यह आ जाये कि यह खराब भावमी है, या अर० एस० एस० का है, या हमने हमारे खिलाफ गिकायत की है तो वह रिपोर्ट कर देता है और उमको मीमा में पकड़ कर ले जाते हैं। वह जेल में बन्द कर दिया जाता है। प्रश्न यह नहीं है कि उमको जेल में खाने-पीने को मिलता है या नहीं।

एक बिडिया को पकड़ कर सोने के पिण्डे में रख दिया गया। उससे पूछा गया कि तुम को खाने को मिलता है या नहीं, तो उसने कहा कि खाने को तो मिलता है, लेकिन उठने को नहीं मिलता है।

डिमोकेसी में दो जाने रहती हैं, एक तो प्रेस की स्वतन्त्रता और दूसरे एकाजित होने की स्वतन्त्रता। जब यह दोनों ही नहीं होती, तो डिमोकेसी कहाँ है, यह सवाल मैं नहीं करता हू।

इस वास्ते मैं इस बिल को समर्थन करता हूँ और चाहता हूँ कि वाक्य इसको बंद कर दें।

SHRI D. K. PANDA (Bhanjanager): Mr. Chairman, here the question is very simple. I think there is absolutely no need for continuation of this provision for an indefinite period of detention. Therefore, we should all unanimously demand that these clauses should be omitted.

Why do I say this? When it is an unlimited, indefinite period, the bureaucratic officers by themselves and also at the instance of some interested political personages haul up innocent persons who stand by the 20-point programme and are actually working for it. One such example is that of Shri Ramavtar Shastri a Member of Parliament. When he was going to hold a meeting only in support of the 20-point programme and speak on all the 7 points in favour of agricultural labour, when he was organising a meeting for that purpose, we know what happened. He was taken hold of and put behind the bars. So there is great, total misuse of this. Now we demand from the hon. Minister that there should not be any misuse of this provision. In addition, we demand its deletion.

I will now cite some of the glaring examples. In Bihar, 6 Communists have been hauled up under MISA. There must be political direction. What was that direction? The direction was against the monopolists, it was against the smugglers, it was expected to be at least against those who are dealing in black money, those who were creating trouble, Anand Margis, pro-fascist forces. After using their powers against such people to some extent, they are used against genuine working class movement. For example, in Chindwara 1000 persons are being arrested under MISA simply because they have gone on a hunger strike without hampering production. That was only for one hour. They cannot sit in dharna in the maidan also. If they staged a dharna, that will not be allowed.

They are going to be arrested. In H.P Anwar Ali Khan, a member of the state council of the C.P.I. has been put under MISA. In Orissa 8 persons have been held under MISA; they are CPI workers. It was a question of mobilising agricultural labourers, landless poor against the attack and onslaught of landlords. There also some bureaucrats, at the instance of some BLD persons and others who had vested interests, misused their powers. Such persons get more strength when it is indefinite. Therefore, I say that there should not be any misuse of those powers. We say that this should be totally omitted and it should not be unlimited period or indefinite period.

SHRIMATI T. LAKSHMIKANTHAMMA (Khammam): I will not take much of the time of the House; I wanted to mention a few points. The whole House should unanimously agree to this Bill. Especially I request the hon. Minister to accept it and see that the Bill is passed....

An HON. MEMBER: He will be put under MISA.

SHRIMATI T. LAKSHMIKANTHAMMA: In their own interests the Congressmen should do it Consciously or otherwise, a Congress Member said that a time might come when this very Bill might be used against them. Today the Opposition are not in a position to pass any Bill. When by the quirk of circumstances they come to power, most of the Congressmen may be put in jail. Then also I will be feeling sorry because once have been associated with them, I feel that such a situation should not arise where most of my friends were in jail. Nothing is impossible; in the present-day world nobody knows what would happen, who will come to power or when. Especially in a situation like this, where democratic values have been suppressed, you do not know. From this point of view I request them to

[Shrimati T. Lakshminakthamma] remove such clauses which are unnecessary and which enable them to put people in jail without trial for any number of years.

