

(ii) COURT OF THE UNIVERSITY OF DELHI

THE MINISTER OF EDUCATION,
SOCIAL WELFARE AND CULTURE
(PROF. S. NURUL HASAN): I beg
to move:

"That in pursuance of sub-clause (xvi) of clause (1) of Statute 2 of the status of the University of Delhi, the members of this House do proceed to elect, in such manner as the Speaker may direct, two members from among themselves to serve as members of the Court of the University of Delhi vice Shri Amar Nath Chawla ceased to be a member of Lok Sabha and Shri H. K. L. Bhagat resigned from the membership of the Court. The members so elected shall not be the employees of the University of Delhi or of a recognised College or Institution of that University."

MR. SPEAKER: The question is:

"That in pursuance of sub-clause (xvi) of clause (1) of Statute 2 of the status of the University of Delhi, the members of this House do proceed to elect in such manner as the Speaker may direct, two members from among themselves to serve as members of the Court of the University of Delhi vice Shri Amar Nath Chawla ceased to be a member of Lok Sabha and Shri H. K. L. Bhagat resigned from the membership of the Court. The members so elected shall not be the employees of the University of Delhi or of a recognised College or Institution of that University."

The motion was adopted.

STATUTORY RESOLUTIONS RE.
DISAPPROVAL OF MAINTENANCE
OF INTERNAL SECURITY (AMEND-
MENT) ORDINANCES, 1975 MAIN-
TENANCE OF INTERNAL SECURI-
TY (AMENDMENT) BILL—Contd.

12.4 hrs.

MR. SPEAKER: We shall now resume discussion on the statutory Resolutions re. Maintenance of Internal Security (Amendment) Ordinances and on the motion for consideration of the Bill.

THE MINISTER OF WORKS AND HOUSING AND PARLIAMENTARY AFFAIRS (SHRI K. RAGHU RAMAIAH): Before you call the next speaker, I have a submission to make. We have already taken two hours over this Bill; three hours are still left. But there is a discussion at 4 O'clock today. So many Members want to speak and they want an hour more for this Bill. In order to make up six hours in all, I suggest that we skip the lunch and sit through the lunch hour so that it makes up a total of six hours. I submit that we do not rise for lunch; we continue during the lunch hour our discussions. The hon. Minister may be called at 2 O'clock and the whole Bill may be concluded by 4 O'clock. If it takes up a few more minutes, this Bill may be concluded and then the discussion might be taken up.

MR. SPEAKER: Is that the consensus of the House? I find that that is the consensus of the House. I shall call the hon. Minister at 2 O'clock

SHRI S. M. BANERJEE (Kanpur): On one condition, that out of that one hour, five minutes should be given to each political party.

MR. SPEAKER: The idea is to accommodate as many speakers as possible.

श्री महम्मद जमीर हुसैन (कशनगंज)
मोहतरम, स्पीकर साहब, जब तक डेमोकसी
के माने रहे हैं गवर्नमेंट द्वारा दि पीपुल,

[श्री मुहम्मद जमील रहमान]

बाई वि पीपुल एण्ड फार वि पीपुल, लेकिन हमारे दोस्त ने जिन में जन सच, काप्रेस (श्री), सोशलिस्ट पार्टी, वी०एल०डी और वी०पी०एम वगैरह सब शामिल है सब एक ही स्वर में गा रहे हैं काम कर रहे हैं और हरकतें भी कर रहे हैं। उन लोगों ने डेमोक्रेसी के माने ले लिए हैं "गवर्नमेंट आफ बि फोर्स, बाई वि फोर्स एण्ड फार वि फोर्स" और इस की मिसाल ली उन्होंने चीन और अमेरिका के गठजोड़ से।

इस गठजोड़ का नतीजा यह हुआ कि तखरीबी फिजा कायम हुई नाहक कत्ल हुए बमबाजी हुई और पुलिस और फौज को बगावत की तालीम दी गई और झूठे करक्टर एसेमीनशन का इलजाम लगाया गया। इस सिलसिले में मैं "फोर फेसेज आफ सबवर्शन" के पेज 15 से कोट करना चाहता हूँ आप इस का मुसाहिजा फरमाए।

"The RSS leaders called Gandhi a hypocrite. The RSS maligned Nehru in worse terms. Golwalkar doubted whether he was an Indian. He said he had "no hesitation in saying that Nehru was an Englishman, un-Indian and liberal by nature. He was a product of the system of education which the British had introduced in India to produce traitors. Their family atmosphere was utterly un-Indian, irreligious full of arrogance and ambition. By education he was a perfect Englishman." इस के अतिरिक्त मैं एक और जमला आप की द्वाजत में कोट करना चाहता हूँ। "भागनाइजर" ने भी यह लिखा है

"It is becoming clear that female franchise is an unnecessary duplication of effort"

और इसी किताब में लिखा हुआ है कि 30 जनवरी 1966 को जबकि श्रीमती गांधी ने पत्रली मन्बा गवर्नमेंट में कदम रखा था, उस समय उनके खिलाफ कहा था

"I am Hindu enough to take it for a most inauspicious sign of further disasters in store for us, and I have

read enough history to know that women's reigns, wherever they have occurred, have been stained with stupidities, crimes, enormities and perversions too disgusting to quote from original sources"

मैं यह अर्ज कर रहा था कि इन लोगों ने झूठा करक्टर एसेमीनशन का काम किया, कारखाने के मासूम वर्कर्स को काम नहीं करन दिया, जिस का नतीजा यह हुआ कि पैदावार बन्द हो गई मूलक की। इन्होंने स्ट्राइक्स करवाए, लोगों से बन्द और घेराव करवाए बच्चों को तालीम हासिल करने से वंचित कर दिया अग्राम के चुने हुए नमाइन्दी को इन लोगों ने मारा-पीटा, एसेम्बली को तुड़वाया, कौमी जायदाद को जलवाया। यह मैं आप को गिनवा रहा हूँ इसलिए कि इन्हीं वजूहात से इस बिल को लाने की जरूरत पड़ी और पहले जो एक्ट था उस से एमेंडमेंट करने की जरूरत पड़ रही है। इन्होंने अग्राम के नमायन्दों को सच्ची बात को कहने नहीं दिया और जात पर कीचड़ उछालना और किरकावाराना फसाद करवाना इन का काम था। स्पीकर साहब आप को मालूम है कि गुजरात में अभी अभी इन्होंने हिन्दू मुसलमानों के फसाद करवाए। उन जगहों के नाम हैं गेडो रोड, लडवारा में और वारी-चोखण्डी में। यही नहीं, इन लोगों ने सरकारी अफसरों पर नाजायज दबाव डालना शुरू किया और फौज के अहम नक्शे दूसरे मुल्कों में भिजवाने का काम इन्होंने किया। जबकि हर वह काम इन्होंने किया जोकि जम्हूरियत और डम मल्क के खिलाफ था। मैं "फोर फेसेज आफ सबवर्शन" के पेज 39 को कोट करता हूँ। सेक्टर डेमोक्रेसी आफ अगस्त, 1975 में मैगजीन के एडिटर ने लिखा है

"Discovery of small arms, paramilitary uniforms and prohibited maps of sensitive areas from the various offices of the RSS has shocked many who were associated with it or sympathised with it"

श्रीर मेरे जो ये दोस्त हैं ये उन के हामी श्रीर मवदगार हैं । तो मोहतरम स्पीकर रुहाब, मैं अर्ज कर रहा था कि ऐसे सारे काम जो मुल्क की सालमियत को, मुल्क के बकार को धक्का पहुंचाते हैं, उस को चोट पहुंचाते हैं, इन लोगों ने किये थे । नतीजा यह हुआ कि अश्वाम में बवैनी पैदा हुई, पैदावार बन्द हो गई, कारखाने बन्द इन लोगों ने कराए श्रीर मुल्क के लोगों के मोरेल को नीचे गिराने की इन्होंने हर भूमकिन कोशिश की । कभी भी कोम इन लोगों को माफ नहीं करेगी । जब इन तरीकों से हकूमत इनके पास नहीं आ सकी, इनके हाथ में नहीं आ सकी तो शमशीर यानी तलवार के जोर से इन्होंने हकूमत छीनने की कोशिश की । यह रास्ता इन्होंने अब्तयार किया । मैं इन की एक स्टेटमेंट को कोट करना चाहता हू । श्री सान्याल ने मई 1969 में कलकत्ता में कहा था :

"Addressing a rally in Calcutta on May Day 1969 to mark the foundation of the CPI(M), Kanu Sanyal hailed Naxalbari as the Chinkingiang Mountain of India and an armed uprising against imperialism, feudalism, comprador capital and old and new revisionism. Waving Mao's Red Book, Sanyal said, "communist revolutionaries of Assam Maharashtra, Rajasthan, Madhya Pradesh, Karnataka, Kerala, Punjab, Haryana Tamil Nadu and Kashmir had rallied under the banner of revolution and boldly established throughout India the path of seizing power through armed struggle, as opposed to the rotten and stinking parliamentary path peddled by the revisionists."

यह इनकी हालत है । इसके बदले मेरी नीति मेरी पार्टी की नीति मेरे लीडर की नीति क्या है यह मैं आप को पढ़ कर

सुनाना चाहता हूँ । फोर सेलिंग थाप सबबर्शन के पेज 7 में यह लिखा हुआ है । नवम्बर 1966 में हमारी लीडर श्रीमती इंदिरा गांधी ने कहा था :

"I am one of those who abhor the use of force in any circumstances. But when there is incitement to violence, and when violence leads to acts of defiance of law, to arson, looting and destruction of public property.....then there is no other way. It can only be met by force. This is what unfortunately is happening—violence leading to force, force leading to more violence and more violence leading to more force."

उसी के सिलमिले में ऊन्होंने यह बात कही थी । लेकिन इसको इन लोगों ने नहीं समझा । इन्होंने समझा कि यह हमारी कमजोरी है । इनके कानों में, इनके दिल में यह बात नहीं समाई । शमन श्रीर दोस्ती से रहना, आइन के मुताबिक मुल्क के हालात को सुधारना, आइन के मुताबिक लोगों की जिन्दगी को बनाना, समाज को बनाना श्रीर मुल्क को ऊचा उठाना, मुल्क के बक्कार श्रीर इज्जत को सब में ऊचा रखना, सब से बड़ा मानना, यह बात हमारे लीडर ने कही ।

अदालतों की बात हमारे दोस्त ने कही है । अदालतें अश्वाम के मफाद के लिए होनी चाहिए, मुल्क और कौम का भलाई के लिए होनी चाहिये और इस काम में अगर ऐसा करते हुए सुधार की जरूरत हो तो उसको जरूर किया जाए । पार्लियामेंट सुप्रीम है । हम लोगों की भलाई के काम करने के लिए कमिटेड है, हम कमिटेड है देश की भलाई के लिए । लोगों की भलाई के लिए,

[श्री मुहम्मद जमील-उद्दौल्लाह]

लोगों के मफाद के लिए, देश को ऊंचा उठाने के लिए जो भी कदम उठाने जरूरी होंगे वे हमें उठाने से गुरेज नहीं करना चाहिये। अब तक क्या देखा गया है? अब तक देखा यह गया है कि जो भी सोशलिस्टिक कदम उठाया गया है मसलन त्रिबी पर्सन खत्म करने के बारे में, बैंक नेशनलाईजेशन का, इम्प्लेमेंटेशन आफ लैंड लाज़, एरेस्ट्स आफ होर्डर्ज़, ब्लैक मार्केटिंग्स, स्मगलर्स वगैरह इन सब इकदाम को कानून का सहारा ले कर कौम, अश्वाम और समाज को पीछे धकेलने की कोशिश की गई है। नतीजा इसका यह हुआ है कि मुल्क के अंगे बढ़ते हुए कदम बढ़ गए हैं। ऐसे हालात में कानून और आइन में तरसीम जरूरी है। मुल्क की शालिमियत को बरकरार रखने के लिए पाबन्दी लगाना जरूरी है। ये जो हमारे दोस्त गठबन्धन वाले, पांच बार बैठे हुए हैं इन लोगों ने इस में मदद दी है। इसीलिए कानून में तरसीम की सख्त जरूरत है।

मेरे कुछ दोस्तों ने कहा कि कांग्रेस के एम पीज को पकड़ कर बन्द कर दिया गया है। मैं कहूंगा कि यही तो खूबी है हमारी पार्टी की, हमारी सरकार की। यही तो खूबी है इस कानून की। अगर मेरी पार्टी में भी ऐसे लोग थे जिन से मुल्क के मफाद और शालिमियत को खतरा था, अश्वाम को नुकसान पहुंचने का अदेश था, मुल्क के बक्कार को धक्का लग रहा था और वे हुकमरान पार्टी के मेम्बर होने का नाजायज फायदा उठा रहे थे तो कानून के तहत उनको भी पकड़ लिया गया और छोड़ा नहीं गया ताकि अश्वाम यह न कहें कि अपनी पार्टी का होने के नाते उनको नाजायज फेबर किया गया है।

प्राइम मिनिस्टर के मुकदमे के बारे में भी यहां बात कही गई है। उनको बीस दिन का स्ट्रे आर्डर मिल गया था। इसको देखते हुए मेरे दोस्तों को कानून का एहताराम करना

चाहिये था। जब अदालत ने खुद ही स्ट्रे दे दिया था तो फिर हंगामा करना, अपने अमान को नुकसान पहुंचाना क्या मानी रखता है? कानून का एहताराम होना चाहिये था। लेकिन मैं क्या कहूं। मेरे दोस्तों ने इक्स्ट्रा कांस्टीट्यूशनल मैथड इस्तेमाल किए क्योंकि उनके उसूल यही रहे हैं। अफरा तफरी, हंगामा, लुट मार वगैरह में ही उनका यकीन रहा है।

अखबारों का रोल भी निहायत खराब रहा है और हालात को बिगाड़ने में मददगार साबित हुआ है। अखबारों पर कब्जा किस का है, यह कोई छिपी हुई बात नहीं है। सारे मोनोपोलिस्ट्स, होर्डर्ज़, ब्लैकमार्केटर्ज़, एंटी नेशनल एलीमेंट्स का ही वहां जमघट है। फिर ये अखबार मददगार हुए हैं ऐसे लोगों के जो हमारे मुल्क में डिस्टैबिलाइजेशन के उसूल पर अमल कर मुल्क में अफरा तफरी फैलाते थे। यही काम रह गया था अखबारों का। इस पर तुरा यह है कि चन्द लोगों ने गठजोड़ का अश्वाम व मुल्क के मफाद के हक में बतलाया जाता था, उमका अचार किया जाता था। गर्जेकि अखबारों ने हर बे काम किए जिन से मुल्क व कौम के बक्कार व अश्वाम के जज्बात को धक्का लगे। यह एक पेशा बना लिया गया था कि भारत को बैनूल अश्वामी सतह पर नीचा दिखाया जाए। ऐसे हालात में हुकमत ने जो कदम उठाए वे मुनासिब और जायज कदम हैं। फिर ये जो पांच बार बने वंटे हैं वे समझने लग गए थे कि ये ही जनता के असली नुमाइंदे हैं। इसी का प्रोपेगंडा अखबारों में किया जाता था। ये चाहते थे कि बैनूल अश्वामी सतह पर जिस तरह से भी हो हिन्दुस्तान का मुंह काला किया जाए। ऐसी कोशिशें करने के बाद वे अपना सीना भारत में उभार कर दिखाते थे कि हमारी फ्री प्रेस है और ऐसा समझते थे कि जैसे उनको कुछ भी कहने का और करने का लाइसेंस मिला हुआ है। इस तरह से कभी

काम नहीं चल सकता है । हमको जम्हूरियत के दायरे में, आइत के दायरे में रहना होगा । यही मकसद हमारे मुल्क का है, कानून का भी यही मकसद है ।

श्री इद्रजीत गुप्त के भाषण को मैंने बहुत गौर से सुना । उन्होंने कहा कि हमारा कोई दुनिया में दोस्त नहीं है । जिन्होंने हमारी इम के बारे में हिमायत की हो । मैं उनकी कद्र करता हूँ । लाकन में उन से अर्ज करना चाहता हूँ कि जो मक हमारे दोस्त थे और है वे अब भी है । हम लोगों का दोस्त मुल्कों में गलन प्रारंगडा का कोई असर नहीं हुआ है । मैं आपके कुछ अखबारों के नाम बतलाना चाहता हूँ जिन्होंने एमरजेमों की हिमायत की है । अल एहराम, इजिप्ट का है, अल बाय सारिया का है, अल थावरा ईराक का है, अत्या श्रीलका का है । इम तरह से और भी बहुत से मुल्कों के अखबारों है जिन्होंने हमारी हिमायत की है । नेपाल के अखबार, रैनिक नेपाल ने तो यहा तक लिखा है :

"The Prime Minister has finally been compelled to declare a state of Emergency in India to save the country from the threat of internal conflict posed by immature opposition politicians...."

मैं कहना चाहता हूँ कि जो मेरे दोस्त पहले भी नहीं थे वे अब भी नहीं है और जो पहले भी भारत को ऊंचा उठते हुए, नहीं देखना चाहते थे वे अब भी यह नहीं चाहते है कि वह ऊंचा उठे और वे दर पर्व टोटल रेवोल्यूशन वाले गठजोड को माली इमदाद करते रहे हैं और अब भी कर रहे हैं । शायद वे आगे भी करते रहेंगे । एक लेबर लीडर को तो साठ हजार डालर बाहर से मिले हैं और वह फक्ष के साथ कहता है कि मैं लेबर लीडर हूँ । इसलिए तो सरकार ने कौम की खातिर, मुल्क की खातिर, भारत की खातिर,

इस कानून को लाया है ताकि मुल्क, अश्वाम और मुल्क की सार्वभियत को धक्का पहुंचने व चोट का खतरा न रहे ।

भारत के गरीब लोगों को, अश्वाम को इस कानून से कोई परेशानी नहीं हुई है, कोई तकलीफ नहीं हुई है । मैं चाहता हूँ कि जो एटीनेशनल लोग है, देशद्रोही है उन पर ही सही मानों में इस कानून को लागू किया जाए, उन के खिलाफ ही इमका इस्तेमाल हो ।

अब मैं अफसरों के बारे में थोड़ा सा कहना चाहता हूँ । यह ठीक है कि एमरजेमों के बाद बहुत से अफसरों की हमदर्दी अभी की उन जमायतों के साथ है जिन पर पाबन्दी लग चुकी है । मैं उनके लिए भी कहना चाहता हूँ कि मुल्क व कौम का मफाद हमारी जान से भी ज्यादा हमें अजीज और प्यारा है । मेरे लीडर श्रीमती इंदिरा गांधी न साफ तौर से और खुले अलकाज में कहा है कि मुल्क और अश्वाम का मफाद सब से अश्वलीन है । यही प्रतिज्ञा हम सब को लेनी चाहिये और इस बात का यकीन भी रखना चाहिये ।

आपके डिपार्टमेंट के बारे में रेड्डी साहब मैं एक बात कहना चाहता हूँ । आपके डिपार्टमेंट में एक बहुत ऊंचे श्रीहदे पर एक अफसर है जो इतिफाक से मेरे यहा डी एम थे । उस वक्त मैं वहा कोर्ट में बकालत किया करता था । उनको कम से कम पूर्णिया जिला जो बिहार में है, उसकी पूरी जानकारी है । वह जानते है कि गलिया से नरपतगल बसमतिया भारत का हिस्सा; नेपाल से मिला हुआ है । यहा नेपाल बोर्डर डंड सी मील लम्बा है । वहा स्मगलिंग का बडा जोर है । मेरी उन से गुजारिश है कि वहा जो घाघली चल रही है उसकी तरफ उनका खास ध्यान जाना चाहिए । उन अफसर को यह भी मालूम है कि वहा कौन लोग ऐसे लोग है जो पूर्णिया जिले में पहले कटिहार भी था

[श्री म. ह. भ. व. जमील रंजमान]

श्रीर जो अब अलग हो गया है, जो एंटी नेशनल एक्टिविटीज कर रहे हैं, शाखा चला रहे थे श्रीर अब दर-पर्दा चला रहे हैं। पिछले हफ्ते वहा जलूम भी निकला था। उस में स्कूल के प्रिंसिपल भी है श्रीर टीचर भी हैं। ऐसे लोगों की तरफ आपकी निगाह जानी चाहिये। बहुत से अफसरान लोग है जो इस तरह की बातों को जानते हैं। उनके नाम ले कर मैं बता सकता हूँ। वे क्यों खामोश है। उनको बिहार की श्रीर खास कर पूणिया की जानकारी है। मैं समझता हूँ कि मुल्क के बक्कार श्रीर भन्वाम की जिनदीगी को बरकार रखने के लिए सब्ब कदम फौरन उठाने की जरूरत है।

इन इलफाज के साथ मैं इस बिल की हिमायत करता हूँ।

شہرہٴ محمد جہو' الرحمان (کشور)

گڈیج) : مستحکم سپورٹر صاحب -

جب تک قیامگزیسی کے معنے دے ہیں گورنمنٹ آف دی پھیل -
مائی دی پھیل پیارٹی وارڈی پھیل
لیکن ہمارے دوست نے جن میں

جن سنگھ کانگریس (او) اور سوشلسٹ پیارٹی

کا سی ایل قیامگزیسی میں شامل ہیں -
سب ایک ہی سو رہیں گے وہیں اور
حرکاتیں کر رہے ہیں ان لوگوں نے
قیامگزیسی کے معنے لے لئے ہیں
گورنمنٹ آف دی فورس - مائی دی فورس
ایڈف فار دی فورس - اور اس
کی مثال لی نہیں نے جن میں اور
امریکہ سے کے گتھ جوڑے - اس گتھ
جوڑے کا نتیجہ یہ ہوا کہ بقیہ بیوی ہوا
پیدا ہوئی - ناحق قتل ہونے - ہم
بازی ہئی - اور پولیس اور فوج کو

بغاوت کی تعلیم دی گئی اور چھوٹے
گریڈنگ اسوسیلیشن کا الزام لگایا گیا -
اس سلسلے میں میں فار فورسز آف
سپورٹس کے پیج 15 سے کثرت کرنا
چاہتا ہوں - آپ اس کا ملاحظہ
فرمائیں

"R.S.S. leaders called Gandhi a Hypocrite. The RSS maligned Nehru in worse terms. Golwalkar doubted whether he was even an Indian. He had said he had 'No hesitation in saying that Nehru was an Englishman, un-Indian and liberal by nature. He was a product of the system of education which the British had introduced in India to produce traitors. Their family atmosphere was utterly un-Indian, irreligious full of arrogance and ambition. By education he was a perfect Englishman."

اس کے علاوہ میں ایک اور حیلہ آپ
کو آزات سے روک کرنا چاہتا ہوں -
آرگنائزر نے بھی یہ لکھا ہے -

"It is becoming clear that female franchise is an unnecessary duplication of effort"

اور اس کتاب میں لکھا ہوا ہے کہ
۳۰ جنوری کو جبکہ شرمیلی گادھی نے
پہلی مرتبہ گورنمنٹ میں قدم رکھا
تھا - اس وقت ان کے خلاف کیا کہا
گیا تھا -

"I am Hindu enough to take it for a most inauspicious sign of further disasters in Store for us, and I have read enough history to know that women's reigns, whenever they have occurred, have been stained with stupidities, crimes, enormities and perversions too disgusting to quote from original sources."

میں یہ عرض کو رہا تھا کہ ان لوگوں نے جو چھوٹا کریمکٹر اسمبلسٹوں کا کام کیا۔ کارخانے کے معصوم ورکرز کو کام نہیں کرنے دیا جس کا نتیجہ یہ ہوا کہ ملک کی ہمدانوار بند ہو گئی۔ انہوں نے سترائٹھک کروائی۔ لوگوں سے بند اور گھبراہٹ کروائے۔ بچوں کو تھلم حاصل کرنے سے ونچت کر دیا۔ عوام کے چلے ہوئے نمائندوں کو لوگوں نے مارا پیٹا۔ اسمبلی اور توڑ دیا قومی جائیداد کو چلایا۔ یہ میں آپ کو سنا رہا ہوں اس لئے کہ ان وجوہات سے اس بل کو لائے کی ضرورت پڑی۔ اور پہلے جو ایکٹ تھا اس میں اسمبلی کے کرنے کی ضرورت پڑی۔ انہوں نے عوام کے نمائندوں کو سچی بات اور کہنے نہیں دیا۔ اور ذات پر کیچڑ اچالنا اور فرقہ دارانہ فسادات کروانا ان کا کام تھا۔ سبھو صاحب آپ کو معلوم ہے کہ گجرات میں ابھی ابھی انہوں نے ہندو مسلموں کے فساد کروائے۔ ان جگہوں کے نام ہیں گھنڈر روڈ، لٹوارا میں اور وادی چوکھنڈی میں۔ یہاں انہیں ان لوگوں نے سرکاری دفاتروں پر ناچائیز دباؤ ڈالنا شروع کیا۔ فرضیکہ وہ کام انہوں نے کیا جو کہ جمہوریت اور اس ملک کے خلاف تھا۔ میں اور فورسز آف سروسز کے پیج 29 کو گوٹ کرتا ہوں۔ سیکورٹی ٹیمائسٹریشن آف اگست 1975 میں گجرات کے

ایڈیٹر نے لکھا ہے

"Discovery of small arms, paramilitary uniforms and prohibited maps of sensitive areas from the various offices of the RSS has shocked many who were associated with it or sympathised with it."

اور سہرے جو یہ درست ہیں ان کے ساتھی اور مددگار ہیں۔ تو محترم سبھو صاحب میں عرض کر رہا تھا کہ ایسے برے کام جو ملک کی منکھت کو اور ملک کے وقار کو دھکا پہنچاتے ہیں۔ اس کو چوت پہنچاتے ہیں ان لوگوں نے کیا تھا۔ نتیجہ یہ ہوا کہ عوام میں بھگت پھیل رہی۔ پھدوار بند ہو گئی۔ کارخانے بند ہوئے۔ اور ملک کے لوگوں کے مارل کو ان لوگوں نے نیچے کرانے کی ہر ممکن کوشش کی۔ کبھی قوم ان لوگوں کو معاف نہیں کریگی۔ جب ان طریقوں سے حکومت ان کے پاس نہیں آسکی تو شمشیر یعنی تلوار کے زور سے ان لوگوں نے حکومت چھیننے کی کوشش کی۔ یہ راستہ انہوں نے اختیار کیا۔ میں ان کی ایک سنگتیلٹ کو کرت کرنا چاہتا ہوں۔ شری سانہال نے مئی سنہ 1969 میں کلکتہ میں کہا تھا۔

"Addressing a rally in Calcutta on May Day 1969 to mark foundation of the CPI(M) Kanu Sanyal hailed Naxalbari the Chinkiang Mountain of India and an armed uprising against imperialism, feudalism, comprador, capital and new revisionism. Waving Mao's Red Book, Sanyal said

[شری محمد جمیل الرحمان]

'communist revolutionaries of Assam, Maharashtra, Rajasthan, Madhya Pradesh, Karnataka, Kerala, Punjab, Haryana, Tamil Nadu and Kashmir had rallied under the banner of revolution boldly established throughout India the path of seizing through armed struggle, as opposed to the rotten and stinking parliamentary path peddled by the revisionists'

یہ ان کی حالت ہے - اس کے بدلے مہروی نہتی اور مہروی پارتی کی نہتی کیا ہے - یہ مہوی آپ کو بتانا چاہتا ہوں - فورسز آف سہورشن کے پیج (7) میں یہ لکھا ہوا ہے - نومبر 1966 میں ہماری لیڈر شہریتی گاندھی نے کہا تھا -

"I am one of those who abhor the use of force in any circumstances. But when there is incitement to violence, and whether violence leads to acts of defiance of law, to arson, loot and destruction of public property then there is no other way. It can only be met by force. This was what unfortunately is happening—violence leading to force, force leading to more violence and more violence leading to more force"

اسی کے سلسلے میں انہوں نے یہ بات کہی تھی - لیکن اس کو ان لوگوں نے نہیں سمجھا - انہوں نے سمجھا کہ یہ ہماری کمزوری ہے - ان کے کانوں میں ان کے دلوں میں یہ بات نہیں سنائی - امن اور درستی سے دھما - انہیں کے مطابق ملک کے حالات کو سدھارنے انہیں کے مطابق لوگوں کی زندگی کو بھانا - سناچ کو بھانا - اور

ملک کو اونچا اٹھانا ، ملک کے وقار اور عزت کو سب سے اونچا رکھنا - سب سے بڑا مالنا یہ بات ہمارے لیڈر نے کہی -

عدالتوں کی بات ہمارے دوست نے کہی ہے - عدالتوں عوام کے مفاد کے لئے ہونی چاہئیں - ملک اور قوم کی بھلائی کے لئے ہونی چاہئیں - اور اس کام میں اگر ایسا کرتے ہوئے سدھار کی ضرورت ہو تو اس کو ضرور دیا جائے - پارلیمنٹ سپریم ہے - ہم لوگوں کی بھلائی کے کام کرنے کے لئے کمر بند ہے - ہم کمر بند ہیں دیہی کی بھلائی کے لئے - لوگوں کی بھلائی کے لئے - لوگوں کے مفاد کے لئے - دیہی کو اونچا اٹھانے کے لئے - جو بھی قدم اٹھانے ضروری ہونگے وہ ہمیں اٹھانے کے لئے گریز نہیں کرنا چاہئے - اب تک کہا دیکھا کہا ہے - اب تک دیکھا یہ گیا ہے - کہ جو بھی شوشلسٹ قدم اٹھایا گیا ہے - مثلاً پریوی پرس کو ختم کرنے کے بارے میں - بھنگ نیشنلائزیشن کے بارے میں - ایسولمنٹیشن آف لیڈر لاؤ کے بارے میں - ایسولمنٹ آف ہولڈرز ایڈٹ بھنگ مارکیٹیز کے بارے میں - ان سب اقدام کو قانون کا سہارا لیکر - قوم عوام اور سماج کو پیچھے دھکیلے کی کوشش کی گئی ہے - نتیجہ اس کا یہ ہوا ہے کہ ملک کے آگے

بوجھے ہوئے قدم رک گئے ہیں۔
ایسے حالات میں قانون اور آئین میں
ترمیم ضروری ہے۔ ملک کی سالمیت
کو برقرار رکھنے کے لئے پارلیمانی نظام
ضروری ہے۔ یہ جو ہمارے دروست
گتھ بلدھن والے۔ پانچ یار بہتھے ہوئے
ہیں۔ ان لوگوں نے اس میں مدد
دی ہے۔ اس لئے قانون میں ترمیم
کی سخت ضرورت ہے۔

مہرے کچھ دوستوں نے کہا کہ
کانگریس کے ایم۔ پی۔ کہ پکڑ کر
بلد کر دیا گیا ہے۔ میں کہونگا
کہ یہی تو خوبی ہے ہماری پارٹی
کی۔ ہماری سرکار کی۔ یہی تو
خوبی ہے اس قانون کی۔ اگر مہری
پارٹی میں بھی ایسے لوگ تھے
جن سے ملک کے مفاد اور سالمیت
کو خطرہ تھا۔ عوام کو نقصان
پہنچنے کا اندیشہ تھا۔ ملک کے
رقار کو دھکا لگ رہا تھا۔ اور وہ
حکمران پارٹی کے مہمبر ہونے کا
ناچائز فائدہ اٹھا رہے تھے۔ تو قانون
کے تحت ان کو بھی پکڑ لیا گیا
اور چھوڑا نہیں گیا۔ تاکہ عوام
یہ نہ کہیں کہ اپنی پارٹی کا
ہونے کے ناطے ناچائز فہور کیا گیا
ہے۔

یہاں مہمبر کے مفاد کے بارے
میں بھی یہاں بات کہی گئی
ہے۔ ان کو ۲۰ دنوں کے لئے آرڈر

مل گیا تھا۔ اس کو دیکھتے ہوئے
مہرے دوستوں کو قانون کا احترام
کرنا چاہئے تھا۔ جبکہ عدالت نے
خود ہی ٹائم دے دیا تھا۔ پھر
ہلکارہ کرنا اسن اور اسن کو نقصان
پہنچانا کیا معنی رکھتے ہیں۔
قانون کا احترام ہونا چاہئے تھا۔
لہکن میں کیا کہوں۔ مہرے دوستوں
نے ایکسپرا کانسٹیٹیوشنل مہمبھت
استعمال کئے۔ کہونکہ ان کے اصول
یہی دے ہیں۔ اقرا۔ تفری۔ ہلکارہ
لہت مار وغیرہ میں ہی ان کا
یقین رہا ہے۔

اخباروں کا رول بھی نہایت
خراب رہا ہے۔ اور حالات کو
بگاڑنے میں مددگار ثابت ہوئے ہیں۔
اخباروں پر قبضہ کس کا ہے۔ یہ
کونسی چھپی ہوئی بات نہیں ہے۔
سارے مہمبھت ہورقوز۔ بلہک مارکیتوز
کا اور اہلٹی نہشل اولمہنتس کا
ہی وہاں پر قبضہ ہے۔ پھر یہ
اخبار مددگار ہوئے ہیں ایسے لوگوں
کے جو ہمارے ملک میں۔ قی
سولٹو لگہزہشن کے اصول پر عمل کرکے
ملک میں فسادات اور اقرا تفری
پیدا کر رہے ہیں۔ یہی کام رہا
گیا تھا اخباروں کا۔ اس پر طرہ
یہ ہے کہ چند لوگوں کے گتھ جوڑ کو
عوام اور ملک کے مفاد کے حق میں
بتلایا جاتا تھا۔ اس کا پرچار کیا

[شری مصد جمل الرحمن]

جاتا تھا۔ عرضی کے اخباروں نے ہر وہ کام کئے جن سے ملک و قوم کے وقار کو اور عوام کے جذبات کو دھکا لگے۔ یہ ایک پیہشہ بنا لیا گیا تھا کہ بھارت کو بین القوامی سطح پر نیچے دکھایا جائے۔ ایسے حالات میں حکومت نے جو قدم اٹھائے وہ مناسب اور جائز قدم ہیں۔ پھر یہ جو پانچ ہزار بلے بیٹھے ہیں۔ یہ سمجھنے لگ گئے تھے کہ یہ ہی جینا کے اصلی نمائندے ہیں۔ اسکا پروریہکھنڈہ اخباروں میں کیا جاتا تھا۔ یہ چاہتے تھے کہ بھی القوامی سطح پر کسی طرح سے بھی ہو۔ ہندوستان کا مذہ کالا کیا جائے۔ ایسی کوششوں کرنے کے بعد یہ اپنا سولہ بھارت میں ابھار کر دکھلاتے تھے کہ یہ سب ہماری فری پریس ہے۔ وہ ایسا سمجھتے تھے کہ جیسے ان کو کچھ بھی کہنے کا اور کرنے کا لائسنس ملا ہوا ہے۔ اس طرح سے کبھی کام نہیں چل سکتا ہے۔ ہم کو جمہوریت کے دائرے میں رکھنا ہوگا۔ یہی مقصد ہمارے ملک کا ہے۔ قانون کا بھی یہی مقصد ہے۔

شری اندر جوت گپتا کے بھاشن کو میں نے بہت غور سے سنا۔ انہوں نے کہا کہ کوئی دنہا میں دوست نہیں۔ جلدیوں نے ہماری اس کے بارے میں حمایت

کی ہو۔ میں ان کی قدر کرتا ہوں۔ لیکن میں ان سے عرض کرنا چاہتا ہوں۔ جو ملک ہمارے دوست تھے اور ہوں وہ اب بھی ہوں۔ ہم لوگوں کا دوست ملکوں میں غلط پروریہکھنڈہ کا کوئی اثر نہیں ہوا ہے۔ میں آپ کو کچھ اخبارات کے نام بتانا چاہتا ہوں۔ جلدیوں نے ایمرجینسی کی حمایت کی ہے۔ آل احرام۔ لجنہ کا ہے۔ آل بانہ سوہیا کا ہے۔ آل تھاروا عراق کا ہے۔ اتھا شری لنکا کا ہے۔ اس طرح اور بھی ملکوں کے اخبارات میں جلدیوں نے ہماری ممانعت کی ہے۔ نیپال کے اخبار دیپک نیپال نے تو یہاں تک لکھا ہے۔ کہ

The Prime Minister has finally been compelled to declare a state of Emergency in India to save the country from the threat of internal conflict posed by immature opposition and politicians

میں کہنا چاہتا ہوں کہ جو سہرے دوست پہلے بھی نہیں تھے۔ وہ اب بھی نہیں ہیں۔ جو پہلے بھی بھارت کو اونچا اٹھتے ہوئے نہیں دیکھنا چاہتے تھے۔ وہ اب بھی نہیں چاہتے ہیں کہ وہ اونچا اٹھے۔ اور وہ درپردہ توپل رہولہوشن والے گتھ جوڑ کو مالی امداد کرتے رہے ہیں اور اب بھی کر رہے ہیں اور شاید وہ آگے بھی کرتے رہیں گے۔ لیگ لہور لہور کو 60 ہزار ڈالر بھار سے ملے ہیں۔ اور وہ نظر کے

ساتھ کہتا ہے کہ میں لہور لہور ہوں - اس لئے تو سرکار نے قوم کی خاطر - ملک کی خاطر - بھارت کی خاطر - اس قانون کو لائی ہے - تاکہ ملکر عوام اور ملک کی سالمیت کو دھکا اور چوٹ پہنچنے کا خطرہ نہ رہے -

بھارت کے غریب لوگوں کو عوام کو اس قانون سے کوئی پریشانی نہیں ہوئی ہے - کوئی تکلیف نہیں ہوئی ہے - میں چاہتا ہوں کہ جو اہلٹی نیشنل لوگ ہیں دیس ودھروہی ہیں - ان پر ہی سہی معظروں میں اس قانون کو لاگو کیا جائے - ان کے خلاف ہی اس کا استعمال ہو -

اب میں افسروں کے بارے میں تھوڑا سا کہنا چاہتا ہوں - یہ ٹھیک ہے کہ ایمرجینسی کے بعد یہاں سے افسروں کی ہمدردی ابھی بھی ان جماعتوں کے ساتھ ہے جن پر پارلیمانی لگ چکی ہے - میں ان کے لئے بھی کہنا چاہتا ہوں کہ ملک و قوم کا مفاد ہماری جان سے بھی زیادہ ہمیں عزیز اور پیارا ہے - سووے لہندہ شریعتی انداز گاندھی نے صاف طور سے اور کلمے الفاظ میں کہا ہے کہ ملک اور عوام کا مفاد سب سے اولیٰ ہے - یہی پرتکلیا ہم سب کو لہنی چاہئے - اور اس بات کا یقین رکھنا چاہئے - آپ کے قہارتمندہ کے بارے میں یہی صاحب میں ایک

بات کہنا چاہتا ہوں - آپ کے قہارتمندہ میں ایک بہت اونچے عہدے پر ایک افسر ہے جو اتفاق سے میرے یہاں قی - ایم تھے - اس وقت میں وہاں کورٹ میں وکالت کیا کرتا تھا - ان کو کم سے کم پورنہہ ضلع جو بہار میں ہے - پوری جاں کاری ہے - وہ جانتے ہیں کہ کل گلیوں میں نریت گلیج بھارت کا حصہ نہپال سے ملا ہوا ہے - یہاں نہپال ہارٹر 150 مہل لمبا ہے - وہاں سنگنگ کا بوا زور ہے - میری ان سے گزارش ہے کہ وہاں جو دھاندلی چل رہی ہے - اس کی طرف ان کا خاص دھیان جانا چاہئے - اس افسر کو یہ بھی معلوم ہے کہ وہاں کون لوگ ایسے ہیں جو پورنہہ ضلع میں پہلے کتھار بھی تھا - اب الگ ہو گیا ہے - اہلٹی نیشنل ایکٹیوٹیز کر رہے ہیں - شاخا چلا رہے تھے اور اب در پردہ چلا رہے ہیں - پچھلے ہفتے وہاں جلوس بھی نکلا تھا - اس میں سکول کے پرنسپل بھی ہیں اور ٹیچر بھی ہیں - ایسے لوگوں کی طرف آپ کی نگاہ ہونی چاہئے - بہت سے افسر لوگ ہیں - جو اس طرح کی باتوں کو چاہتے ہیں - ان کے نام لے کر میں بتلا سکتا ہوں - وہ کہوں خاموش ہیں - ان کو بہار کی اور خاص کر پورنہہ کی جان کاری ہے میں سمجھتا ہوں کہ ملک کے وقار

[شہری محمد جمال الرحمان]

اور عوام کی زندگی کو یوقر اور رکھنے کے لئے سخت قدم فوراً اٹھانے کی ضرورت

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ان الفاظ کے ساتھ میں اس بل کی حمایت کرتا ہوں۔

آئی رام بھبہ سنگھ (مہاراجگج)

अध्यक्ष महोदय श्री ब्रह्मानन्द रेडडी साहब ने जो यह आन्तरिक सुरक्षा (सशोधन) विधेयक इस समय इस सदन में प्रस्तुत किया है उसने मुझे आश्चर्य में नहीं डाला है क्योंकि सरकार इस समय जिस राह पर चल रही है, उसमें सरकार के पास अपने बचाव के लिये इसके अलावा और कोई चारा नहीं है। इस भीसा कानून को इन्द्रोद्भूत कर के हमारे लोकतन्त्र और राष्ट्र के मस्तक पर जो कलक इन्होंने लगाया है, उस कलक पर इन्होंने इस तरह सशोधन विधेयक से बार बार कालिख पोतना ही होगा और उसको अधिक से अधिक मुद्दुड बनाना ही होगा। इसके अलावा इनके पास कोई चारा नहीं है। लेकिन मैं होम मिनिस्टर साहब को यह बतलाना चाहता हूँ कि जिस राह पर आप गये हैं इसी राह पर आपके कुछ पूर्ववर्ती यात्री भी गये थे लेकिन किसी प्रकार के दमन और दमनात्मक कानून भी उनको बचा नहीं पाया। भीसा कानून के अन्तर्गत आप किसी को गिरफ्तार कर के किसी जेल में डाकू दे और उसको यह भी न बताये कि तुमको किस अभियोग में उलम डाला है ?