Thousands of persons in Madras alone, in Tamilnadu, are imprisoned. 25000 persons or more than that have been put in jails. The government have not denied that news. There are many persons who fought against the British for the liberation of the country. Do they deserve this? Is it for this that they suffered imprisonment during the British rule? This is not the freedom that people fought for. One hon. Member of the Communist Party was saying that even those who supported the twenty-point programme, who addressed meetings supporting that, was put in jail. I think they are still ignored and they do not try to understand the situation. On the one side, the Government is projecting the picture of socialism but on the other side they are letting loose forces more powerful than themselves to preach anti-public enterprise and so many things, private enterprise and what not. Let them be clear in their actions. For any eventuality, the Government is projecting more powerful force to the other side because there is somebody more powerful who is preaching quite contrary to the policies that the Government is projecting. Now, how long these thousands of people will be kept in jail? I think there was a judgement against confinement of a Press Journalist for such a long time. It has been very clearly mentioned that these detentions are illegal. I think, Mr. Karunanidhi's own son has been put in jail and he has been beaten up. Now, you have two kinds of measuring rod in the case of treating children. I remember that once Dr. Radhakrishnan said that all our children are children of mother India. Now, you treat these children of others as step-children. Is this the way of torturing these children and

taking them in prison? Persons who are patriotic, who love their country so much and who have been fighting against certain disruptions in the country for certain values, have been put in jail. It is very unfortunate. You see them through the coloured glasses. First you see your own face through them. Actually they may not look like that but you are seeing through them with all the concentration of power Sir, I think the Government should come out in its wisdom and try to avoid pitfalls so that they may not themselves be put under this difficult situation Let them consider this Thank you.

THE DEPUTY MINISTER IN THE MINISTRY OF HOME AFFAIRS (SHRI F. H. MOHSIN): Mr Chairman, Sir, I have heard with rapt attention the speeches made by Shri Somnath Chatterjee and other Members on this Bill. It has been mentioned in the Objects and Reasons of the Bill that Indo-Pak War has come to an end but the Proclamation of Emergency has not come to an end. Though the situation is quite different now, there is no external threat—that is what he means—and hence there is no need for any Emergency legislation of this kind.

Sir, at the outside, I might tell the House that situation will exist for the continuation of the Emergency. Though the Indo-Pak relations have improved after the cessation of hostilities, it is in everybody's knowledge that Pakistan is building up its armaments and weaponry and we can know the intentions of that country. To our knowledge there is no other country against which Pakistan may make its war preparations. The other day, the Defence Minister and the External Affairs Ministers, I am told even today, have mentioned about the building up of armaments by our neighbouring countries. Of course, it has been made clear by our country and our leaders that we have no territorial ambitions and we want

to live in peace with all our neighbours and with all the other countries in the world. But some of the countries who are jealous of our growing strength, who are jealous of our development and jealous of seeing our nation marching as one of the leading countries in the non-aligned nations in the third world, have not reconciled with it. They do not want to see India growing stronger. Some tendencies are there in the international field who want to create some kind of tension in this part of the world. The fact that Diego Garcia has been built up as a full-fledged military base would be another factor to indicate that we have to be prepared. Diego Garcia is not far from India. It was used for a limited purpose first as a naval base. But today it is a full-fledged military base.

SHRI SOMNATH CHATTERJEE: Why not use MISA in Diego Garcia? You are justifying this by referring to Diego Garcia!

SHRI F. H. MOHSIN: Our friends forget facts conveniently and speak as if there is no threat of any kind. I know he is a good lawyer and he has advocated the cause of his Bill well. I appreciate his arguments but not the logic or reasoning behind it. He forgets the situation in which the country is placed. We are a peace-loving country and we have made declarations that we have no territorial ambitions against any country. We want friendly relations with all countries, especially our neighbours. But still some countries do not allow us to keep quiet and remain without any preparation. We owe a duty to the country to see that our country is defended at all costs, should any such situation arise. We know the state of affairs on the eastern side. Our relations which were very friendly during the time of Sheikh Mujibur Rehman are not so today. They are a bit strained due to so many reasons. Of course, it is all

the more necessary to see that we do not slacken our efforts to be vigilant.

SHRI D. K. PANDA: Is it used against the pro-fascist elements in our country?