एक माननीय सदस्य आप तो बाहर हूँ।

आئی राम बھبہ سنگھ: हमारे जैसे लोग बाहर हैं लेकिन जब चाहे भीतर डाल

देग, हममें, कोई आश्चर्य की बात नहीं है।

इस भीसा का दुरुपयोग कितने बड़े पैमाने पर हो रहा है, रेडडी साहब जरा चल और देख। सबसे ज्यादा आश्चर्य की बात यह है कि ये अपने दफ्तरो में अपने अफसरों के बीच बैठकर, जो उन अफसरों के मुलाजिम भात हैं, उनसे अनुसार ये कानून में सशोधन करते चले जा रहे हैं। कलैक्टर को कठिनाई हो रही थी, वह जब किसी को जल में रखत थे तो उनको 5 दिन के भीतर उसका प्राउन्ड देना पड़ता था, लेकिन प्राउन्ड क्या हो वह बता नहीं पाते थे पुलिस वालों से कहते थे कि कुछ भी प्राउन्ड दे दो। यह आश्चर्य की बात है कि पटना में विधान परिषद् के एक सेन्बर कमेटी की मीटिंग में थ और पुलिस ने उसी दिन लिखा कि ये एक समा कर रहे थे अपने गांव में। तो य ऐसे ही काम कर रहे हैं। जब इनके अफसरों ने देखा कि प्राउन्ड देने में बड़ी कठिनाई हो रही है प्राउन्ड मिल नहीं रहा है तो इन्होंने सरकार में सहायता मांगी। सरकार को जनता से या सदन से प्ररणा नहीं मिल रही है, यह प्ररणा तो उसको अपने अधिकारियों से मिल रही है। उनको प्राउन्ड देने में जो कठिनाई हो रही है, उससे बचने के लिये इन्होंने इस तरह के काले कानून को पुन और काला करने के लिये यह सशोधन विधेयक सदन में रखा है।

अध्यक्ष महोदय, आप भी काफी समय से राजनीति में हैं। आप उन दिनों को याद करें जब अग्रजों से जुड़ा रहे थे। हम लोग बागी थे, उनके साम्राज्य को ढाने के लिये हमने गांधी जी के नेतृत्व में सारी शक्ति लगाई थी, तो भी अग्रजों

ने इस तरह की क्रूर कार्यवाही नहीं की जो इन्होंने की है।

आज हमारे लोक सभा के दर्जनों दर्जनों सदस्यों को इन्होंने इस मीसा के अन्तर्गत जेल में रखा है। कोई मेम्बर बंगलोर में किसी कमेटी की मीटिंग में गया तो उसको वहीं गिरफ्तार कर लिया गया। वहाँ के कलक्टर ने निर्लज्जता के साथ इनके इशारे पर लिखा कि यह साहब होटल में मीटिंग कर रहे थे। अब लोक सभा की एक मीटिंग बंगलोर में चल रही हो, सदस्य वहाँ गये हुए हैं उसमें शरीक होने के लिये श्री होटल में ठहरे हुए हैं तो वहीं से उठाकर उन्हें जेल में डाल दिया गया। सरकार में उन पर मुकदमा चलाने की हिम्मत नहीं है। अगर उन्होंने कोई अपराध किया है या राष्ट्र विरोधी कार्यवाही की है तो उसके आधार पर कोर्ट में मुकदमा दायर करके सरकार उनको दंडित करवाये लेकिन उठाकर उन्हें बंद कर दिया गया। मुझे कहा जाता है कि आप बाहर है, लेकिन आप कब तक बाहर हैं, यह सोचिये। श्री मोहन धारिया म्युनिस्पैलिटी के चुनाव में भाषण देने के लिये जा रहे थे। रास्ते में ही उनको पकड़कर जेल में डाल दिया गया। मैं ब्रह्मानन्द रेड्डी साहब से कहूंगा कि इस कानून को बनाकर आप इसे अपना कवच ममझते हैं लेकिन इसको पहनकर आप बहुत दिन तक सुरक्षित नहीं रहने वाले हैं।

अभी मेरे पूर्व वक्ता ने, जितनी बातें उनको याद थीं या बता सकते थे, कहानी बनाकर पढ़ दिया और कहा कि यह किया वह किया आदि आदि।

जिन देशों में जनतन्त्र है, उन देशों में विरोधी पक्ष अपनी सभाएं करता है, अपनी बातें बोलता है। सरकार चलाने वालों की वृत्तियों को जनता के सामने अपने मन के अनुसार रखता है। क्या

आज यह अधिकार यहां पर है? ये जनतंत्र की बात करते हैं और कहते हैं कि यह जनतन्त्र को पुष्ट करता है लेकिन क्या आज कि व्यवस्था में यह अधिकार आपने हमें दिया है? यदि हम पटना, छपरा या मुजफ्फरपुर में जाकर अत्याचार के खिलाफ मीटिंग करना चाहें तो क्या हम कर सकते हैं, या कर पायेंगे? मीटिंग करने के पहले यह तोटिस नहीं छाप सकते हैं कि आम सभा होने वाली है। किसी प्रेस वाले में यह छापने की हिम्मत नहीं है। इतनी बड़ी दहशत आज क्रिएट की गई है। स्वतंत्रता संग्राम के दिनों में गांधी जी जहां इम देश के सैनिकों को, हजारों हजारों शहीदों और इस देश के नागरिकों को निर्भय और बहादुर बनाना चाहते थे, वहां आज ये लोग ऐसे ऐसे कानूनों की रचना कर के कायर और बुजदिल नागरिक इस देश में बनाने का प्रयास कर रहे हैं और हमको कहा जाता है कि हम राष्ट्र के दुश्मन हैं और लोकतंत्र के दुश्मन हैं। लेकिन लोकतंत्र और राष्ट्र के दुश्मन वे हैं जो ऐसे कानूनों की रचना कर के हिन्दुस्तान की बीरता, और उसके शौर्य को समाप्त करने के लिये षडयंत्र कर रहे हैं।

मैं रेड्डी साहब से कहूंगा कि अगर उन्होंने सोचा होगा तो उनकी आत्मा उनको कोसती होगी कि यह जो कार्यवाही हम करने जा रहे हैं, यह राष्ट्र के विरुद्ध है, जनतंत्र के विरुद्ध है। लेकिन ये लाचार हैं। इन्हें आज यह ही करना है। जिस राह पर आज प्रधान मंत्री जा रही हैं, वह राह ऐसी है जहां पर ऐसा कवच इन्हें पहनना ही होगा तब ही यह अपने आपको सुरक्षित समझेंगे।

कल मैंने अखबार में एक नय मंत्री का बयान पढ़ा। बंसीलाल जी कहीं पर बोले हैं कि मैं प्राइम मिनिस्टर का लायल

[श्री राम देव सिंह]

नहीं हूँ बल्कि मैं श्रीमती इंदिरा गांधी के प्रति लायल हूँ। पता नहीं कि यह बयान प्रधान मंत्री जी के सामने आया है या नहीं? अगर आया होता तो जो कोई भी प्रधान मंत्री के प्रति लायलटी से हटने हैं उनको एक घंटे के लिये भी कैबिनेट में ठहरने के लिये कोई औचित्य नहीं है। तो इस तरह का बयान भरी सभा में दिया गया है, जो अखबारों में आया है। आप सब ने देखा होगा। लेकिन वह बंसी बाबू हैं, बड़े भारी बंसी बाबू हैं।

श्री जगन्नाथ मिश्र (मधुवनी) : श्रीमन्, उन्होंने इस बयान को ठीक से नहीं पढ़ा। अगर पढ़ा है तो ठीक से नहीं समझ पाये हैं।

श्री राम देव सिंह : मैंने उमका अपने दृष्टिकोण के अर्थ लगाया है, आप प्रधान मंत्री से पूछिये कि उन्होंने क्या समझा है।

मैं कह रहा था कि वह अच्छे बंसी बाबू हैं। वह बंशी लगाते थे अब तक तालाब में, अब उनको समुद्र में बंशी लगाने के लिये बुलाया गया है। वह बोले, लेकिन मंत्री का कम-से-कम एक चरित्र होता है, उससे बाहर उसको नहीं बोलना चाहिये। हर एक मंत्री की लायलटी प्रधान मंत्री के प्रति होती है, किसी व्यक्ति विशेष प्रति नहीं।

अध्यक्ष महोदय : इसका इस बिल से क्या संबंध है?

श्री राम देव सिंह : मैं यह बता रहा हूँ कि यह सरकार और यह मंत्री किस दिशा में जा रहे हैं। यह जो बिल लाया गया है, वह भी उसी दिशा में एक कदम है। आज मीसा का बहुत बड़ा दुरुपयोग हो रहा

है। मैं श्री रेडडी से कहंगा कि इस काले कानून में मंशोधन करने की जरूरत नहीं है, बल्कि वह इसको जितनी जल्दी समाप्त करें, उसी में राष्ट्र और लोकतंत्र का हित है। मंत्री महोदय ने लोकतंत्र की बात कही है। वह भी स्वतन्त्रता-संग्राम के पुराने सेनानी रहे हैं। उन्होंने संकल्प लिया था कि मैं इस देश को एक सबल राष्ट्र बनाऊंगा, सबल राष्ट्र में सबल नागरिक बनाऊंगा, लोगों को अपने विचार व्यक्त करने की स्वतन्त्रता दूंगा, मिलने जुलने और सभा करने की स्वतन्त्रता दूंगा। इस सब को समाप्त करना गृहीदों के खून के साथ गद्दारी है। इसलिये श्री ब्रह्मानन्द रेडडी इस बिल को वापिस लें, यही उनसे मेरी मांग है।

SHRI NIMBALKAR (Kolhapur): I will not go so much into the worth or merit of this Bill as to bring to the notice of the hon. Minister some of the malpractices which should have come to his notice even without my mentioning them if his officers were vigilant enough.

For instance, there is the case of the Ambassador Hotel in Bombay owned at present, as far as I know, by Narangs who had bought it from the family of the priests of the Bohra community. On paper this hotel was bought in such a manner that its actual price was not shown. Later on it came to light when this hotel was mortgaged to the American Express Banking Co., that in actual fact it must have been bought for something like Rs. 76 lakhs. This was a big fraud and one of the parties, Narangs, were arrested. It would seem on the face of it that thereby Government had done its duty, but the fact is that this is a crime which was two-sided. Narangs were as much to blame for not showing the correct price for buying the hotel as much as those who sold it. Whereas Narangs were arrested, those who sold it were not arrested.

These are the things which it is not necessary for an M.P. to bring before Parliament or to the notice of the hon. Minister who should have seen it from the Current dated 2nd November, 1974, which I have in my hand. Such agreements are easily noticed and it is only because of some illogical thinking sometimes on the part of Government in its departments that we do not detect them.

I will give you another example. We read in the newspapers almost every day that some smuggler has been caught bringing in goods from outside into our country. Nobody is going to send goods into our country free of cost. Something has to be paid in return for the goods that come into our country. How often do we read in the papers that something is being smuggled out of our country and that a smuggler has been caught in that connection? If you look into the amount of grain that we produce in our country and the amount that we distribute by way of rations among our people, you will find that a huge amount of grain from our country is definitely very probably smuggled out. If we were to give every one in our country 12 kilos of grain per month, which is more than double what we are giving today, then we would need 85 million tonnes of grain, but, in fact, we are producing more than 100 million tonnes, and this year I am told we are having a bumper crop. I want to know where the rest of the grain goes.

In fact, we get ration in such a manner that if we take it at less than 6 kg. per head then over 50 million tonnes of foodgrains has to be accounted for. Where is it going? Surely, you will agree with me that most probably most of this grain is being smuggled out. Some of it is officially exported by us, and in all these days, I have read only one instance in the papers that some foodgrains is being smuggled out from Gujarat. I want to know, how is it perhaps the Minister will enlighten me on this point—that when

it is smuggled inside the country, it is known to everybody in 98.90 per cent of the cases, but when it is smuggled outside the country, nothing is known? Particularly, where foodgrain is concerned, it concerns everyone of us here to look into the matter very vigilantly. According to my knowledge, a huge quantity of grains is being smuggled into Pakistan and China.

I have a feeling not because we have ourselves given the Central Government the right to detain or even let out people, despite whatever the States might say, it will help us to get over some of the mal-practices. But the fact is that in the States very often vindictive actions are taken against people. I will give you one instance. There is one gentleman from Ratnagiri. He happens to belong to a Muslim community from the constituency of my friend Shri Page. He had been detained because some higher authority in the party hierarchy found him a nuisance in his politics in the party itself. Then fabricated allegations were made against him that he had got some connections with Pakistan, with the result that he had been put behind the bars. It is quite unfair. If you are going to blame every person saying that he is Muslim and has got some connection with Pakistan; I am sure that the Congress Party cannot be one with you we have got many hon. Members here. For example, a majority of the Muslims in India—there might be exceptions that one is a Muslim but does not consider oneself to be an Indian—are patriotic. But even if such a person was to make a mistake, he must be very clear—because he is relying on the Vigilance Department that he has been indulging in such malpractices—before he catches him up. He should not catch him up because somebody in the higher hierarchy told him to catch that person up.

In this connection, I will give you one more instance. Perhaps the hon. Minister might be good enough to investigate it. There was a jewellery exhibition in Oberoi Hotel in Bombay.

[Shri Nimbalkar]

That was held a day before Diwali or it might be on the Diwali day itself. Hardly had the exhibition started, when the vigilance people rushed in and locked up everything. One would have thought that there was a big malpractice going on and definitely the next day something will come in the paper that so much wealth was taken and all that. But the fact was that two days after that the jewellery exhibition was started, it was going on again. Why was it stopped on the Diwali day? I want to know how it was possible to open that exhibition two days later? If there was something wrong with that exhibition, then the exhibition should not have been started or they should have prevented it from being exhibited at all. But the exhibition started and stopped two days later for reasons best known to somebody in the State Government.

Yesterday, it was enlightening for me to listen to the Opposition Members who were giving the names of the professional people who were detained. Politicians have been detained; lawyers have been detained; doctors have been detained, all sorts of people have been detained, but nobody has mentioned why no bureaucrat was detained. I want to say that malpractice in bureaucracy, at present, particularly in the CCIE is rampant.

Here, I have got the Santhanam Committee Report in which they describe corruption. It says:

"Corruption in the branch of Government activity arises from one of the things as undue delay or unusual hurry on the part of the staff in the despatch, delivery of licence quota and certificates."

If the Minister would be good enough to have a inquiry into the CCI&E, he will find that everything there is manipulated. Actually that is one of the reasons why we cannot give jobs to the people and get rid of poverty.

Licences are pending for months and sometimes for years. They are awaiting perhaps some goodness on the part of the people who want licences. Even when these parties send telegrams, purposely mistakes will be made and amendments are made necessary. Again, they have to send telegrams and again there will be delay for months. If this is not gone into, the industry in this country will not progress.

I may tell you, quite definitely, that this is the only way to get rid of poverty and to give people the jobs. If you have this sort of licensing system where all these people make all sorts of misuse while giving licences and, particularly, allowing delays, you will not get rid of poverty in this country. You will not get rid of poverty in this way unless you remedy these things and see that industrialisation in this country goes as fast as possible.

SHRI JAGNNATH RAO (Chattrapur): Mr. Speaker, Sir, yesterday I listened with rapt attention to three major speeches from the Opposition Benches. They highlighted their point of view. It is quite understandable.

The Home Minister while moving the motion for consideration of the Bill stated that an extra-ordinary situation has arisen in this country and, therefore, extra-ordinary measures have to be taken.

We had Emergency earlier twice, one in 1962 and the other in 1971. On both these occasions, the proclamation of Emergency was made by the President. In one case, it was because of war and in the other case, it was because of threat of external aggression. When there is a threat of external aggression, all the political parties and all sections in the country stand as one man to repel aggression. I remember, when we passed the Resolution in 1962 and also in 1971, we

all stood up and passed the Resolution approving the proclamation. All the Opposition members said, "one nation and one leader," and they all rallied round the Prime Minister both in 1962 and in 1971.

What about the political and economic situation which developed from the year 1972 to June, 1975? Briefly, I may state that the economic condition was worsening. There was all round drought in the country; there was scarcity of foodgrains and other articles of consumption; the prices sky-rocketed; there was high inflation and the people were discontented. Talking advantage of the situation, the political parties started a movement and violence also erupted. We know that there were attempts made by some political parties and political leaders to obtain resignations of members of the Legislative Assemblies of Bihar and Gujarat by use of force. They advocated violence. A call was given to the army and the police to disobey lawful orders. Then, on top of it there was the unfortunate assassination of Shri L. N. Mishra, a good friend of mine and there was an attempt on the life of the Chief Justice of India. The country was in turmoil both politically and economically.

Then, on the 12th June, the judgement of the Allahabad High Court gave them a handle and they used it as a detonator to blow up the country. What should the Government do? Will the Government be a helpless spectator or take such preventive steps as are necessary to avert the danger to our democracy and the country? That is why, the proclamation of Emergency was made on the 25th June, 1975. Earlier proclamations of Emergency were because of threats of external aggression, and the Defence of India Act and the Rules made thereunder were passed in 1962 and in 1971; MISA was also passed and the provisions were lenient. When the external

aggression is there, we know who the enemy is and we can defend our borders, but when the internal sabotage and disturbance is there, it is difficult to know who is the enemy and who is the friend. When the political parties want to take advantage of the situation, subvert the democracy, subvert the Constitution and blow up the country, stringent measures are necessary. That is why, MISA clauses and Sections had to be slightly amended and made more stringent. Now the judicial review has been taken away. Nevertheless, there is a review. When the officers of the State Governments issue detention and order, that is reviewed by the State Government and the State Government's orders are reviewed by the Central Government; it is not that there is no review. It is no Draconian in that sense. It is a harsh and stringent measure, I quite agree, but the situation warrants that. It is, however, a temporary measure as stated by the Home Minister.

SHRI INDRAJIT GUPTA (Alipore): Where is the provision for review at the state Government level and then at the Centre?

SHRI JAGANNATH RAO: In an Emergency, wide powers are given to the executive. We should have confidence in the executive. Even the judicial powers cannot be exercised. The Supreme court held in one case:

"...an objective fact can be left to the subjective opinion of a specified authority and in any event, an objective fact can be determined administratively and not necessarily quasi-judicially."

Therefore, it is not correct to say that there is no remedy open to a person who is detained. In place of judiciary, the executive reviews the order. When it reviews, naturally it should take into consideration the guidelines which

[Shri Jagannath Rao]

have been laid down by the Supreme Court earlier.

According to the first amendment to MISA, the grounds of detention need not be given to the detenu, but the court held that though the detenu may not get the reasons, the Court is entitled to see it. Therefore, that clause became infructuous, and amendment was necessitated so that even the court is not entitled to know the reasons, otherwise when the court can get the reasons, some people can be let off on some technical reasons. If you want to use the Emergency Effectively the remedy also should be effective, though I quite concede that it is harsh and stringent.

It is also contended that these powers are likely to be misused and some instances have been given. The Prime Minister has been saying that these powers should not be misused, but these should be judiciously exercised. The Supreme Court held in Makha Singh's case that the argument that during the operation of the Presidential Order under Article 359, the executive may abuse its power and the citizens would have no remedy is essentially political, and its impact on the constitutional question is at best indirect. The effective safeguard against abuse of executive powers in peace or in Emergency is ultimately to be found in the existence of an enlightened vigilant and vocal, public opinion. We should, therefore, be careful to see that the powers are not misused and should bring to the notice of the Government if there is any case of misuse.

In the Emergency, the executive is given wide powers and it is for the executive to say, how long the Emergency should continue and what restrictions should be placed on the liberty of the individual. Even the

Fundamental Rights enumerated under Article 19 are subject to reasonable restrictions during normal times. In extraordinary and abnormal times, stringent measures are necessary. It is not that unfettered rights of freedom are given to the individual. National security prevails over individual rights. The Supreme Court also held in the same case—Makhan Singh's case:

"How long the Proclamation of Emergency should continue and what restrictions should be imposed on the fundamental rights of the people during the pendency of Emergency are matters which must inevitably be left to the executive, because the executive knows the requirements of the situation and the effect of the compulsive factors which operate during the period of great crisis...."

Therefore, it is the executive which is the ultimate authority to decide and as I said, we should have confidence in the executive and the central executive being the superior body, we can trust the executive and see that the powers are not misused; that they are sparingly used and the purpose of imposing emergency is achieved.

Now, Mr. Indrajit Gupta said. "The same question is being adjudged in the Supreme Court. Why not wait for their decision?" He has overlooked the fact that ordinances have been issued and unless they are replaced by necessary Bill they will lapse. Therefore, this law is necessary and whatever be the decision of the Supreme Court, that will prevail.

So, I will say the ball is now in the court of the Opposition. Let the Opposition create a climate of peace and tranquillity in the country and see that there is no necessary to use these powers. The ball is in your court. Create a congenial atmosphere and see that this weapon cannot be used against anyone. It has not been

used against opposition political parties. It has been used even against some of our own members who are wrong-doers and law-breakers. Therefore, let us create a climate in the country where the executive may not have the necessity to use it against anybody.

श्री आर० बी० बड (खरगोन) मरननीय अद्यक्ष महोदय, आन्तरिक सुरक्षा कानून में जो सशोधन यहाँ पर लाया गया है मैं उसका विरोध करने के लिये खड़ा हुआ हूँ। इसका कारण यह है कि कितनी रस्ती बाधनी चाहिये थी उस में ज्यादा उम्होंने बाँध दी है। इसके लिये कोई रीजन्स भी नहीं पूछ सकता है। हर एक नागरिक को यह अधिकार है कि उसे क्यों पकड़ा गया है उसका कारण जान सके। मझे एक मिनेमा की याद आ रही है किम में दिखाया गया था कि स्टार चैम्बर के वारंट निकले थे और उन का कोई रीजन नहीं बताया गया था। लोगों को पकड़-रकड़ कर इन्ड के टावर में रख दिया जाता था। लाई आगे-आगे भागने थे और वारंट वाले उन को पकड़ने के लिये पीछे भागने थे। वैसे ही स्टार चैम्बर के वारंट की तरह मिना के वारंट भी आ गए हैं। राम राज्य कहते-कहते रावण राज्य आ गया। अब जो सीमा के वारंट निकलते हैं उन में इतना अन्याय होता है कि कोई पूछने वाला नहीं है। अभी मेरे पास एक टेरीग्राम आया हुआ है जिसमें लिखा है

"We have lodged complaint to Government against Dewas Police atrocities on Satyagrahis at present during investigation local police has encircled village Bhootpya...."

अब आप बताइए वह किम के पास जा कर रीजे मुझ से पूछा कि आप क्यों नहीं पकड़े गए तो मैं ने कहा इंदिरा जी की कृपा दूसरे भगवान की कृपा और तीसरे

आप की गुड विशेष है, इसलिये पकड़ा नहीं गया हूँ। और अब बड़ापा तो है ही। लेकिन हमारी पार्टी ने नेता श्री अटल बिहारी वाजपेयी और जोशी जी दोनों को पकड़ कर जेल में रख दिया है। अब हमारी पार्टी में कोई बोलने वाला नहीं है। (अध्वखान) . . . जितने जोर से वे बोलते हैं मैं उतने जोर में नहीं बोल सकता। इसलिए मैं कह रहा था कि मिना के वारंट की जो तामील की जाती है उसमें इतनी एट्रॉसिटी होती है जिम का कोई जवाब नहीं और फिर उसके खिलाफ कोई सुनने वाला रहना नहीं है। कोर्ट में जा नहीं सकते। पुलिस में गए तो कहेंगे हम क्या मदद करें, प्राइम मिनिस्टर से जा कर कहिए। अब प्राइम मिनिस्टर के यहाँ इतने पहुँचदार है कि वहाँ कोई जा नहीं सकता है। वहाँ पहुँचने के लिए पहले किम के पास जाना है, क्या करना है यहाँ सब से बड़ा मवाल होता है। तो मैं इस सशोधन विधेयक का विरोध करता हूँ और होम मिनिस्टर से कहना चाहता हूँ कि वे इस को वापस ले लें।

SARDAR SWARAN SINGH SOKHI: (Jamshedpur). Mr. Speaker, Sir, I welcome the Maintenance of Internal Security (Amendment) Bill, 1976 which became necessary due to certain circumstances in which the Government had no alternative but to further amend section 3 and 14 of the Maintenance of Internal Security Act, 1971.

It was necessary to strength the hands of the administrative machinery during emergency and these amendments were essential to maintain the internal security of such a vast country of ours, because cases of sabotage were apprehended which might have been caused by certain political people which would have resulted in the complete dis-integration of our country.

[Sardar Swaran Singh Sokhi]

Some goonda and other undesirable elements were also trying to create disturbances in the country and that is why the emergency also became necessary, otherwise there would have been anarchy and chaos because these people were trying to take undue advantage of the leniency of the Government towards them, just to bring them to the right path

Due to enforcement of MISA and Emergency our Prime Minister has saved our country from a disaster which might have brought slavery to the country again and God alone knows what would have been the fate of our country which get independence after hundreds of years with tremendous sacrifices—and thus saved the country from catastrophe

If the internal security of the country would not have been maintained by enforcing this Act I have no doubt that the destructive elements might have achieved their goal and there was every chance of anarchy in the whole country and possibly civil war which would have been very difficult to control at that stage

These amendments to the MISA 1971 will make the act more effective and would help the innocent people and the officers will have more time to make thorough investigations because the idea is that law-abiding people should not get unnecessarily involved. The MISA is meant for such people who are trying to harm the country and hamper the economic development of the country who are under the influence of certain vested interests and are at present behind the bars which is the right place for them for their misdeeds

The revocation of the detention should be done only when the Government is fully satisfied that the persons held were innocent because there are many cases where detentions

against certain persons were revoked and after their release they indulged in bigger violations and crimes and had to be re-arrested. So this should be strictly adhered to

The countries who want to see India slave again and the people creating mischief in the country under their direct or indirect instructions should be ruthlessly dealt with and should not be granted pardon lest they should again come out from their cells and do bigger mischiefs than before

The grounds of detentions should never be disclosed for dealing effectively with emergency otherwise it would prejudice and harm the very concept of the act and would not be in the larger interest of the country and the people arrested should be kept behind bars till normally prevails in the country and the emergency should continue till such time

There are still many IPS and IAS officers in the States and in the Centre who are communal minded and are hindering the strict enforcement of the MISA and emergency resulting in bringing bad name to the Government. I have reported one or two such cases to the Prime Minister. I would therefore suggest that the Government should be vigilant and such officers should be dismissed at the earliest. Immediate action should be taken whenever such cases are reported by hon. Members of Parliament. I am sure if the MISA is strictly enforced under the guidelines impartially it would achieve its desired results and even the opposition would have no chance of any complaints. With these words I support this Bill

13 00 hrs

SHRI S R DAMANI (Sholapur) I rise to support this Bill very strongly. I listened to the views expressed by my friend sitting in the opposition. In

the beginning I will say this. The activities of some of the opposition parties have compelled this Government to bring this drastic measure. Our Government has great responsibility of developing this country, making this country stronger and stronger, creating more employment opportunities. We have won freedom after long struggle. We have passed through only 25 years so far. It is very essential that our development programmes should continue. Some of the opposition members and parties were not of this view. They wanted that the Congress government should not be successful and they wanted to create problems for them. That was the reason why Government was compelled to bring this measures.

Some Members said that excessive power is likely to be used by executive officers in a different way. There have never been instances where such excessive power has been used by them. On the other hand, there are hundreds of cases where executive officers, government officers, have been suspended, retired from service, or action taken against them. In some cases, departmental action has been taken against them. Government is very watchful in seeing that these officers work sincerely and give justice. Anybody can charge anything but it is difficult to prove it. It is very easy to say anything. Ours is a vast country, a very big country and we have to work hard for its progress.

There are a certain sets of facts which I wish to place before you. Have you seen the condition of the railway workers and railway efficiency before the emergency and after the emergency? We saw the strike in 1974 by railway workers. They wanted that the entire railway functioning should be brought to a halt. But since this emergency see the condition. Trains are running at 97 per cent punctuality. Previously there was the

cry of shortage of wagons. Now wagons are there. Loading is going on.

13.04 hrs.

[MR. DEPUTY-SPEAKER in the Chair]

There is no complaint from either the thermal power stations or industries or agriculturists that they are not getting wagons. This changed situation has brought more revenue to the Government, to the Railway Administration and this has enabled them to take care of their financial position. This is one improvement. I am comparing the conditions they have created and what achievements have been made after the emergency. Take, for instance, steel plants. Our steel plants were always suffering from inter-union rivalries. The capacity was not more than fifty per cent. In Durgapur, for example, it was as low as 38 percent. The total production expected was less than 5 million tonnes. Now, after the emergency.... (Interruptions).

MR. DEPUTY-SPEAKER: Just a minute. I think he is trying to make out a case why he supports this particular Bill.

SHRI INDRAJIT GUPTA: He is making out why emergency became necessary. There is a specific Bill here. You talk about that.

MR. DEPUTY-SPEAKER: Just a minute, I think this Bill is very much connected with the emergency. I would be very very happy. . . . But my difficulty is this. Always I try to ensure that Members speak within the scope of the Bill. But, whenever I try to do that, I get into trouble. It is better to be flexible.

SHRI S. R. DAMANI: After this action was taken, the production in steel plants has gone up by one million tonnes.

SHRI INDRAJIT GUPTA: Because of emergency?

SHRI S. R. DAMANI: Because of discipline. There is fear.

MR. DEPUTY-SPEAKER: Mr. Damani, you have taken about six minutes. Now, say something about the Bill.

SHRI S. R. DAMANI: I am coming to that. As regards achievements, the country has benefited by exporting the extra steel produced to foreign countries.

MR. DEPUTY-SPEAKER: What are the provisions in this Bill? And how they should be enforced? Please come to that. You do not have much time. Please come to the point. We have very limited time.

SHRI S. R. DAMANI: After all, the Bill is pertaining to bringing in discipline. Therefore, I am saying what are the achievements, what the Bill is going to achieve and why was this Bill necessitated?

MR. DEPUTY-SPEAKER: What is the Bill going to achieve? What are the provisions of this Bill?

SHRI S. R. DAMANI: All this indiscipline which we witnessed in some sectors has now come to a standstill. Take the case of banks. What were the conditions before and what has happened to them now? I am putting the bare facts.

MR. DEPUTY-SPEAKER: Now I will have to draw your attention to this country. We are not discussing the state of the situation in the country: we are not discussing the emergency itself. It has become a fact of life. We are discussing this particular Bill and the provisions of this Bill specifically that the grounds of detention will not be disclosed to anybody including the person who has been detained. What have you got to say about that?

SHRI S. R. DAMANI: All the previous Members have charged the Government for all these actions.

MR. DEPUTY-SPEAKER: Please come to the Bill.

SHRI S. R. DAMANI: My friend, Shri Indrajit Gupta who had spoken yesterday touched one or two points.

MR. DEPUTY-SPEAKER: Kindly conclude now.

SHRI S. R. DAMANI: Therefore, what I submit is this. The present situation has come about on account of this emergency.

MR. DEPUTY-SPEAKER: Now you will please conclude. You have taken more than ten minutes.

SHRI S. R. DAMANI: Therefore, I...

MR. DEPUTY-SPEAKER: Therefore, you support the Bill.

SHRI S. R. DAMANI: I support the Bill. You are not allowing me to express my views on the advantages...

MR. DEPUTY-SPEAKER: I have given you enough time.

SHRI H. M. PATEL (Dhandhuka): Mr. Deputy-Speaker, the original Act, the Maintenance of Internal Security Act, was bad enough, and now by three ordinances the position has been made infinitely worse. The original thing was bad enough because it meant detention without trial. Detention without trial is only justifiable in exceptional circumstances. It was said that there were exceptional circumstances, when the original Act was being considered. Now it is said that those exceptional circumstances have become even more exceptional so exceptional that they have thought it necessary to bring in

these amendments under which they do not wish even to allow people to go to courts, this making the entire thing nonjusticiable. They do not wish even to tell the persons concerned what they are accused of, on what grounds they were being detained. Nobody is to be informed of all this. Why? All in the name of security of the state, that if those reasons were known, the security of the state would in some mysterious way, be endangered!

What circumstances were there which led to the Proclamation of Emergency, following upon which these steps were taken? Were they such as to really endanger the security of the state? It is said that there was some intention to launch satyagraha. Since when has satyagraha become so untouchable? Why do you consider that satyagraha is something that will endanger the security of the state? It was with the help of satyagraha that the freedom struggle was won. You may say that the reason for which satyagraha was to be launched was not satisfactory, was not acceptable to you. Are not these steps that you are taking not something against which all along, during the freedom struggle, our leaders had protested most violently? The British were called all sorts of names for arresting people, detaining them and not bringing them before the court. You have now decided to all that and more.

During the Constituent Assembly debates also, this was specially emphasised and these special powers were considered most dangerous. Nevertheless, administratively I would say it was a wise decision to retain such powers, to retain authority for the Government to exercise certain powers during an emergency. But I do not think anybody ever imagined that the emergency would be so misinterpreted and the spirit behind the special provision in the Constitution would

be so abused. However, this is being done.

Not only that. The detainees are being treated as convicts or criminals. How far is that justifiable? I think Government should take serious note of the fact and explain to this House why they considered that the political detainees should be treated on par with convicts and given the same treatment as they gave to criminals.

During the freedom struggle, the British readily gave special and considerate treatment to political prisoners, to those who were fighting against them for freedom. Now you do not recognise that and the treatment that is meted out is something inhuman, barbaric; and no matter what representations are made, Government does not give the slightest consideration to them. Therefore it is that the whole scheme of things, whole scheme of legislation is most dangerous. Authority is given to subordinate officers to take drastic steps such as those of detaining people without having to disclose whatever reasons they may have for so doing why should these reasons not be disclosed? Who is going to judge that the reasons are adequate or satisfactory? Has the Government set up any particular machinery which examines such detentions and satisfies itself that they are proper and not mala fide. It is true there is provision for review. But what kind of review is being carried out? How does the Government here in the Centre carry out this review? On the basis of what evidence and data? How much and in what detail does it go into each case or does it merely put its rubber stamp on every proposal, every action taken for detaining a person and depriving him of his liberties? It seems to me that the Government is rapidly moving towards a totalitarian concept of politics, of Government, of State; it is certainly behaving in that way. How else can

— [Shri H. M. Patel]

one describe the decision that was taken at the latest Congress session? What was being talked about, what was virtually agreed upon was equating the ruling party with the state. What does it mean? That this is to be a one-party state? Certainly all actions that are now being taken ever since the declaration of the emergency are to prevent the opposition parties from functioning freely as political parties.... (Interruptions). It is absolutely correct; is clear that because of such actions, you are proceeding to the next logical stage, that there is to be only one party, the ruling Congress party, which is to be equated with the State. What does that mean? It means that we are almost the penultimate stage towards a totalitarian State. If that is so, why not say so? Why not say that this is what you are aiming at. At least we would then know where we stand and the public would also know where they stand. But you say all the time no, we have not forsaken democracy, we are doing all this in order to preserve democracy in this country. Democracy has to be preserved by depriving people of their basic rights. If you read how the Government advocates are arguing before the Supreme Court at this very moment even you would realise how sickening are their arguments. What do they say? That no citizen of this country has a right to life or liberty; no citizen has the right to question anything that may be done, however arbitrary.

In fact, it is here in this Act itself. There is one provision here that says that no person including a foreigner detained under this Act shall have any right to personal liberty by virtue of natural law or permanent law, if any. For you, for the Government there exists no natural law, no natural justice, no justice of any kind

whatsoever, natural or formal. The Constitution has no meaning for you except to misrepresent it and it is a great tragedy that the Government lawyers should be arguing with such sickening sophistry.

On the economic front, the Government is to be complimented on the fact that they have been able to check inflation and that is the one major achievement on their part. But was it the emergency that enabled you to check inflation? All those steps that led to the checking of inflation were irrespective of emergency and irrespective of any step that you have taken under emergency. It is a very gratifying thing that at long last, it is realised that productivity is of great importance and for the maximisation of that productivity, you have taken some steps. But alas they are such hesitant steps that instead of there being a tremendous booming economy, today, in a year when the monsoon has been most favourable and agricultural production has been exceptionally good, in such a year the economy is stagnant. The economy is stagnant only because you are not taking further steps that are necessary and which alone would enable you to cash in on the steps that you have taken so far. What are the reasons for this hesitation? Does emergency come in the way of this? Is it necessary to detain more people in order to do this? But if you need emergency in order that your productivity should increase, in order that people should behave in a disciplined way, then I am afraid you are doomed to disappointment.

SHRI SHYAM SUNDER MOHAPATRA (Balasore): Mr. Deputy Speaker, Sir, the Maintenance of Internal Security Amendment Bill 1976 is yet another feather on the cap of our Government. Sir, the word MISA has become a terror to the anti-social

elements, to those who want to subvert our economy, our political activity and that is precisely the reason why many of the people who are hand in glove with those people are today so much against this Bill. Sir, the Central Government has a duty to perform as far as this Bill is concerned. Any State Government which detains a person under this will have to refer it to the Government of India. When any order of detention is made by a State or by an officer subordinate to it, the State Government must report to the Central Government in respect of the order. I have every reason to believe and I have every confidence that the hon. Minister for Home Affairs and our esteemed Prime Minister will go in to the detail.

Mr. Deputy-Speaker, Sir, our country is now passing through a transition from one economic order to the other from a feudal or capitalistic society to social order and during this transition, such a bill is very much required to curb the anti-social elements.