SHRI F. H. MOHSIN: That is for internal emergency. He is dealing with external emergency. The reason for the emergency still exists. Let me come to the other emergency which was proclaimed on 25th June last year. Who is responsible for that? Let there be introspection from members of that side. Who created that situation? The answer is very clear. Perhaps some of them might have repented, but some hard-liners like Mr. Chatterjee are not yet reconciled.

SHRI SOMNATH CHATTERJEE: Mr. Sarjoo Pandey supported me. What about that?

SHRI F. H. MOHSIN: I will come to him also. After all, you are step-brothers. There might be similar thinking on some points.

SHRI SOMNATH CHATTERJEE: He is my step-brother?

SHRI F. H. MOHSIN: He may be your full brother. I do not know. Even in your speech you have mentioned that there are reasons for such a provision against smugglers and antisocial elements. You have supported COFEPOSA.

SHRI SOMNATH CHATTERJEE: I said, this Bill does not purport to deal with COFEPOSA detenus. It only deals with MISA detenus who are by and large political prisoners.

SHRI F. H. MOHSIN: Even as regards internal disturbances, when the Home Ministry demand, were discussed, I said that there are some elements yet who are creating trouble, that underground activities, pamphleteering and sabotage are going on. They may be lying low because of the emergency and fear of detention. (Interruptions).

SHRI SOMNATH CHATTERJEE: As Mr. Mohsin is replying on behalf of the government, does he think that the bill is for the repeal of MISA?

SHRI F. H. MOHSIN: I am replying to the points raised by the various hon. Members. I will come to the point of Mr. Somnath Chatterjee. The circumstances calling for the revocation of the Emergency do not exist. The situation still exists for the continuation of the Emergency. I will come to the period of detention. (Interruptions) At least now, there is some kind of a discipline. Otherwise, we have seen earlier days.

SHRI SOMNATH CHATTERJEE: You see your own party-men. Every day they are fighting each other, in West Bengal

SHRI F. H. MOHSIN: Mr. Chatterjee had made a vehement speech, calling names and all that. I did not interrupt. But it is his habit to interrupt.

MR. CHAIRMAN: That is true. The Minister did not interrupt your speech, Mr. Somnath Chatterjee.

SHRI F. H. MOHSIN: Mr. Chatterjee and many Members who have spoken, have made three points. One is about the misuse of MISA for political purposes. Mr. Chatterjee has quoted extensively from what Mr. K. C. Pant had said when the MISA Bill was before the House. We have not changed that attitude even to-day. We don't say that our attitude towards the application of MISA has changed. I do agree that there might be instances of its misuse, here and there. There is scope for misuse of MISA. I do not rule it out. Members have quoted some instances. I do not say that cases of wrong application of MISA cannot be there, here and there. It has been made clear on the floor of the House that whenever such instances are brought to our notice—the Prime Minister had also made it clear many times inside the House and even outside—that is, whenever such complaints come to us, we ask the State Governments and we give them advice. In

some cases, we can even revoke the order under MISA. That power is with us. I do not rule out the possibility of misuse; but I cannot agree that the cases of arrest of all those who were arrested under MISA, is a misuse of MISA. Mrs. Lakshmi Kanthamma had said that 25,000 people have been arrested. It is a fantastic statement. Some others have given even higher figures, for the whole country. I do not know from where they get these figures. It is probably from their own imagination. I strongly repudiate the charge of creating such an atmosphere, i.e. of such a large number of arrests throughout the country. The very fact that the people who give all these fantastic figures were still at large.... (Interruptions) Mr. Chatterjee is very much outside.

SHRI SOMNATH CHATTERJEE: Which fantastic statement have I made? Please point out one fantastic statement. (Interruptions)

SHRI DINEN BHATTACHARYYA: Why don't you give the correct figure, as to how many persons have been arrested under MISA?

SHRI F. H. MOHSIN: We have not arrested people who have not been a security risk for the country, or for the maintenance of public order or for the maintenance of supplies. If any person is a threat to the security of our country, we cannot show any leniency to him. If we leave such persons free, it will be a danger to the security of the country.

SHRI G. VISWANATHAN (Wandiwash): Shrimati Lakshmi Kanthamma has made a charge that 25,000 persons have been arrested in Tamil Nadu. Why can't you reply to that? You can say that it is 600 or 700, whatever it is. Why can't you say that?

SHRI F. H. MOHSIN: I have already said that is a fantastic figure and that it is not correct. Now your suggestion is another way of getting the correct

figure. I know the trap. We do not want to give that figure. But I will say that the figure mentioned by Shrimati LakshmiKanthamma is exaggerated and is not correct.

SHRI G. VISWANATHAN: You can at least say that it is not in thousands.

SHRI VAYALAR RAVI (Chirayinkil): You can completely ignore that speech, because it is full of baseless allegations.

SHRIMATI T. LAKSHMIKANTHAMMA: Unless my figures are disproved by actual figures, they stand.

SHRI F. H. MOHSIN: I can only say that the new converts are more fanatic than the original ones.

SHRIMATI T. LAKSHMIKANTHAMMA: I am no convert. I am where I am.

SHRI F. H. MOHSIN: We know that you were here when the MISA was passed. Now you are on that side and you are criticising that Act!

Those who are a menace to the security of the country, those who come in the way of the maintenance of public order or the maintenance of supplies have to be dealt with severely. It is in the interests of the country to detain such people. We cannot allow them to remain outside and do whatever they want. MISA has been used only against such persons. The very fact that so many leaders of the opposition are outside and they are allowed freely to function politically shows that this provision has been very sparingly used. It is not as if we have punished all the opposition parties and their workers. Also, we have not made any discrimination on the basis of party. Some CPI members have alleged that their party workers have been detained. I can say that even some Congress workers have been arrested. This goes to prove that we do not go by party lines. MISA is not used to further the political ends. If that is so, Congressmen would not have been

arrested. We never object to legitimate political activity. Shri K. C. Pant assured the House that MISA will not be used against legitimate political workers. I stand by that statement.

But what is legitimate? May be, in the dictionary of Shri Somnath Chatterjee it has a different meaning.

SHRI DINEN BHATTACHARYYA (Serampore): Who is to decide it?

SHRI F. H. MOHSIN: The Government elected by the people. We cannot leave that decision to Shri Dinen Bhattacharyya or Shri Somnath Chatterjee. The people have elected us to take that decision, and we will take that decision as long as they want it.

SHRI SOMNATH CHATTERJEE: You will say that as long as you are there. Once you come to this side, you will change your view.

SHRI F. H. MOHSIN: I have never believed in defection and all those things.

SHRI SOMNATH CHATTERJEE: You believe only in Aya Rams and not in Gaya Rams.

SHRI F. H. MOHSIN: Mr. Chatterjee said that MISA had been used for political purposes, which I strongly repudiate. He said this was because we have been alienated from the hearts of the people. We know very well the hearts of the people much more than Mr. Chatterjee and his party.

SHRI DINEN BHATTACHARYYA: You go to the people for votes.

SHRI F. H. MOHSIN: We have gone to the people, we are not afraid of going to the people again. We know how much is the strength of our party and of your party. You do not believe in democracy and you say you think of the people.

Another most damaging statement was made by him, namely that the citizens of this country do not have

[Shri F. H. Mohsin]

even the liberty which the slaves of America had. I do not know how he got this idea. Of late, of course the CPM have got more affinity towards America. Perhaps he is now much more acquainted with the American ideology or system, leaving out his former ideology. He must be a member of the China-America Friendship Society. His statement is utterly untrue and most damaging, and ought not to have been made. The very fact that these people can say such things shows how much liberty we have in this country. Not only in this House, even outside, there is freedom of expression, with some restrictions, of course, in the interests of law and order.

SHRI SOMNATH CHATTERJEE: He does not speak on the Bill.

SHRI F. H. MOHSIN: But why have you said these things? I have to reply to what you have said.

SHRI SOMNATH CHATTERJEE: I spoke in reference to the Bill.

SHRI F. H. MOHSIN: I am also saying all these things only in reference to the Bill.

He has said that MISA has become the most hated word in the country. It is only hated by those who are engaged in disturbing public order and the maintenance of internal peace or creating hurdles in the maintenance of essential supplies because they are put in detention, but the people at large have said that the emergency provisions have been a great boon to the country as they have effectively dealt with the above elements. I have already said that there might be some cases of misuse which we will certainly look into if they are brought to our notice.

SHRIMATI T. LAKSHMIKANTHAMMA: Look into Mohan Dharis's case.