Even in Communist Russia, during Stalin's time thousands of people were sent to Siberia and put in concentration camps and so many sins were committed by the Minister for the Interior, which have been exposed by historians. In India persons who were speaking on behalf of the people, like Jayaprakashji and others, were going to create chaos in the country, which would have led to a situation from which there would have been no return. I remember in 1950 when China was passing through a transition period, I was in Calcutta University and on behalf of the India-China Friendship Committee Prof. Tripurari Chakravarti and Nirmal Bhattacharjee visited China. They saw that the anti-social elements and other persons who were going to subvert China's economy were sent to concentration camps. Mr. Mao Tse-tung said, "We are passing through a

stage of democratic dictatorship. It is democracy for the people and dictatorship for the anti-socials and those who want to subvert the integrity of the country." The Professor of Political Science was surprised to hear that. So, if we have a limited censorship and regimentation today, it is for the welfare of the people. If you say it is dictatorship, it is dictatorship of the people against hoarders, blackmarketers and those who want to subvert our economy and political integrity.

I have a word of caution about the bureaucracy and the police. In this transition stage, the police and the bureaucracy have to function with the utmost responsibility. I also have a feeling that in the bureaucratic and police set-up, there are some black-legs who probably within themselves want that this Government should become unpopular. So, without reason, for personal vendetta and self-aggrandisement, they apply MISA against some people. Here the Government has to perform its duty in a very responsible manner. I know in Orissa and other States also, there are Superintendents of Police whose records are not very good and who arrest persons without reason. I know a Superintendent of Police who was having dinner with somebody. Between June and now, certain anti-social people who were against the Government should have been arrested, but they were not arrested. But when certain persons suddenly became anti-Police Superintendent, they were arrested under MISA. Here the personal factor comes in. I hope the hon. Minister and his deputy will exercise their discretion in a proper manner and see that such police officers are pulled up, so that it may serve as an example to others. We cannot change the police and bureaucracy overnight, but we have to see that they are pulled up and made to act in a manner that the Government will be popular. Let us not for-

[Shri Shyam Sunder Mohapatra]

get that even foreign plenipotentiaries, diplomats, Presidents and Prime Ministers who have come to our country have praised the emergency. Though the BBC and other foreign news media were against us for some time, now they have realised that Shrimati Indira Gandhi had no other alternative and this Government had acted in the wisest manner possible to eradicate corruption and racketeering by imposing emergency.

In a state of affairs like this I have to support this Bill, although in the beginning I did not like it. Many of us Congress MPs did not like that a person should lose his liberty and not be able to know for what reasons he has been arrested. But when I saw this country going to chaos because of the actions of a few people who did not believe in non-violence and constitutional means, I realised that there was reason for this Government to impose emergency and take the other measures which it has taken. Let some of us lose our personal independence, if that is good for the country and for the welfare of the teeming millions and for ushering in a society of plenty and prosperity and socialism. With these words, I support the Bill.

SHRI P. G. MAVALANKAR (Ahmedabad): Mr. Deputy-Speaker, Sir, I rise to oppose this Bill and I do so with all the earnestness and sincerity and force at my command.

In 1950, this august House, a provisional Parliament it was known then, passed, what is called, Preventive Detention Act and from that Act in 1950 to the latest amendments which the Home Minister has sought to bring before this House today in 1976, there has been a long, arduous and a very dangerous journey. One by one throughout these 26 years, this Parliament has been asked to make legislation corroding and eroding the civil

liberties and rights and freedoms of the citizens of this country.

Sir, if you remember, in the last emergency session that was held in July, 1975, I had objected to leave being granted to the Home Minister even for introducing a similar Bill amending the Maintenance of Internal Security Act by the earlier two Ordinances which Government had promulgated on June 29 and July 15, 1975. Later on, the Government came out with two more ordinances, one on the 16th of October and the other on 17th of November last year. Even on these earlier two amendments of the MISA I had requested the House not to give leave to the Home Minister for introduction. Of course, it was introduced because of the vast majority on the other side. When several of us on this side of the House withdrew on 23rd July from further proceedings, I found later on that the House immediately passed that law, draconian that it was!

My worst fears have thus come true. Sir, let me say at the outset: this draconian, dangerous and dirty piece of legislation has given a death blow to all norms of decency and to all civil and political liberties and freedoms of individual citizens of this country.

Now, Sir, take the two amendments which the Home Minister wants to bring before this House. What is the nature of those amendments? Those amendments are the direct attack on the right to life and liberty of the individual citizen.

Sir, the liberty of a person is a very sacred thing; the liberty of an individual is a private thing, and it is valuable because he wants to do some public good, and the State has no right to encroach upon those liberties and rights except through lawful and constitutional methods, and thereafter also, the Government's action, if challenged, is something which is bound to

be reviewed by the highest courts of law that are available. Therefore, when these rights which are valuable are sought to be removed, what else can we do except to oppose them tooth and nail? This MISA and its application has been a flagrant violation of the constitutional provisions and the rights and liberties of the citizens as enshrined in the Constitution.

Sir, the Government do not reply to our questions pertaining to Government's action in arresting and detaining countless citizens. When I gave notice of a question as to how many persons were arrested under MISA, the answer given to me by the Lok Sabha Secretariat was: "Your question is not allowed"! Has the Parliament for this country no right to know at least the number of persons who have been arrested? But we are told that this information cannot be supplied. Why? Because it is not in the interest of the State. Look at the Home Minister's Statement of Objects and Reasons. He says that all these amendments are necessary in the larger interest of the State. What is the larger interest of the State? I have a book here by one leading jurist, Shri Jagadish Swarup. He is an Advocate and former Solicitor-General of India. Reading this book 'Human Rights and Fundamental Freedom', in 1976—and it was published just last year in 1975.—I must say, it makes a very distressing and amusing reading. One feels as though so much time had elapsed between the publication of this Book last year and the extension of liberties today that the Book has suddenly become, as it were, irrelevant and out of date! Sir, Shri Jagadish Swarup rightly says that when a legislature passes any preventive detention law, it is not adjudging in advance the crime or the guilt of the offender, but it only empowers the State with certain extraordinary powers to detain a person because of the argument of the State that a particular person may do something wrong or harmful which

may be prejudicial to public good and law and order of the country. But ultimately that has to be proved before an independent agency, and if it is not proved in a court of law, then the Government cannot go on accumulating powers after powers in a most arbitrary fashion and in a most cavalier way, and come to Parliament with more amendments and ordinances telling the country through Parliament that they want these amendments. Therefore, I say that Government's action in detaining people without showing any cause, without any provocation from the detenu, without any conviction through the properly established channels of law as laid down in our Constitution, all these Governmental actions are arbitrary. The Home Minister says that he has legal difficulties and certain other difficulties in administration.

Sir, this smacks of dictatorship; this language smacks of authoritarianism; this language smacks of totalitarianism. It is always so, when the Governments find it awkward, inconvenient and difficult to implement, they say, "let us get rid of these difficulties and awkwardnesses." Why? Because they can't do as they liked. Mr. Deputy-Speaker, Sir, we still remain in the old order. "I am the monarch of all I survey?" Have we not progressed in this country or elsewhere in the world where democratic States are enriching the citizens with more and more rights against the States? Therefore, I want to ask the Home Minister, Shri Brahmananda Reddy: "Does he and does his Government want to rule without any basis of the Rule of Law?" The last two amendments brought by way of ordinances and armed by way of their retrospective application are included to circumvent and circumscribe the authority, role, jurisdiction and contribution of the courts; and they make nonsense of judicial review; nay they eliminate it altogether. Sir, the Home Minister says that these are necessary, because there are certain administrative diffi-

[Shri P. G. Mavalankar:]

culties. I want to ask him: "What are these difficulties? Why are you not able to give grounds?" Sir, if you treat the grounds as confidential, i.e., confidential from the detenu, I can perhaps understand because it may be in the interests of the nation. But, are they also confidential also from the point of view of the judges knowing them? By these amendments, if you make the grounds not available even to the courts, it obviously means that not only the Government have no ground, but even if they have the ground, they want to conceal it; and my charge is that these two amendments are trying to legalize the Government's concealment of these grounds. They have no right to conceal those grounds from the courts, because it is illegal, unconstitutional and not provided for in our Constitution. Sir, with your permission, I will read out only the first paragraph—not the whole of it—of Article 226:

"(1) Notwithstanding anything in article 32, every High Court shall have power, throughout the territories in relation to which it exercises jurisdiction, to issue to any person or authority, including in appropriate cases any Government, within those territories directions, orders or writs in the nature of *habeas corpus*, *mandamus*...."

Now, I want to ask the Home Minister: "Does he not, through these two latest amendments want the eradication of Article 226 from our sacred book, the Constitution?" The Government cannot do indirectly, what they cannot do directly. If they have guts, let them come before Parliament and say that Article 226 is out of the Constitution; but they dare not say that. So, instead of saying that, they are coming through these mischievous, malicious amendments and are telling the Parliament, and through the Parliament are telling the country, that these amendments are necessary in

the interests of the State. Sir, I want to suggest that this is nothing short of stultifying the High Courts and stultifying the judicial review—and destroying it—that is available in our Constitution.

I am concluding in a few minutes. Article 226 talks of *habeas corpus* which I mentioned, what is *habeas corpus*? It is nothing but a demand of the body of the detenu right before the court of law. The English people are proud in inventing this wonderfully good and sacred right of the individual's privacy, his liberty and his freedom. Then, therefore, this is an ancient right; and the English people are rightly proud of it. In the Continent they have taken it; in America they have taken it. We have taken it under Article 226. What does *habeas corpus* mean? It only means, let us have the body. When a man is detained in England not only do the relations and lawyers have a right to appeal on his behalf; but when the appeal is heard in a court of law—I hope, Sir, you know—the English courts make it obligatory for the detenu to be brought before the court. Why? Because in case the court says that the detention is illegal, then not a minute must be wasted between the court's pronouncement and the man's release from the jail. Therefore, he is brought physically in the court and a judgement is given by the law court. That is why, Sir, the British are naturally proud; and, therefore, the Englishman can say that his house is a castle in which nobody can enter without his permission.

Now, Sir, I know I should not speak for long; because even if I speak longer, Government is going to pass these amendments with its huge majority. But I want this matter to go on record, that the judicial review is a thing which is part of the basic structure. If the Supreme Court's judgment in the Kesavanand Bharati case still holds water, and it certainly does so, then the basic structure of our Constitution

cannot be altered, either by constitutional amendments or by any kind of legislation. My charge is that this particular Bill is doing exactly that.

What is then the remedy? The remedy is not ultimately in the pages of the Constitution, or in the hands of the Supreme Court. Ultimately, when man's liberty is destroyed, the remedy is in his own determination to fight against that destruction. Judge Learned Hand of the United States of America, a very learned and eminent and highly respected jurist, said in his book *The Spirit of Liberty* something very relevant in this context. I will quote two very marvellous paragraphs from this book. He says:

"I often wonder whether we do not rest our hopes too much upon constitutions, upon laws and upon courts. These are false hopes, believe me, these are false hopes. Liberty lies in the hearts of men and women; when it dies there, no constitution, no law, no court can save it; no constitution no law, no court can even do much to help it."

He says further:

"What then is the spirit of liberty? I cannot define it; I can only tell you my own faith. The spirit of liberty is the spirit which is not too sure that it is right; the spirit of liberty is the spirit which seeks to understand the minds of other men and women; the spirit of liberty is the spirit which weighs their interests alongside its own without bias; the spirit of liberty remembers that not even a sparrow falls to earth unheeded; the spirit of liberty is the spirit of Him who, near two thousand years ago, taught mankind that lesson it has never learned, but

has never quite forgotten; that, there may be a kingdom where the least shall be heard and considered side by side with the greatest."

The Prime Minister in her latest press interview given to the French news agency and published this morning says that she wants democracy to stay in the country and that she does not envisage any major changes or alterations in the Constitution or in the parliamentary system. Well, if this is so, then I appeal to her and to the Government that they should do nothing which will destroy the basic structure of our Constitution. Also, the rights and freedoms of citizens as enshrined in our Constitution must remain intact.

श्री सचिन चव्हाण (टीकमगढ़) :
उपाध्यक्ष महोदय, जो संशोधन विधेयक प्रस्तुत किया गया है, उसका मैं समर्थन करते हुए अपने विचार प्रकट करना चाहता हूँ। अभी विरोधी-पक्ष की ओर से जो तर्क प्रस्तुत किये जा रहे थे कि हमारे अधिकारों पर कुठाराघात किया जा रहा है, मैं उनको याद दिलाना चाहता हूँ कि एक राजनीति के विद्वान ने कहा है कि—

"Liberty involves right and right demands State".

जब कोई व्यक्ति अपने अधिकारों के लिए दूसरों के अधिकारों का हनन करता है तो राज्य बीच में आता है। हमें वे दिन याद हैं जब 1972-73 में हमारे देश में सूखा पड़ रहा था। उस समय लोगों को अन्न के अभाव में बहुत कष्ट उठाना पड़ रहा था। गरीबों को पानी तक भी नहीं मिल रहा था। जो लोग आज जनता के अधिकारों की चिन्ता कर रहे हैं, उन्होंने उस समय रेल की हड़ताल कराई थी। क्या उस समय उन गरीबों के अधिकार उनके सामने नहीं थे। उन्होंने कारखानों के लिये कोयला नहीं जाने दिया।

[श्री नत्थूराम अहिरवार]

उम समय मैं आसी मे था। इजीनियरो ने 6 जनवरी को हड़ताल की, जब कि किसानों के खेतों में पानी देने की आवश्यकता थी।

आज शिकायत की जाती है कि मीमा का उपयोग विरोधी दलों के विरुद्ध किया जा रहा है। मैं निवेदन करना चाहता हूँ कि आज देश के लोगों में बहुत चैन है। पहले सरकारी कर्मचारी दफतरो में समय पर नहीं जाते थे और नियमों के अनुसार काम नहीं करते थे। इसके कारण लोगों को बहुत परेशानी का सामना करना पड़ता था। यही स्थिति कच्चाईयों में भी थी, लोगों को दो-दो दिन तक पेशी नहीं होती थी। लोग मुबह से लेकर शाम तक वहाँ बैठे रहते थे लेकिन कोई उनको पूछने वाला नहीं होता था। बाबू लोग अपना भत्ता बनाने में लगे रहते थे। बाजार बन्द होने की वजह से लोग गल्ला और अन्य आवश्यक वस्तुएँ नहीं खरीद पाते थे।

विरोधी पार्टियों के लोग गाँव में जाकर किसानों से कहते थे कि सरकार तुम्हारा गल्ला मस्ते दामों पर खरीद रही है। इन्होंने उसको गल्ला न बिके। मैंने भी आकर ब कहते थे कि सरकार बाजार में गल्ला नहीं आने देती है। इन लोगों ने देश में असंतोष की आग भड़काई। जब सरकार ने उचित कार्यवाही की तो आज ये लोग अधिकारों की मांग कर रहे हैं। पहले अगर किसी को लड़की पढ़ने के लिये स्कूल जाती थी तो उसको यही चिन्ता रहती थी कि क्या वह पढ़कर सही सलामत वापस भी आ जायेगी या नहीं। ट्रेनों की चैन-पुलिंग भी बहुत होती थी, जिसके कारण यात्रियों को बहुत असुविधा होती थी। स्कूलों और दफतरो में अनुशासन नाम की कोई चीज नहीं रह गई थी। विरोधी पक्ष के नेता ही उस समय अग्रगण्य थे। जो लोग भ्रष्ट थे वे लोग यहाँ बड़े जलूस में बोट क्लब पर आते थे और प्रजातन्त्र की मांग

फते थे। मैं कहना चाहता हूँ कि हमारे मित्र जनता के सामने जाये और उस से पूछें कि क्या इमर्जेंसी जरूरी है या नहीं। मैं समझता हूँ कि परसेट आदमी भी ऐसे नहीं मिलेंगे जो कहेंगे कि इमर्जेंसी जरूरी नहीं है।

हमने देखा कि विरोधी पक्ष के लोग अपने देश के चेहरे को, अपने देश के चित्र को, दूसरे देशों के सामने बिगाड़ कर रखने का प्रयत्न कर रहे थे। वे देश को मजबूत नहीं बनने देना चाहते थे। जब प्रधान मंत्री ने "गरीबी हटाओ" का नारा लगाया, तो उन्होंने यह प्रयत्न किया कि देश में उत्पादन न होना पाय, कारखाने न चलने पाये, क्योंकि अगर उत्पादन नहीं होगा, तो महंगाई बढ़ेगी, जिस के फलस्वरूप जनता के असंतोष में वृद्धि होगी।

आखिर इमर्जेंसी से नक्सलान किम को हुआ है?—इस से नक्सलान कुछ ही लोगों को हुआ है। जो लोग दफतरो में काम नहीं करते थे, जो भ्रष्टाचार करते थे, जो स्मगलिंग और चोर-वाजारी करते थे, उन का वाकई बड़ा नक्सलान हुआ है। और उन्हीं की वकालत यहाँ हो रही है, क्योंकि उन से इन दलों का बड़ी सहायता मिलती थी।

यह ठीक है कि कहीं कहीं इस का दुरुपयोग हुआ है और इस लिए मैं होम मिनिस्टर साहब से कहना चाहता हूँ कि उन्हें सरकारी अधिकारियों के प्रति बहुत सतर्क रहना चाहिए और शासन की सारी बागडोर उन के हाथ में नहीं माप देनी चाहिए। कुछ सरकारी अधिकारी ऐसे हैं, जो सरकारी नीतियों की आलोचना करने हैं और विरोधी पार्टियों के लोगों को गुप्त सूचना देते हैं। यह भी देखा गया है कि अगर कुछ व्यक्ति मीमा के अन्तर्गत पकड़े गये हैं, और बाद में गलत तौर पर पकड़े लोगों को छोड़ा जाता है, तो वे अधिकारी उन लोगों को भी छोड़ देते हैं,

की वास्तव में बोधी होते हैं और जिन को एकजना सही होता है।

1 इस लिए मंत्री महोदय से मेरा अनुरोध है कि अगर किसी अधिकारी के विरुद्ध भ्रष्टाचार वा अक्षता की शिकायत की जाती है, तो उस के विरुद्ध सबत एक्शन लिया जाना चाहिए। मध्य प्रदेश ने 3500 सरकारी कर्मचारियों को भ्रष्ट आचरण के आरोप के कारण नौकरी से निकाल कर एक उदाहरण प्रस्तुत किया है। इस तरह नये मौजवानों को सरकारी नौकरी में प्रवेश कर के काब करने का मौका दिया गया है। आई० ए० ए० अफसरों को तो भारतीय सविधान के द्वारा यह संरक्षण दिया गया है कि उन को नौकरी से नहीं निकाला जायेगा। लेकिन जो भ्रष्ट अधिकारी हैं, उन के खिलाफ कडा एक्शन लेना चाहिए। इस बात की पूरी व्यवस्था करनी चाहिए कि सरकारी अधिकारी 20-सूची कार्यक्रम और वेदाहित के अन्य कार्यक्रमों को ईमानदारी के साथ लागू करे, ताकि हम गरीबों को जो फायदा पहुंचाना चाहते हैं, हम यह पहुंचा सकें।

इन शब्दों के साथ मैं इस बिल का समर्थन करता हूँ।

श्री जयलाल निख (मधुवनी) उपाध्यक्ष महोदय - यशित से बड़ी पार्टी होती है और पार्टी से बड़ा देश होता है। और जब देश-हित का प्रश्न आता है तो चाहे हम किसी भी दल व हो और किसी भी विचार के हा, हमें अपने मनजी और दलगत विचारों का छोड़ कर देश-हित में सोचना बात करना और काम करना चाहिए। मुझे अफसोस है कि गमा नहीं हा पा रहा है।

1971 क चुनावों में कांग्रेस की शानदार जीत हुई। फिर बंगलादेश के युद्ध में हमारे देश को विजय प्राप्त हुई। 1972 में विधान सभाका चुनावों में भी कांग्रेस की भारी जीत हुई। इस जीत को विरोधी पक्ष के लोग वर्दाभत नहीं कर सके। व बहुत परेशान हुए और उन्होंने इस उद्देश्य से आपस में एक

उद्घन किया कि किसी तरह से कांग्रेस सरकार को बचनाम किया जाये। और उन्हें ऐसा करने का मौका भी मिला।

जब दश में सूखा पडा और उपज की कमी हुई तो वह एक राष्ट्रीय समस्या थी और राष्ट्रीय स्तर पर ही उस का समाधान हो सकता था। प्रधान मंत्री ने इस वारे में इन लोगों से बार-बार आग्रह किया, इन से बातें की और सलाह-मशवरा किया कि इस समस्या का समाधान कैसे किया जाये। लेकिन ये लोग तो टु फिश इन टुवन्ड वाटर्ज में दख हैं। उन्होंने जनता को भडकाना शुरू किया। परिणाम यह हुआ कि फेक्टोरिया बन्द कर दी गई हडताल, बंध और चरवाब शुरू हुए। स्थिति इस तरह से बर दी गई कि देश के लोग ही नहीं बाहर के लोगों का लगता था कि हिन्दुस्तान में कैसी स्थिति हो गई है और इस स्थिति में प्रधान मंत्री क्या कर सकती है। लेकिन मझ विश्वास है कि प्रधान मंत्री सब कुछ जानती हैं और वह इतनी दख है कि एन मोके पर काम करती हैं। जा विचार वह करती हैं वह सही विचार होता है। ता उसी परिप्रक्षय में उन्होंने इमर्जेन्सी का उदघाष किया जिस का असर दश पर बहुत अच्छा हुआ। देश हित में इसे लोगों न कबूल किया, कुछ राजनैतिक पाटिया का छोड़ कर क्यों कि उन्हें तो बड़ी हैरानी हुई। व तो फेक्टोरिया बन्द करने में लगे थे। वे ता चाहते थे कि विमान खेती न करे पैदावार खेती में या फक्ट्री से न हो। यही सब करने में वह समय बिताते थे। लडाईं झगडा और उपद्रव करान में वह लगे रहते थे। यह सब बह नहीं कर पाए, इसलिए यह विधेयक जिस क उरिए यह काम हुआ है वह इतना बुरा दन का लग रहा है। लेकिन इस विधेयक में ऐसा क्या है जिस में ये इतने परेशान हैं? विधेयक में यह है कि अगर कोई राष्ट्र के अहित में काम करे तो उसे अरेस्ट किया जाए। वह अरेस्ट कौन कर सकता है? दरोगा नहीं, एक थड क्लास मजिस्ट्रेट नहीं वह अधिकार

[श्री जमनाब मिश्र]

केवल डिप्टिवट मजिस्ट्रेट को है या ऐडीशनल मजिस्ट्रेट को है। पुलिस को हरगिज नहीं है।
(व्यवधान) मुझे जैसा मालूम है मैं अपनी बात कह रहा हूँ। मुझे जो मालूम है वह मैं बता रहा हूँ। आप को जो मालूम है वह आप अपने वक्त में कहिएगा।

मीसा का दुरुपयोग होता है ऐसा इल्जाम इन लोगों ने लगाया है। लेकिन सरकार की ओर से कड़ाई है कि किसी तरह का अनुचित व्यवहार किसी के साथ न हो। इसके लिए गृह मंत्री और गृह मन्त्रालय बिलकुल तत्पर और सावधान हैं। यदि इस तरह की बात कही उन के समन आती है तो कठोर से कठोर दण्ड देने में वह नहीं हिचकते हैं और हिचकना भी नहीं चाहिए।

जो विधेयक में अंकित है कि जो व्यक्ति निरकतार किए जाय वे उस जानकारी और सामग्री को जिस के आधार पर वह निरकतार हुए हैं नहीं जान सकते, इस से ये लोग ज्यादा डबाराते हैं। लेकिन इसकी जानकारी सरकार को होती है और केन्द्रीय सरकार के मामल पर राज्य सरकार उस को देती है और अगर उस में कोई गलती रहती है तो उस का सुधार होता है। हम मीसा के अन्तर्गत किसी तरह का कोई अनुचित काम किसी के साथ न हा, इसी विचार से इस कानून के दायरे में कुछ कमो रह गई थी, उस के लिए धारा 16 ए (8) जोड़ कर नियम में संशोधन किया गया है जिस से केन्द्रीय सरकार को जानकारी सामग्री और आधार यह सब राज्य सरकार से भागने का हक होगा और उत पर कार्य बाड़ी करने का हक होगा।

मैं समाप्त कर रहा हूँ, लेकिन समाप्त करने से पहले मैं आप का ध्यान इस ओर आधेयित करना चाहूँगा कि मेरा श्रेष्ठ मसुबनी नैपाब के बार्डर पर पडता है और वहा अभी भी इस एमर्जेन्सी में तस्करी का काम घड़ले

से हो रहा है। कुछ ऐसे राजनैतिक नेत्र विपक्ष के हैं जो गिरफ्तारी से बचने के लिए नैपाबस भाग पाते हैं और चोरी छिपे आ कर लोगों को उभाडते हैं। गृह मंत्री सहोदय इस बात की छानबीन करें और गलती करने वालों को कड़ी सजा दे। इन शब्दों के साथ मैं इस विधेयक का समर्थन करता हूँ।

MR DEPUTY-SPEAKER At 2 PM, the Home Minister is expected to reply to the debate
The Deputy Home Minister is here We have just four minutes I wonder if Mr Aga can complete in four minutes. We want discipline everywhere Let us have this discipline here also.

SHRI SYED AHMED AGA (Bara-mulla) Mr Deputy-Speaker Sir, I welcome this Bill, and while welcoming it I remind the Opposition Members who have opposed this Bill that even in Western countries more especially in the United States, Abraham Lincoln had suspended habeas corpus in the case of emergency and war That being so, I feel that these amendments have become necessary because a situation has arisen in which it is feared that if the disruptive forces are not effectively handled, they may pose a serious threat to the country

The point is that both internally and externally we have a situation where there is a danger Emergency has not ended that danger Therefore, it has become necessary that we have got to be a little more alert

I am getting just a few cases

MR DEPUTY SPEAKER Why not say something on your own on this Bill instead of quoting because you do not have time?

SHRI SYED AHMED AGA If you allow me to speak, I will try to do it

I am giving you the news item of the 20th. This is what the *Times of India* has said about the *Washington Post* news that they chided CIA for a slip, on Pokharan. Is that not a danger? So, I say, if the House Committee on the Intelligence takes CIA to task for an uncertainty, whether India possess ability to explore a nuclear device or not is a real danger.

Again, on 19th January, this is what Mr. Ford said and reiterated his faith in covert operations. Talking to the *Time* magazine, Mr. Ford said:

"I strongly believe in covert operations and have no hesitation to say so. I do not know how a President could conduct foreign policy without a degree of covert operations."

Then, again, when the Senator exposed CIA, Mr. Ford did not say, stop assassination. He did not condemn it. What he said was, avoid assassination or in other words you may kill or you may not.

MR. DEPUTY-SPEAKER: It is 2 O'Clock now.

The hon. Member may try to conclude now.

SHRI SYED AHMED AGA: You have given me only one minute.

I would request that what I have spoken so far should be deleted from the proceedings. May I make that request?

MR. DEPUTY SPEAKER: I am not saying anything about that. Whatever you have spoken is on record.

SHRI SYED AHMED AGA: You allow me four minutes at least.

MR. DEPUTY SPEAKER: I will allow you two minutes more.

Can't you say something on your own instead of quoting what Mr. Ford said, what the other man said and all that? Now you may say something on your own on this Bill and conclude.

SHRI SYED AHMED AGA: I am talking about covert operations.

MR. DEPUTY SPEAKER: Now, the Home Minister please. If you do not cooperate, I cannot help it.

SHRI SYED AHMED AGA: You do not want to allow me to speak. I will not attempt to speak when you are presiding. I have had this experience earlier also. This is not the first time.

THE MINISTER OF HOME AFFAIRS (SHRI K. BRAHMANANDA REDDY): Mr. Deputy-Speaker, Sir, as it has become necessary for me to come before this House with a Bill in consequence of the Ordinance passed earlier, naturally, the hon. Members have taken this opportunity to criticise not the provisions of the amending Bill but generally the fact of detention and the curtailment of the rights of citizens in this country. I thought that all this, why a detention law had to be passed, why Emergency has been promulgated, why the right of a detenu to know the grounds of his detention has been taken away, etc., has been covered by the previous Acts made by this Parliament in its wisdom. I need not say on that.

Ordinarily, in normal times, apart from Emergency, in emergent situations, the rights of members or the rights of citizens in this country have to be exercised consistently with the rights of others. It was said long

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before that your right or liberty ends where the other man's right or liberty begins. Your right of absolute personal liberty has been curtailed by the natural law itself. My submission is that in 1971, this very House had passed this MISA legislation. At that time, there was no Emergency in force neither of 1962 nor of 1971.

SHRI INDRAJIT GUPTA: There was a war going on.

SHRI K. BRAHMANANDA REDDY: 1971 Emergency came subsequently. At that time when there was no Emergency either on account of external aggression or internal disturbances, it was felt necessary to have a law where the executive of a State is empowered to detain persons without trial. You are aware, Sir, that two years or so prior to MISA, there was the Preventive Detention Act which was in force for a number of years and this MISA of 1971 came at a time when there was no Emergency, no grave situation and when this Parliament in its wisdom had thought it fit to say that persons had got to be detained without trial. After all detention means to restrict one's movement, it is not a punishment, it is a question of restricting one's movement. You anticipate what a man is likely to do or about to do and what he is saying is going to adversely affect the society, and therefore, you detain him in order to prevent him from doing that.

You may remember, Sir, that under Article 22(5) of the Constitution, even under normal times the grounds of detention need not be disclosed in public interest. Even under the MISA Act of 1971, we have got a clause—I have not got it here—which says that though grounds have to be given in certain circumstances where in the public interest the executive feels that it is not necessary to do so, they

need not disclose the reasons. Why I am referring to that is that this Act of MISA 1971 was passed by this House at a time when there was neither external aggression nor emergency on account of internal disturbances. It is mentioned that nothing in Sub-Section (1) shall require the authority to disclose facts which it considered to be against the public interest. A likewise provision, as I have submitted is under the Constitution itself in Article 22(5). Therefore, if that is the position, if the executive has to be armed with certain powers for running the country for overcoming the difficulties, for controlling situations and for not allowing disorder to prevail in this country, certainly that has to be done even under normal circumstances; they have to be given certain little extraordinary powers, powers which are not generally given.

Even here, you may remember, Sir, that after the proclamation of Emergency in June 1975, Clause 16A was added. As I have submitted yesterday, the maximum life of clause 16A is 12 months.

Mr. Indrajit Gupta was mentioning yesterday, 'What is this? You are making these things permanent' and things like that. Therefore, I have to say—even yesterday I said it and even to-day I will repeat it—that the maximum life of clause 16A which debars the right of a person to obtain grounds from the Government is only 12 months and, therefore, it is restricted in character.

Even to-day, hon. Members may be aware that there are two kinds of detentions. One is the Ordinance where the original MISA of 1971 applies under which a person, if he is detained, has to be given the grounds of detention and where the Advisory Boards will come in and they will look into. All that procedure is available to him even now.

SHRI INDRAJIT GUPTA : Where?

SHRI K. BRAHMANANDA REDDY: I am telling you. Please wait and listen.

Only, in cases where a declaration is made by the State Government that it is not necessary, then alone, there is no obligation on the part of the State Government or the detaining authority to give reasons. Therefore, I want the hon. Member to note the distinction. Even to-day I know of cases where even after the promulgation of this emergency, even after the declaration of this emergency, there were persons who were detained to whom grounds of detention were given and all the facilities which are made available under the MISA Act of 1971 are still available to him....

SHRI INDRAJIT GUPTA: Have you got any Advisory Board in any of the States?

SHRI K. BRAHMANANDA REDDY: The Advisory Boards must have been there.

SHRI H. M. PATEL: Are they there?

SHRI K. BRAHMANANDA REDDY: Mr. Indrajit Gupta, my point is this. Only when the State Government makes a declaration as is mentioned in Clause 16A or the other clauses, then alone, the obligation on the State Government, to give grounds of detention and other things do not become necessary.

Therefore, my idea in putting this before you is to show that even during this Emergency, how restricted the power is that is taken by the executive.

SHRI H. M. PATEL: Very very restricted!

SHRI K. BRAHMANANDA REDDY: Now, it has been said and I do not want to repeat it too many times as it has been debated and debated quite often in both the Houses, that this is an extra-ordinary situation—all of us will agree and Mr. Indrajit Gupta and his Party have also said—which has arisen in the country—they have agreed there—that it has to be controlled if the ordinary democratic life of this country is to proceed peacefully. Now, therefore, in an extra-ordinary situation where attempts were being made....

SHRI S. M. BANERJEE (Kanpur): In that case, if you are acting on our advice, our advice is: Please withdraw this Bill.

THE DEPUTY MINISTER IN THE MINISTRY OF RAILWAYS (SHRI BUTA SINGH): An afterthought.

SHRI K. BRAHMANANDA REDDY: I value your advice, but I do not value capricious advice. If you are going to change your opinion every night, I cannot give much value to it.... (Interruption) I am not trying to taunt you. I am not trying to say that you have accepted then and because you have agreed, therefore, you agree now. I am not saying that. What I am trying to point out is that in an emergency, in a situation, which it is felt by many, is going beyond limits, that it is getting out of control, that instead of democracy, there will be something else in this country, that no law and order prevails, that unconstitutional methods are being resorted to, that violence is being indulged in, that undemocratic methods are going on, that right reaction is trying to take control of the situation by devious methods of help from foreign countries, etc., it was felt that the ordinary rights available to citizens in this country had to be curtailed in some measure. In fact, I need not waste your time

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in trying to go into what England has done and what is there in England, what is there in the U.S.A., Ireland, etc. I am not talking that. If you want, I can quote them also to you.

The only point is, in all democracies, in all places even in normal times, the Executive has got to be armed with certain powers to keep disorder under control, to keep law and order in the country and more so, in an emergent situation. In a situation where the peaceful life of the entire State is threatened and gravely threatened, it becomes necessary for all of you, in your wisdom, to give some powers to the Executive to handle the situation effectively. That is my submission.

The Advisory Boards, for your information, continue to function in the States to deal with normal detentions. They have not been wound up.

SHRI DINEN BHATTACHARYYA (Serampore): What is normal and what is abnormal? What you have stated is not in existence.

SHRI K. BRAHMANANDA REDDY: That is all right, Mr. Bhattacharyya. There is a fundamental difference in approach itself and, therefore, I am not trying to convince you. I am only trying to convince any friend who can reasonably be convinced.

One point has been made by Shri Indrajit Gupta—why not wait? Let the things be handled by the Supreme Court. Arguments are going on for and against. You can wait. Even Shri Somnath Chatterjee has said “Why do you suspect these courts? Why do you not have trust in them?” Even under the previous MISA only 15 per cent of the detenus have approached courts for relief. Therefore, why do you suspect them?” It is not a question of suspicion. We have as much

respect—and more respect than the speaker himself—in the institutions created by the Constitution in the judiciary, in the executive, and in the Parliament. We are guided by the Constitution and, therefore, it is not a question of suspicion. It is a question of principle involved. It is not as if High Court is going to crash detention or not. But the question is one of principle involved ‘in public interest’ and whenever it is felt necessary by the Executive, in a situation like this, reasons should not be disclosed and there should be no right to the individual to approach the court in an indirect way. What has been prevented is the course which is sought to be made use of in an indirect way.

SHRI DINEN BHATTACHARYYA: Are you speaking from the core of your heart?

SHRI K. BRAHMANANDA REDDY: It is certain that I am not speaking from your heart.

Yesterday also Shri Indrajit Gupta was mentioning that there is no right of representation even. It is not so. If you read that clause carefully.

SHRI INDRAJIT GUPTA: Please read 16A (5).

SHRI K. BRAHMANANDA REDDY: I am coming to that. I want to tell you first and then you can read that clause.

It is not a question of disbelief. It is not a question of suspicion. It is not a question that supreme court judges or high court judges will act in a manner which would prejudice life in this country. It is not like that. It is a question of principle. Mr. Jagannath Rao said this in his speech. Here is an ordinance which has been issued and all of you know the Constitutional obligation which is there to

convert it into an Act of Parliament. Therefore, the argument because you are suspecting the court, therefore you are bringing in this legislation is not correct. As I said during my introductory speech on this amending Bill, this is only intended to make clear some legal difficulties anticipated. That is all. Please see sub-clause (5). It says:

"In making any review, consideration or reconsideration under sub-section (2), sub-section (3) or sub-section (4), the appropriate Government or officer may act on the basis of the information and materials in its or his possession without communicating or disclosing any such information or materials to the person concerned or affording him any opportunity of making any representation against the making under sub-section (2),...."

The point is this. The obligation that was on the executive to furnish him the opportunity, to give him grounds to enable him to make a representation, is not there.

SHRI INDRAJIT GUPTA: I can make a representation even if you don't give me grounds. Why should you not allow me to do it?

SHRI K. BRAHMANANDA REDDY: While you spoke you said, he has no right of representation. Can he not make representation to Government, you asked.

SHRI H. M. PATEL: Can he make representation?

SHRI K. BRAHMANANDA REDDY: He can make representation; there are several instances.

SHRI DINEN BHATTACHARYYA: Why don't you call the Attorney General here?

SHRI H. M. PATEL: I don't think he is likely to be better or more cogent.

SHRI K. BRAHMANANDA REDDY: This obligation on the executive to afford him, as is mentioned here, an opportunity of making any representation, is just not there. But the person detained or any person on his behalf can make a representation. And, in fact, they have been made. I can give you very many instances where they have been made.

SHRI INDRAJIT GUPTA: To whom?

SHRI K. BRAHMANANDA REDDY: To the Central Government and State Government, not only by the detainees, by relations or even M. Ps. I can give you details where I know. In the Central Government 193 representations have come to us. We consulted State Governments. 20 per cent of them have been released.

SHRI S. M. BANERJEE: Our main concern is this. The right to make representation should be there and you cannot stop me from writing so many letters to the Prime Minister or the Home Minister. Why should it not be sent from the jail itself? The question is whether I have this statutory right of representation—proper representation to the proper authorities for the proper redressal of my grievances. That is the main difficulty.

SHRI K. BRAHMANANDA REDDY: Sir, under this amending Bill or the previous Bill, you have no right, according to us, to approach a court and seek a remedy which has been barred. But, for a detention, anybody, on his behalf, has a right to make a representation either to the State Governments or to the Central Government. I am telling you from the facts that representations have been made to the Central Government against detentions and they have been looked

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into in consultation with the State Governments and twenty per cent. of them have been released.

SHRI H. N. MUKERJEE (Calcutta—North-East): Is that allowed to the discretion of the government and the voluntary action on the part of some persons and not to any provision of law which would entitle a person to make a representation which, you say, you are practically receiving and considering?

SHRI K. BRAHMANANDA REDDY: Professor Mukerjee, this disclosure of grounds and making a representation to a court of law has been taken away even under the July amending Act; it is not being taken away now. That is why, as I submitted, the whole trouble is that, without trying to understand what the Bill comprehends or what the present Bill is about, you are trying to criticise the very act of detention, the very act of MISA, the very act and the attitudes of parties—political parties—which is a different issue. We are on the amending Bill where we seek to clarify certain points which we thought were necessary to remove the legal difficulties. Therefore, my submission is this. You have looked at it from that angle. It was in July, immediately after the promulgation of the ordinance, when the House met, that this 16A clause was, for the first time, introduced. There was no 16A clause previously. This was, for the first time, introduced wherein the right of any person to receive the grounds for detention etc. was taken away. It was felt that in public interest, in the safety of the nation, it was not necessary to do so. And it should not be done. In fact, in this amending Bill, the Officer is prevented from making any disclosure as to the source of his information or the material on which he is depending. It is made obligatory on the officer. Therefore, if you look at it from that angle, you will appreciate

kindly that this is a limited scope of the present amending Bill.