SHRI F. H. MOHSIN: Again he made an allegation that it is used against workers, trade unions, Government employees, students, journalists, lawyers etc. I strongly repudiate this also. It has not been used against peace-loving persons but only against disruptive elements, irrespective of their profession.

One may be a lawyer, one may be a doctor, one may be a black-marketeer and another may be a professional person. But we do not make any distinction. Why should we? We are a class-less society. We do not want to create classes. Why should you differ? Supposing a doctor is a menace. Should he be left out?

SHRI SOMNATH CHATTERJEE: Who has said that?

SHRI F. H. MOHSIN: You mean only that. There is equality before law.

SHRI SOMNATH CHATTERJEE: Why are there three types of Ministers? He seems to be too much inspired.

SHRI F. H. MOHSIN: You made a very inspiring speech.

SHRI SOMNATH CHATTERJEE: That came from my heart.

SHRI F. H. MOHSIN: Don't you think that it is also coming from my heart. Certain situations of internal disturbances took place and they had to be met and therefore this provision of 16A was made under MISA. It is not as if by back-door method, it has been done; it has been done by the approval of the Parliament.

The second point was the inclusion of MISA in the Ninth Schedule. Of course, it is not for the fear of its being struck down by the Supreme Court. In fact, you have yourself mentioned that it has been upheld in the case of Har Dhan Saha of West Bengal. MISA has been upheld.

SHRI SOMNATH CHATTERJEE: Previous MISA.

SHRI F. H. MOHSIN: Of course, without Section 16A, that has been upheld.

SHRI SOMNATH CHATTERJEE: That is a very sorry state of affairs of the judiciary also.

SHRI F. H. MOHSIN: The inclusion of MISA under the Ninth Schedule was academic only and not for fear of being struck down by the Supreme Court. The third point, of course—perhaps he has misunderstood the provision—which Mr. Chatterjee and other Members made is that detention could be made and the detenu could remain indefinitely till the emergency ends and six months after that. It is true that a provision is there regarding detaining a person till the end of emergency and six month thereafter. In respect of this provision, there is a normal procedure of giving the grounds of detention and reference to the Advisory Board also for those people who are arrested under this ordinary provision of MISA before inclusion of Section 16A. This says that the grounds will have to be given and the cases have to be referred to the Advisory Board for those who do not come under Section 16A.

(Interruptions)

You may not understand it, but Mr. Chatterjee understands it. So, the detentions under the emergency provision of Section 16A of MISA, however, are on a different footing. They can only be detained for a period of one year from the date of emergency, from the 25th of June, 1975.

(Interruptions)

That is why you are mistaken.

SHRI SOMNATH CHATTERJEE: Is that your knowledge?

SHRI F. H. MOHSIN: I am making a statement now. So, it should satisfy. They can only be detained for a period of one year and the total period of detention cannot exceed 12 months according to the present law. I think

you are under mistaken belief that even those who are arrested under 16A could be detained for an indefinite period.

SHRI SOMNATH CHATTERJEE: Will you please point out that section? Let him read out the provision 16A. It is a long provision. He is replying on behalf of the Government.

SHRI F. H. MOHSIN: It is on record. Section 16A is there under MISA.

SHRI SOMNATH CHATTERJEE: What?

SHRI F. H. MOHSIN: So, there is no fear of anybody being arrested under Section 16A for an indefinite period. They can only be detained from 25th of June, 1975, till one year.

17.00 hrs.

I think, it was under a mistaken idea that Mr. Somnath Chatterjee vexed eloquence and made a very angry speech. There is no cause for his worry. All precautions have been taken in respect of all those who are not detained under Section 16A. There, of course, the regular procedure will apply; the grounds of detention will have to be given; the cases will have to be referred to the advisory boards. All these things are there. I do not think there is any need for any change in the present law. So, I do not accept the contents of the Bill. I oppose it.

SHRI SOMNATH CHATTERJEE: Mr. Chairman, Sir, I am obliged to the hon. Members, including the hon. Minister, for taking part in the discussion on this Bill. I had appealed to the hon. Members to see it not purely from a partisan point of view. My appeal was to see, whether we can make this very draconian legislation—nobody disputes that—a little less severe, a little humane and a little less barbaric.

I said, you have a power and you take that power to detain him for twelve months as the original MISA.

[Shri Somnath Chatterjee]

provided. Now, you have amended Section 14(2) which provides that if, after the expiry of the initial detention of one year, there are other grounds or if there are no fresh grounds, even on old grounds, you can detain him again if you think, under your subjective satisfaction that, after he is released, he will be misusing his freedom. What was thought to be quite sufficient in 1971, when the country was threatened by an external aggression, when the war was on, is not considered to be sufficient now. At that time, you thought that 1971 MISA was sufficient. After that, the Defence of India came in and then this MISA was amended.

When I introduced this Bill in 1972, the duplicate Emergency was not there. In 1972, the war lasted for 13 days. No justification was given by the Government although the war had ended by that time and the Defence of India Act was made to continue indefinitely. I say, the necessity of this Bill has become more pronounced because of this new Emergency under the garb of which you have made such sweeping changes in the MISA that the people are worse than slaves in America. Those who have come within the net of this Act are not entitled to know on what grounds they have been detained; they are not entitled to be taken before advisory boards; they are not entitled to make representations; they are not entitled to even go to the courts with *habeas corpus* petitions and they are not even made to be aware of the grounds of detention. What else is slavery?

Now, if you want to use that language it is just because you now sit in a majority and you can defeat this Bill. We have no illusions about it. But at least there should be a little heart-searching on your part if your heart has not become a stone by this time. It appears that you want to look at every matter from your partisan point of view. You say, "No, no. We do not

look at it from any partisan point of view." But, I say, apart from that, there is nothing else. Even your close friends, my CPI friends here, have supported the Bill openly and strongly because they find that the working class is the victim of this law.

You have made a separate law for economic offenders. I have not brought the Bill for economic offenders. Whatever may be your justification for that, these measure are used primarily for political purposes. Today you are saying that all those persons detained under 16A will continue to be detained only for one year and that I have been suffering under a misconception. The section says that notwithstanding anything contained in this Act or any rules of natural justice, the provisions of this Section shall have effect during the period of operation of the proclamation of Emergency issued under Art. 352 on 3rd December, or a period of one year from 25th June, whichever period is the shortest. That means that after one year lapses, you will have to give the grounds only; they are not automatically released. If this is the advice you were given, either the advisers don't understand or you don't understand. I have not made any submission without consideration. Under 16A, once a year elapses, you will have to give the grounds for detention to the detenus and nothing more than that; they are not automatically released because Section 13 as amended remains. Please apply your mind. You are now opposing my Bill under total misconception of the position of law, Mr. Mohsin. As a Deputy Minister of the Government of India you do not know what the law is and, on the basis of complete lack of appreciation, you are opposing my Bill—which I should have thought, is a simple measure. All your powers are being retained under the MISA; you are not asked to give up any of the powers. You brought in Diego Garcia and what act to justify the period of detention of one year. If it were Diego Garcia, then it is not your interest

Emergency which would justify all these Draconian provisions.

I know my Bill will be defeated, but I would wish to keep it on record for the benefit of anybody who may read the records of this House in future—if anybody has even that much of liberty, which today, they have not because the speeches of this House are not to be circulated outside. But, one day, I hope the people of India will have that much of freedom at least, to go through what is happening inside this House.

The Hon. Minister said that the MISA has been introduced in Schedule IX as an academic exercise—wonderful! The Constitution has been amended as an academic exercise of their arrogant power? The Hon. Minister has not said why they have amended Schedule IX to include the Election Law Amendment Act. The Representation of the Peoples (Amendment) Act has been introduced into the Schedule: for whose benefit has that been done, Mr. Mohsin? Is it for the common people of this country? You have included the Additional Emoluments Act and the Compulsory Deposit Scheme Act also in the Schedule IX for the benefit of the working classes! That shows your class and character.

I repeat that I stand by every word I had said in my opening remarks. The very fact that each one of the Opposition Parties here who has participated on this Bill has wholeheartedly supported it shows that your power is being misused and is being utilised against political opponents of the ruling Party. Every one of the Parties here has supported it and one of the Hon. Members who had, the other day, belonged to your Party, has also supported this Bill because she is now the victim of your machinations and your on slaught.