One other point has been made by Shri Indrajit Gupta. He tried to quote some passages from newspapers regarding the arguments that were being advanced by the Attorney-General, Shri Niren De. These matters are *sub-judice* and so I do not want to go into them. I do not want to go into the *sub-judice* matter and make an attempt to answer out of context. It is not necessary. But our point is clear namely, that in the public interest and, in a situation like this, as Parliament has already given the Executive the right under Clause 16A of the Act, 1975 passed in July, it will not be necessary for the Executive to disclose the grounds; it will not also be necessary for the person to be detained to approach or to seek a redress from a court which is not otherwise available to him. That is my point. Therefore, you must kindly try to appreciate this position.

One other point that has been made is this—that is political. Of course I do not question the motives. They are laudable and we agree with them. The point is that you are enabling some western powers or some other agencies outside the country to exploit what you have been doing or what your leaders have been doing. We know their attitude. The Prime Minister has referred to it in her public speeches not only here but even outside what the attitudes of these foreign powers were at times of Bangladesh and at other times. These very western agencies had not a word of condemnation for all those 17 or 18 months when unlawful acts were indulged in, when violence was indulged in, where unconstitutional methods were resorted to, where undemocratic doing of things was persisted in, where insults to members of the legislatures and Parliament were indulged in by opposition parties. Nobody said a word.

Therefore, while we should be careful to see how we present our image, still there are certain people who cannot be convinced in spite of what you may say because their attitudes are different, their attitude towards this country in particular not only now, but even from the time that we gained our independence. Therefore, we should be careful, but we should not be over-sensitive about it. That is all my plea. It does not mean that I or anybody on behalf of Government, either a lawyer or other person, should say something that may lead others to exploit that statement, to propagate in the world that India is going out of the democratic orbit.

Now there are some other points which have been raised either by Shri Chatterjee or others. One other point raised was this, about further detention. I can understand after the expiry of a detention order, there may be cases where a further detention be comes necessary. Indrajitji asked: even when the Government revokes it, why do want to say that they can issue a further detention order? Obviously, you must have seen that there may be cases—and there were cases, in fact—where a man who was detained is a man who has got to be detained again in the interest of public safety. Still on account of certain technical defect or some technical flaw, the order had to be revoked. Certainly the interests of the country require that he has to be detained again. Therefore, to cover that this is there.

SHRI INDRAJIT GUPTA: This revocation is meant only for technical defects.

SHRI K. BRAHMANANDA REDDY: Yes.

SHRI INDRAJIT GUPTA: I see.

SHRI K. BRAHMANANDA REDDY: Technical defects and defects of that kind.

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One other point that has been made and is being made consistently is: What is this, you are giving this absolute power to all petty officials? I tried to submit even yesterday that it is not so. We have been very careful in that. Under the statute itself, it is only the District Magistrate or even an Additional District Magistrate who must be specially empowered. The District Magistrate, the Police Commissioner or an Additional District Magistrate who is specially empowered, and of course, the State Government or the Central Government—these are the only authorities who are competent to issue the order of detention.

Yesterday you were also saying that a man can be detained without an order, without a written order.

SHRI INDRAJIT GUPTA: I did not say it. Niren De had said it.

SHRI K. BRAHMANANDA REDDY: I do not know what Niren De said. You have not heard him, I have not heard him.

SHRI INDRAJIT GUPTA: We must go by press reports. They have not been contradicted.

SHRI K. BRAHMANANDA REDDY: You are aware, of course that when you argue, several questions arise.

SHRI JAGANNATH RAO: Hypothetical questions.

SHRI K. BRAHMANANDA REDDY: Hypothetical questions, so many questions which are not generally answered here are posed. In what context, in what situation, to what question, to cover what point a lawyer has made a reply, I am not here to go into that. I have no means either. Therefore, I cannot merely depend upon some press reports. I would earnestly request you also not to merely depend on press reports.

SHRI S. M. BANERJEE: We do not depend on Niren De or on press reports.

SHRI DINEN BHATTACHARYYA: We depend on the Bill.

SHRI S. M. BANERJEE: He is the Attorney-General of the country. Why don't you restrain him?

SHRI K. BRAHMANANDA REDDY: It is not a question of not depending. I would only say that you have to see the context in which a man has said what. Supposing, you have said something here and it is quoted outside out of context.

SHRI S. M. BANERJEE: Now it is not quoted like that.

SHRI K. BRAHMANANDA REDDY: I am very sorry.

I am only covering the point, namely, it is not correct to say that this absolute power which you think is absolute, which in my opinion is not absolute, is given to all kinds of petty officials; it is only given to the Central Government, or to the State Government or to the district magistrate or a police commissioner or an additional magistrate specially empowered. Therefore, you would see that we are aware that there is a possibility of this power being non-used or misused. Those of us who are in public life have seen detentions before for much longer times. We know how this can be misused. Therefore it was our particular attempt to see that powers were given to certain types of officers who could not generally be expected to be careless or do any thing in a cavalier fashion. It does not mean also that there will not be some cases where they could have been misused. I am not taking any brief for them. On the other hand I should say from the floor of the House that in all such cases where officers in the discharge of duties, for any *malafide* reason or for other reason, try to do certain things which are not justified by circumstances, action will certainly be

taken either by the State Government or the Central Government. As you are aware, the Prime Minister in the earliest of her letters written to the Chief Ministers said: please look into this yourself, personally; you must head the committee which reviews detentions; you may take in other members; you may take ministers or other senior officers. She said: those cases must be reviewed and seen by the Chief Ministers personally if possible, or at least by a committee, an impartial committee. My submission is that all precautions are taken. If I have time, I could quote to you several instances where on account of the representations, we in consultation with the State Governments have revoked orders; I shall give you the names but I have no time now. No friend here in Parliament either of this House or the other House can say that I had ever refused an interview either by an M.P. or anybody in preventive detention or other attempts made by M.Ps. I have taken care to see to that; I call the officers concerned and ask them to get in touch with the State Governments immediately and find out and go into that question to the extent we can. It is not as if we are not aware of the possible misuse of this power. It is not the opposition parties. Friends on my side of the House may have certain complaints to make and they do. Some of them may be justified.

SHRI INDRAJIT GUPTA: How many from your side have you locked up?

SHRI K. BRAHMANANDA REDDY: Please take it from me that we do not lock up people because they belong to this side or that side; we lock up people because of our anticipation of what they were going to do. We do not distinguish among people; whether he is from CPI or he is from CPM or from BLD or the Janata Front, we do not lock him up because of that. The detaining authorities take into custody only those persons who are found or who are anticipated

to be dangerous to the life of the community.

SHRI K. GOPAL (Karur): I made a representation on behalf of a former colleague of Mr. Dinen Bhattacharyya who happened to be detained in Madras; it was considered and he was released.

SHRI K. BRAHMANANDA REDDY: I can also say that Shri Bhupesh Gupta had written to the Prime Minister about some people who were detained in Bihar, people belonging to CPI; and I know that two of them had been released.

SHRI INDRAJIT GUPTA: Seventeen of them are in jail.

SHRI K. BRAHMANANDA REDDY: May be. It is not proper for me or for you to take a brief on behalf of all party members; just because he is a CPI member or he is a Congressman, it does not automatically follow.

SHRI INDRAJIT GUPTA: I will take a brief on behalf of my party. Our party works according to the policies, not like your party.

(Interruptions)

SHRI K. BRAHMANANDA REDDY: Mr. Gupta, I do not want to offend your feelings. But I do say that you don't think too much of your party.

(Interruptions)

It is not a question of offending the feelings of any Member or the party. Of course, your party has a right to exist, has been existing and continues to exist.

(Interruptions)

My submission to you was that it is not a question of detention being dependent on the party affiliations of persons;

SHRI DINEN BHATTACHARYYA: I took up with you three cases. In the Namrup Fertiliser plan, 4 union leaders were asked to join the INTUC.

They did not comply with that request. So, they were taken in custody and they are still under detention.

(Interruptions)

SHRI K. BRAHMANANDA REDDY: After your experience of public life, you may understand that even though what you say unfortunately happens to be correct... (Interruptions) One swallow does not make a summer. Therefore my submission to you would be that these are being looked at objectively to the best extent that the detaining authority can form an objective opinion of a situation. After all somebody has to exercise this objective opinion, whether it is a State Government or the Central Government. Therefore, even under an ordinary law, I may try to go further and ask you, even supposing it is an ordinary law, supposing it is a bonus act, supposing it is some other Minimum Wages Act, there is a bureaucracy who is to implement. It is not as if you could go and do it. It may be that there are certain lapses, it may be that there are certain shortcomings it may be that there are certain failings, but it is not that I am not trying to defend anybody who does it, whether it is an officer or a bureaucrat or any man in high authority who does anything on the ground of *mala fide* reasons. Certainly not. Government have no intention of trying to support or defend any *mala fide* action.

(Interruptions)

Sir, we keep the doors wide open and allow everybody to question on the *mala fide* action. You must have experience that thousands of *habeas corpus* applications and petitions under Article 226 were allowed. Therefore, Government have no intention whatsoever of trying to defend or support any *mala fide* action and the Government do not want anybody to do that or issue detention orders *mala fide*. We are here....

SHRI DINEN BHATTACHARYYA: *Prima facie* you have to decide....

SHRI K. BRAHMANANDA REDDY: Naturally.

SHRI DINEN BHATTACHARYYA: What is the allegation against Mr. Noorul Huda? Is it because he has supported the cause of the teachers he has been detained under MISA? Do you mean to say that it is a *bona fide* action on the part of the Government?

SHRI K. BRAHMANANDA REDDY: Now, one other point has been made by Mr. Somnath Chatterjee, namely, "while there was external aggression and a proclamation of emergency, etc., why did you want to have more powers?" After all both these are not qualitatively different—an emergency against external aggression and an emergency because of local disruptions. They are quantitatively different. Therefore, it is within your knowledge, more so than myself, that even in 1962 or in 1971 when the emergency was declared, there was a unanimous resolution of this House—I suppose I do not know and I am not aware of that.

Therefore, that is a different aspect. Here is a question of internal situation. Naturally, it means activities of political parties, of banned organisations, of certain groups, foreign agents and others ill-disposed towards India. The two are absolutely different. To put them on equal footing would absolutely wrong in my opinion and I hope you would also agree with it.

I take this opportunity to inform the House that all precautions and possible steps have been taken to see that all those who are detained are treated well and properly. Without revealing figures, if you have any faith in me, I can inspire you in the belief that the review or re-consideration enjoined under the Act is being made sincerely either by the State Government or the Central Government. It is a conscious exercise of that power.

AN HON. MEMBER: Conscientious?

SHRI K. BRAHMANANDA REDDY: There need not be conscientious exercise. It is enough if it is conscious. Conscience does not come in. I have got figures of individual cases where representations have been made and how many have been released. In fact, apart from the 20 persons I have said as having been released subsequent to the representations made to the Central Government here, there are other cases where in some States MISA is sought to be used for reasons other than those for which it was intended. For instance, in Tamilnadu, a case has arisen where under MISA a large number have been detained for bootlegging. We understand that it is not legal to do so under MISA. They can be detained under DIR or for contravention of some other rule or Act, but not under MISA. Therefore, they were released.

Shri Somnath Chatterjee raised the issue of the health of Mr. Jyotimoy Boshu under detention. The allegations have been enquired into and they are not found correct. With regard to the others also, as many facilities as possible are given. Mr. Indrajit Gupta raised the point in his last speech about supply of periodicals, newspapers, etc. All these are being supplied. Interviews are being arranged. Their health is taken care of. Mr. Samar Mukherjee made a complaint about some friends in Indore jail. They have been taken to the necessary hospital and treated properly.

There are some rumours going about regarding the number of persons detained. I am not anxious to give the number but even before the declaration of the emergency on 25th June as many as about 5000 people were under detention. Even today the number is not very significantly larger than that. Therefore, why spread rumours that lakhs and lakhs have been detained?

Even in the case of high personages whenever any calamity has occurred in their families or for reasons of health and for other reasons, they have been released. I am not speaking of Mr. Jayaprakash Narayan but Mr. Biju Patnaik has been released, Mr. Mehtab has been released on parole; Mr. Jyotirmoy Bosu is somehow or other, continuing in his own house; Smt. Vijay Raje, Pilo Mody and many others have been released. What I am trying to submit is that detentions are not made recklessly. It does not also mean that there cannot be any stray cases of misuse.

One other point which Indrajit ji made was about non-use. There are several cases of RSS, Jamait-e-Islami, Anand Marg, etc., regarding which he said, "You should have taken them in to custody but you have failed in your duty to apprehend them" and all that. It has been our effort to distinguish and try to detain persons who can be a danger to the public order of society. I do not claim that all activists of RSS or Ananda Marg have been detained or apprehended. But at the same time, I can tell you that there are several people who say: "We have changed our complexion, we have changed our party and we are coming into Congress or we are coming into some other organisation", but we have not taken in that type of assurance. We make our own assessments. It may be that in a case or two we might have erred but we make our own assessments. It does not mean that we take it for granted. You may be committing that type of mistakes in several States but not we. Therefore, I would request this House to consider this amending Bill in the light of what I have said and the limitations that have been there and this House which had been generous in enacting legislation in July, 1975, give the executive that amount of authority which is necessary to deal effectively with the

situation and continue to give their support and cooperation.

SHRI INDRAJIT GUPTA: I listened to the hon. Home Minister very carefully. I am sorry to say that all his persuasive powers have not convinced me to withdraw my resolution of disapproval.

SHRI K. BRAHMANANDA REDDY. Bad luck!

SHRI INDRAJIT GUPTA: Bad luck for both of us.

He laboured the point that already in last July we had amended the MISA to provide for two things, namely, that the grounds of detention would not be supplied to the person detained and secondly that he has no right to move the court. I know that very well and I did not deny that in my arguments. I did not base myself on these two premises because they have already been passed and incorporated in the statute book and so, there is no point in arguing on that. Within the framework of the Act as it stands now after its amendment in last July, I was still arguing that even if he is not provided with grounds of detention, why should the Bill explicitly bar a detenu from making a representation. That was my point. He has met my point by saying that there is nothing to prevent him from making a representation. That means, outside the ambit of this Bill or Act, he can make an ad hoc representation. He or somebody else on his behalf can write a letter and he says: "I have been receiving many such letters". That is not the point. Anybody at any time is free to write a letter to the Home Minister or the Prime Minister. Whatever the fate of that letter might be, that is a different matter. My point was that, within the bill itself, why

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should it be explicitly be laid down that he will have no right to make a representation? He is not making a representation on the grounds, because they are not supplied to him. But the fact is that I am locked up and a declaration is made by the appropriate government that I am being detained. On that basis, I should have a right, within the Statute, to make a representation, if I choose to do so. I do not think he has answered that point satisfactorily. Secondly, I had raised two other points also; but I do not think he has replied to them. Why was this change necessary—whereas previously the position was that the State government authorities had to forward to the Central Government a report in respect of the detention order, now it is amended to say that all that they have to do, is to report the fact to the Central Government. Obviously there is some difference in the two wordings. Otherwise they would not have brought in this amendment. One is submitting a report on the detention, to the Central Government. The other thing is that they have simply to report the fact that they have detained somebody. Of course, there is a specific provision that the Central Government may call for a report; but why is this change being made? This change is rather ominous. No reply was given. My other point is whether it is now intended to make the declaration of detention the same as the approval of the State Government. That is what this amendment amounts to. The mere fact that the State Government has made a declaration under sub-section (2) of the detention order shall be deemed to mean that the State Government has approved such a detention order, i.e. by virtue of making this declaration. I wanted to know why this change has been made. No reply has been given to that point also. The main point that I had raised was that

the position to-day when we are debating this bill, is not the same as the one in July, merely by virtue of the Presidential Order which has been promulgated under Article 353 suspending completely, Articles 19, 21 and 22; and the approval of the Parliament is not required for it. I can well understand the hon. Minister's saying that since the matter is *sub-judice* and all that, he does not want to give any opinion on it. I cannot give any opinion on it either since it is *sub-judice*. That is why I confine myself to the arguments which, as reported in the Press, are being advanced before the Supreme Court on behalf of the Government. I cannot take it that all these reports are cases of misreporting. After all, they also have to go to the censor, before being published. There may be some error, 1 or 2 small errors; but after all, it is being reported extensively, including the questions asked by the judges and the replies given, etc. Therefore, his fear that something is being reported in the Press out of context, is not correct. Therefore, I say: "Why should you come rushing to the Parliament for this? Why not wait for the Supreme Court's decision?"

SHRI K. BRAHMANANDA REDDY: It is only because of a constitutional obligation.

SHRI INDRAJIT GUPTA: What constitutional obligation; are you sure? My argument was that if the Supreme Court upholds the arguments being put forward by the Government there, then a total, all-embracing, all-pervasive effect follows from that Presidential Order; and nobody has got any remedy of any kind left. That is what is being argued there by the Attorney-General and his assistants. So, I was only saying: Wait for that; don't try to stampede the Parliament into these amendments now. You don't need them at all. We are now in this position, actually.

You may be in a happy position if the Supreme Court upholds the Government's point of view, the Government's implications or what the Government considers to be the implications or the width of the Presidential Order, as Shri Niren De put it. If the Supreme Court upholds that, you can happily come forward and say that for the duration of the emergency we are suspending MISA, because we do not require it. But I cannot agree that just because Government whimsically feels, therefore, at any time, irrespective of the situation and the circumstances, we must be called upon to approve any amendments that they bring forward. We are not prepared to do it.

Because, there is actually no remedy left, even according to the Attorney-General, against *mala fide* detention. I am not one of those who argue that the Government should have no power of preventive detention. I am not at all of that view. But, then, of course, it would be used in Tamil Nadu and Gujarat also. I do not want to hear complaints from the other sides about that.

AN HON MEMBER: Kera'a also

SHRI INDRAJIT GUPTA: Yes, Kerala also, if necessary. I am not one of those who campaign for civil liberties for the fascists. I am not going to do that. But the point is there is no remedy left against *mala fide* detention.

All the instances of misuse which have been quoted by so many Members only go to show a more alarming state of affairs. Only District Magistrates or Additional District Magistrates specially empowered for the purpose, on which the Minister laid so much stress, or the Police Commissioner, only people of this rank have been given this power. In spite of

that, that this kind of misuse is taking place shows that whatever the administrative calibre of the officers of this rank may be, there are other motivations, there are political prejudices, there are class prejudices, there are sympathies for certain vested interests in our society, and that these officers are not above them. They act on these motivations very often.

Therefore, I had raised the question as to what is the remedy against *mala fide* detention. But there is no reply. And the Attorney-General and the Assistant Solicitor-General have made it clear that irrespective of whether you are rightly detained or wrongly detained you have no right. What is one to do? If you expect us to support it, I cannot support it. It is all right for you to get protection from the Presidential Order, it is good for you; then you need not bother about MISA.

The hon. Minister said, well, it may be that some hostile forces abroad will utilize some of these arguments against us. After all, we know who they are and why they are doing it. That is all right. You and I may know who they are, but the world at large does not know. Therefore, I would also request him at least to see that some restraint is observed in making these submissions before the court. Can the Presidential Order not be defended in the court without going to the extent of saying "I can shoot you, but you have no remedy; I can look you up *mala fide*, but you have no remedy; I can lock you up even without an order, or even a law of detention being there, but you have no remedy". Is it necessary to say all these things in order to defend the Presidential Orders?

I do not know whether Shri Niren De has read the debate here or not, but today I find it reported in the press that he has resiled from his earlier submission because he says "I never said it" or "I never meant it". I have

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raised this point because it makes me unhappy to read these things. Not only the public image abroad but many people in this country are horrified with this kind of things.

SHRI H. M. PATEL: I hope you also would be exercise by that.

SHRI INDRAJIT GUPTA: Much more than you, Mr. Patel. You belonged to the old ICS, once very fond of doing these things.

15.00 hrs.