The Hon. Minister said that even those who are making fantastic statements are outside the prison. Therefore, persons making fantastic statements—may be even false—may be put in jail? You have not the courage to

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state before this House at least—which you say is representative of the people of this country—how many people you have put under MISA since the 25th June, 1975. Please give us the figure; then we will know how you are using it—properly or not, for relevant purposes or not. How can we know? Even the questions that are put by, us are being rejected. We don't know how many people are under detention. If you think, in your heart of hearts, that it is not being misused, please tell us the total number of detenus under MISA. Then give us the break-up of these detenus, what sort of people they are. The other day you arrested more than a hundred lawyers just because they protested against the demolition of Chamber. When I say, of lawyers, I am not advocating for a particular class of people. I only point out how the misuse is being done. You demolish the Chamber and they make a protest, not on the streets, but by going to the Chief Justice of Delhi to make him know that this has happened, and when they come back in a bus, you hijack the bus to Tihar Jail. The police did that. When I say that lawyers have been arrested, I am not advocating for any particular class. What I say is that you are indiscriminately using this power, and that is because nobody has the courage to say anything. You have throttled the voices of the people; you have muffled the voices of the people; nobody is allowed to say anything outside. I do not know what will be my fate for speaking like this. This is the position in this country.

As I have said, my Bill is of a very restricted character. By this you are not losing your powers. I only say this: kindly exercise your powers with a little circumspection; after one year, release them, give them a chance, and if, according to you, even after one year's detention, he has not corrected himself and he still continues in his supposed illegal activities, you have all the powers under the sun to detain him again. I have read out Justice Krishna Iyer's speech. He does not belong either to the CPI or CPM or to the Jan Sangh....

SHRI F. H. MOHSIN: He once belonged.

SHRI SOMNATH CHATTERJEE: Therefore, a bad man! Do you, as the Deputy Minister in the Ministry of Home Affairs, say that Justice Krishna Iyer's view should not be accepted because he once belonged to the CPI?

SHRI F. H. MOHSIN: Do not distort it. I just said, 'He once belonged'.

SHRI SOMNATH CHATTERJEE: Justice Krishna Iyer has expressed, sitting in the high office of the Supreme Court judge, his agony. He says that once the formalities are over, you cannot go on keeping him in indefinite detention; this is against all Constitutional guarantees. Justice Krishna Iyer does not fulfil your requirements now because he has said something which you do not like.

It was not necessary for the Minister to travel to Bangladesh, Diego Garcia, Pakistan and what not, because this was a very simple legislation.

The hon. Minister should have understood this. The Objects and Reasons are dated July 1972, but this is the fate of Private Members' Bills, it has taken almost four years for a Private Member to have his Bill and that too because I was fortunate in getting it in the ballot. Because I have got my chance after nearly four years, by which time certain things have happened which, according to me, justify more this Bill, you cannot say that this detracts from the merit of it; you cannot say that something was said in the Statement of Objects and Reasons in 1972 and, therefore, this Bill has become irrelevant.

The hon. Minister, instead of making a very, if I may not be mistaken, arrogant speech and a fighting speech, could have given a little humane consideration to it. But they are incapable of it. Therefore, I still commend this Bill to the hon. House.

MR. CHAIRMAN: The question is:

"That the Bill to amend the Defence of India Act, 1971, be taken into consideration."

The motion was negatived.

17.15 hrs.

PROFITEERING PREVENTION AND PRICE CONTROL BILL

SHRI K. LAKKAPPA (Tumkur):
Mr. Chairman, Sir, I beg to move:

"That the Bill to regulate the prices of essential articles of daily consumption and to prevent profiteering in such articles, be taken into consideration."

This Bill involves millions of people of this country and centres round the basic necessities of life. This Bill is based on principles that have been enunciated in the Statement of Objects and Reasons of my Bill. To consolidate my position, I have stated in the Statement of Objects and Reasons:

"The rise in prices, particularly in respect of foodgrains and other essential articles of daily consumption, is now to such an extent that both the down-trodden people and the middle-class people are confused as to how they will survive with their families...."

I have also set out certain reasons given by the International Labour Organization at Geneva, between 1963 and 1972.

This Bill was drafted in the year 1973 before the proclamation of emergency. The Government has taken certain important measures in this country not only to save this country from the on slaught, attack and infiltration and external danger but also to save the country from the