Finally I would say that the hon. Minister also said, "We do not detain people by seeing their party label, we see what their activities are or what their apprehended activities are, and then we take action. We do not mind who they are, they may even belong to the Congress Party." Does the same thing apply to the releases, that I would like to know. In the case of releases also does he say, "We do not worry about the party label, we do not mind whether they belong to the banned organisations, the communal organisations, the rightist reactionary pro-imperialist organisations. It is enough, after having locked up a person, and he is still in jail, we somehow get convinced that he should be released, and we release him." He says, "No, we do not release a person simply because he writes a letter saying that he is joining the Congress." Then, on what basis? If you want lists again, I can give you how in Delhi itself so many Jana Sangh and RSS people are being released by your officials, whose loyalty to your Government is skin deep, who are thoroughly Janasanghi in their entire outlook and beliefs. What is your remedy against that, I want to know. That is why I have no faith in this bureaucracy of yours.

And as far as the health of the detenus and all that is concerned, I find Babuji is here. In the last session Babuji said in his speech on the floor

of the House that their health was very good, but the censor cut it out. Then I asked the Minister in charge why the censor had cut it out. He said he did not know and he would find out. Later he came and informed me that the censor felt that if this news appeared in the papers that Babuji had said that the leaders were in good health, then the people would come to know that the leaders were in jail, and so, if it was not published, they would not know who was in jail. This time the Home Minister has much more freely mentioned various leading people and said that they are getting good treatment, facilities and all that. I do not know whether that will excite the censor's attention or not. That is a different matter, between you and your censor, you can think about it, but so far as we are concerned, I am afraid we are convinced about the need and urgency of these amendments in view of all that has already been passed and, above all in view of this Presidential Order and therefore, I will press my statutory resolution.

MR DEPUTY-SPEAKER The question is—

"This House disapproves of the Maintenance of Internal Security (Third Amendment) Ordinance, 1975 (Ordinance No 16 of 1975) promulgated by the President on the 17th October, 1975."

The Lok Sabha divided.

Division No. 7]

(15.07 hrs.)

AYES

Banerjee Shri S. M.

Bhattacharyya, Shri Dinen,

Bhaura, Shri B. S.

Chowhan, Shri Bharat Singh.

Durairasu, Shri A.

Dutta, Shri Biren.

Gupta, Shri Indrajit

Haldar, Shri Madhuryya
 Halder, Shri Krishna Chandra
 Hazra, Shri Manoranjan
 Jharkhande Rai, Shri
 Joarder, Shri Dinesh
 Kathamuthu, Shri M.
 Lakshmikanthamma, Shrimati T.
 Mavalankar, Shri P. G.
 Mohammad Ismail, Shri
 Mohanty, Shri Surendra
 Pandey, Shri Sarjoo.
 Parmar, Shri Bhaljibhai
 Patel, Shri H. M.
 Patel, Kumari Maniben
 Roy, Dr. Saradish
 Saha, Shri Ajit Kumar
 Sen, Dr. Ranen
 Shastri, Shri Ramavatar
 Shastri, Shri Shiv Kumar
 Singh, Shri D. N.

Noes—

Agrawal, Shri Shrikrishna.
 Ahirwar, Shri Nathu Ram
 Alagesan, Shri O. V.
 Ambesh, Shri
 Appalanaidu, Shri
 Arvind Netam, Shri
 Austin, Dr. Henry
 Awdhesh Chandra Singh, Shri
 Babunath Singh, Shri
 Balakrishniah, Shri T.
 Banerjee, Shrimati Mukul
 Barupal, Shri Panna Lal
 Basumatari, Shri D.
 Bhagat, Shri H. K. L.
 Bhargava, Shri Basheshwar Nath
 Bhatia, Shri Reghunandan Lal

*Bhattacharyya, Shri S. P.
 Bhattacharyya, Shri Chapalendu
 Bhucharahan, Shri G.
 Brahmanandji Shri Swami
 Buta Singh, Shri
 Chakleshwar Singh, Shri
 Chandrakar, Shri Chandulal
 Chandrashekarappa Veerabagappa
 Shri T. V.
 Chaudhary, Shri Nitiraj Singh
 Chhotey Lal, Shri
 Chhuttan Lal, Shri
 Chikkalmgaiah, Shri K.
 Daga, Shri M. C
 Dalbir Singh, Shri
 Das, Shri Anadi Charan
 Das, Shri Dharnidhar
 Dasappa, Shri Tulstidas
 Daschowdhury, Shri B. K.
 Dhamankar, Shri
 Dharamgaj Singh, Shri
 Dhusia, Shri Anant Prasad
 Dixit, Shri G. C.
 Dixit, Shri Jagdish Chandra
 Doda, Shri Hiralal
 Dumada, Shri L. K.
 Ganesh, Shri K. R.
 Ganga Devi, Shrimati
 Gangadeb, Shri P.
 Gavit, Shri T. H.
 Giri, Shri S. B.
 Giri, Shri V. Shanker
 Godara, Shri Mani Ram
 Gogoi, Shri Tarun
 Gokhale, Shri H. R.
 Gomango, Shri Giridhar
 Gopal, Shri K.
 Goswami, Shri Dinesh Chandra
 Gotkhinde, Shri Annasaheb
 Gowda, Shri Pampan

*Wrongly noted for Noes.

Hansda, Shri Subodh
 Hari Singh, Shri
 Hashim, Shri M. M.
 Horo, Shri N. E.
 Jagjivan Ram, Shri
 Jamilurrahman, Shri Ma.
 Jeyalakshmi, Shrimati V.
 Jitendra Prasad, Shri
 Joshi, Shrimati Subhadra
 Kadam, Shri J. G.
 Kamakshaiah, Shri D.
 Kamala Prasad, Shri
 Kapur, Shri Sat Pal
 Kaul, Shrimati Sheila
 Kavde, Shri B. R.
 Kisku, Shri A. K.
 Kotoki, Shri Liladhar
 Krishnappa, Shri M. V.
 Kureel, Shri B. N.
 Lambodar Baliyar, Shri
 Laskar, Shri Nihar
 Lutfal Haque, Shri
 Mahajan, Shri Vikram
 Maharaj Singh, Shri
 Majhi, Shri Gajadhar
 Majhi, Shri Kumar
 Malhotra Shri Inder J.
 Mallanna, Shri K
 Mallikarjun, Shri
 Mandal, Shri Jagdish Narain
 Mandal, Sri Yamuna Prasad
 Manbar, Shri Bhagatram
 Maurya, Shri B. P.
 Mirdha, Shri Nathu Ram
 Mishra, Shri Bihhuti
 Mishra, Shri G. S.
 Mishra, Shri Jagannath
 Modi, Shri Shrikishan
 Mohan Swarup, Shri
 Mohapatra, Shri Shyam Sunder

Mohsin, Shri F. H.
 Nimbalkar, Shri
 Oraon, Shri Kartik
 Oraon, Shri Tuna
 Pahadia, Shri Jagannath
 Painuli, Shri Paripoornanand
 Pandey, Shri Damodar
 Pandey, Shri Narsingh Narain
 Pandey, Shri Tarkeshwar
 Panigrahi, Shri Chintamani
 Paokai Haokip, Shri
 Patel, Shri Prabhudas
 Patil, Shri Anantrao
 Patil, Shri Krishnarao
 Patil, Shri S. B.
 Patnaik, Shri J. B.
 Peje, Shri S. L.
 Raghu Ramaiah, Shri K.
 Rai, Shri S. K.
 Rai Shrimati Sabbodrabai
 Raj Bahadur, Shri
 Rajdeo Singh, Shri
 Raju, Shri P. V. G.
 Ram Dayal, Shri
 Ram Prakash, Shri
 Ram Sewak, Ch.
 Ram Singh Bhai, Shri
 Ram Swarup, Shri
 Ramshekhar Prasad Singh, Shri
 Ranababdur Singh, Shri
 Rao, Shri Jagannath
 Rao, Dr. K. L.
 Rao, Shri M. S. Sanjeevi
 Rao, Shri Nageswara
 Rao, Shri P. Ankineedu Prasada
 Rao, Shri Pattabhi Rama
 Rathua, Shri Umed Singh
 Raut, Shri Bhola
 Reddy, Shri K. Ramakrishna
 Reddy, Shri P. Ganga
 Reddy, Shri P. V.
 Reddy, Shri Sidram

Richhariya, Dr. Govind Das
 Robatgi, Shrimati Sushila
 Roy, Shri Bishwanath
 Saini, Shri Mulki Raj
 Salve, Shri N. K. P.
 Samanta, Shri S. C.
 Sangliana, Shri
 Sankata Prasad, Dr.
 Sarkar, Shri Sakti Kumar
 Sathe, Shri Vasant
 Satpathy, Shri Devendra
 Savant, Shri Shankerrao
 Savitri Shyam, Shrimati
 Sayeed, Shri P. M.
 Sethi, Shri Arjun
 Shah Nawaz Khan, Shri
 Shambhu Nath, Shri
 Shankar Dayal Singh, Shri
 Shankaranand, Shri B.
 Sharma, Shri A. P.
 Sharma, Shri Madhoram
 Sharma, Dr. Shankar Dayal
 Shastri, Shri Biswanarayan
 Shastri, Shri Sheopujan
 Shivnath Singh, Shri
 Shukla, Shri Vidya Charan
 Siddeshwar Prasad, Prof.
 Singh, Shri Vishwanath Pratap
 Sinha, Shri Dharam B.
 Sinha, Shri Nawal Kishore
 Sohan Lal, Shri T.
 Sokhi, Sardar Swaran Singh
 Stephen, Shri C. M.
 Sudarsanam, Shri M.
 Surendra Pal Singh, Shri
 Tayyab Hussain, Shri
 Tiwari, Shri Chandra Bhal Mani
 Tombi Singh, Shri N.

Tula Ram, Shri
 Tulsiram, Shri V.
 Ukey, Shri M. G.
 Unnikrishnan, Shri K. P.
 Venkatasubbaiah, Shri P.
 Venkatswamy, Shri G.
 Yadav, Shri Karan Singh

MR. DEPUTY-SPEAKER: The result* of the division is:

Ayes: 27; Noes: 182
 The motion was negatived.

MR. DEPUTY-SPEAKER: The question is:

"This House disapproves of the Maintenance of Internal Security (Fourth Amendment) Ordinance, 1975 (Ordinance No. 22 of 1975) promulgated by the President on the 16th November, 1975"

The motion was negatived.

MR. DEPUTY-SPEAKER: The question is:

"That the Bill further to amend the Maintenance of Internal Security Act, 1971, be taken into consideration."

The motion was adopted.

MR. DEPUTY-SPEAKER: We shall now take up clause 2.

Clause 2 (Amendment of section 3)

SHRI DINEN BHATTACHARYYA:
 I beg to move.

Page 1, line 8,—

for "twenty days" substitute "five days" (1)

Page 1 lines 8 and 9,—

for "twenty-five" substitute "twenty" (2)

I do not understand what is the

*The following Members also recorded their votes:—

Ayes: Sarvashri Ram Deo Singh and S. P. Bhattacharyya.

Noes: Sarvashri Nawal Kishore Shastri and T. A. Patil.

(Shri Dinan Bhattacharyya.)

necessity for bringing this clause? Instead of "twenty-two days", they have mentioned that they want to change it to 25 days. For what reason, I do not know. The Minister wants to bring this amendment in Section 3 of the Original Act. So, I have suggested that instead of twenty-five days, five days are enough and five days should be substituted for twenty-five days.

My second amendment also is in respect of the same clause. Instead of 25 days, I have suggested 20 days. Within these 20 days, enough opportunity will be given to the authority to fulfil certain conditions. So, my amendment is very simple. I do not find any reason why the Minister should not accept it. It is not a policy matter at all. It is a question of period within which the authority has to fulfil certain conditions.

These are the two amendments that I have suggested in clause 2

SHRI K. BRAHAMANANDA REDDY: I do not know whether Mr. Bhattacharyya has really appreciated why this amendment is sought to be made. It has been made clear that the provision in the Bill is to rectify the defects in certain orders which have been passed by the State Governments. It is not merely a question of fixing some time limit. It is not so. If it were so, there is a point to be made why it should be 25 days, why not 20 days. It has been made clear by us. It is in order to rectify the defects, to overcome the defects in the orders issued by the State Governments, that this provision is being made. Therefore, I do not accept these amendments.

MR. DEPUTY-SPEAKER: Now, I put amendments Nos. 1 and 2, to clause 2 to the vote of the House.

Amendments Nos. 1 and 2 were put and negatived.

MR. DEPUTY SPEAKER: The question is:

"That Clause 2 stand part of the Bill."

The motion was adopted.

Clause 2 was added to the Bill.

Clause 3 (Amendment of section 14)

SHRI DINEN BHATTACHARYYA:
I beg to move:

Page 1, lines 12 and 13,—

omit "and shall be deemed to have been substituted with effect from the 29th day of June, 1975," (3)

Pages 1 and 2,—

for lines 19 to 24 and 1 and 2 respectively, substitute—

"Provided that the subsequent detention order can be made only in a case where fresh facts have arisen after the date of revocation or expiry, on which the Central Government or a State Government or an officer, as the case may be, is satisfied that such an order should be made." (4)

SHRI K. M. 'MADHUKAR'
(Kerala): I beg to move:

Page 1, line 18, —

add at the end—

"but due consideration shall be given before another detention order is issued." (11).

Page 1, line 23,—

for "twelve months", substitute—

"six months" (12)

SHRI DINEN BHATTACHARYYA:
 In my amendment to clause 3, I have suggested to the Government to omit these lines:

"and shall be deemed to have been substituted with effect from the 29th day of June, 1975."

In another amendment I have suggested that for lines 19 to 24 and 1 and 2 respectively, the following proviso should be substituted:

"Provided that the subsequent detention order can be made only in a case where fresh facts have arisen after the date of revocation or expiry, on which the Central Government or a State Government or an officer, as the case may be, is satisfied that such an order should be made"

I have suggested this in place of the following:

"Provided that in a case where no fresh facts have arisen after the expiry or revocation of the earlier detention order made against such person, the maximum period for which such person may be detained in pursuance of the subsequent detention order shall, in no case, extend beyond the expiry of a period of twelve months from the date of detention under the earlier detention order or the expiry of the Defence and Internal Security of India Act, 1971, whichever is later"

I have suggested that subsequent detention order can be made only in a case where fresh facts have arisen. In your case, you have said that even if there is no fresh fact, the detention may be continued. My amendment is that only if fresh reasons can be adduced for continued detention, then only you can continue the detention. Otherwise not. Here is a positive amendment and, I hope, the Minister will be good enough to accept it.

श्री कमला मिश्र 'सबुकर': उपाध्यक्ष जी, मंत्री जी ने जो बातें जबाब में कही हैं

उनको सुनकर भी और अपने बिहार का और चम्पारन जिले का अनुभव जानते हुए यह अमेन्डमेंट लाया है। वह यह है कि यदि बोधारा डिटेन्शन हो, तो जैसा कि अभी हमारे प्रांतीय सदस्य ने कहा, ऐसी बात न हो कि बिना पूरी तरह विचार किए हुए और बिना नए तथ्यों की जानकारी किए हुए सरकार को ऐसा अधिकार रहे जिसके अन्तर्गत पुनः डिटेन कर लें। सामग्री जानकारी और पूरा विचार करके तभी अरेस्ट किया जाय तो अच्छा रहेगा। नहीं तो होता यह है कि अधिकारियों के लिए बहुत ही भलत प्रयोग इसका किया जाता है। मैं जानता हूँ अपने अनुभव से कि हमारे बिहार में पूर्वी और पश्चिमी चम्पारन जिले में ऐसी घटना हुई कि कांग्रेस के दो गेटों में अगडा हुआ और डी० एम० ने एक हाई स्कूल के टीचर को डिटेन कर दिया जबकि वह बीग सूची कार्यक्रम को इम्प्लीमेंट कराने के लिए काम कर रहा था। मेरा ऐसा अनुभव है इसलिए मैं कहता हूँ गृह मन्त्री महोदय मे कि वे इन बात पर ध्यान दें और उन्होंने भी तबूल किया है कि इसका मिस्यूज हो सकता है। मिस्यूज नहीं हो, इस बात की कोई गारन्टी नहीं है। इसलिए मैं चाहता हूँ सामग्री से विचार लिया जाय, बिल मे इसको लाया गये ताकि इन्तज मिस्यूज न हो सके।

SHRI K. BRAHMANANDA REDDY: Sir, I oppose amendments No. 3 and 4, which Shri Bhattacharyya has moved. This is because if the amendment is accepted the benefit of the proviso under Section 14, namely the maximum period for which a person may be detained in pursuance of the subsequent detention order shall, in no case, extend, beyond the expiry of a period of twelve months from the date of detention, will not be available to some of the detenus. The orders that have been passed during the duration of the ordinance will not be covered.

In his amendment No. 4, he has suggested that subsequent detention order

[Shri K. Brahamananda Reddy]

can be made only if fresh facts have arisen. This is not acceptable. It would be meaning going back to the old Section 14(2) of the old MISA Act which has subsequently been amended.

MR. DEPUTY-SPEAKER: I will put amendments No 3, 4, 11 and 12 to the vote of the House.

Amendments Nos 3, 4, 11 and 12 were put and negatived.

MR. DEPUTY-SPEAKER: The question is:

"That clause 3 stand part of the Bill."

The motion was adopted.

Clause 3 was added to the Bill

Clause 4 (Amendment of Section 16A)

SHRI DINEN BHATTACHARYA: I beg to move

Page 2,—

for lines 11 to 15 substitute—

"emergency, but such detention order has not been approved by the State Government as provided in sub-section (3) of section 3 or in respect thereof the provisions of sub-section (4) of that section have not been complied with, such person shall be forthwith released." (5)

Page 2,—

for lines 19 to 28 substitute—

"(5) In making any review, consideration or recommendation under sub-sections (2), (3) or (4) the appropriate Government or officer may act on the basis of information or materials in its or his possession but shall communicate and disclose the facts and any such information or materials to the person concerned and shall afford such person a reasonable opportunity of making a represen-

tation against the making under sub-section (2) or the making or confirming under sub-section (3), or the non-revocation under sub-section (4), of the declaration in respect of him and also against the order of detention." (6).

Pages 2 and 3,—

for lines 29 to 52 and 1 to 31 respectively, substitute—

(c) sub-sections (6) and (7) shall be omitted" (7)

SHRI K. M. 'MADHUKAR': I beg to move:

Page 2,—

omit lines 4 to 15, (13)

Page 2, line 42,—

for "at any time after" substitute—

"Within a week but not exceeding two weeks of time of" (14).

Page 3, lines 5 and 6,—

for "may, whenever it considers it necessary so to do"

substitute—

"within a period of a week but not more than two weeks shall" (15)

Page 3,—

omit lines 11 to 31. (16)

SHRI DINEN BHATTACHARYA: In respect of the amendment proposed by the Minister of Section 16A, sub-section 2(a), I have suggested the deletion of lines 11 to 15 and my amendment is that this should be substituted in place of that:

"emergency, but such detention order has not been approved by the State Government as provided in sub-section (3) of section 3 or in respect thereof the provisions of sub-section (4) of that section has not been complied with such person shall be forthwith release."

Here is a positive action to be taken by the authority under this Act and

that is why I am suggesting that the words that are there in the Bill should be substituted by the words I have suggested.

SHRI KRISHNA CHANDRA HALDER: Sir, the amendment should be accepted by the Home Minister, because the detention may be mala fide in some cases. The citizen can be put to wrong confinement by the bureaucrat. So, I request this amendment of mine may kindly be accepted by Government.

श्री कमला मिश्र 'मञ्जुहर': उपाध्यक्ष जी, मैंने अपनी पहली अमेन्डमेन्ट में यह कहा है कि लाइन 4 में 15 तक हटा दिया जाये। यह ऐसा विषय है जिस पर आज हाउस में सब से अधिक बहस हुई है, जो लोग डिटेन किये जायेंगे उन को कोई भी कारणान, शत्रु या प्रमाण देने का अधिकार नहीं होगा। इस कानून से उन डिटिन्यूज को अपने आप रिप्रेजेन्ट करने का अधिकार नहीं मिलता है—मैं समझना हूँ कि यह सही बात नहीं है। हम के चलते आगे चल कर जो सम्भावनाएँ पैदा होगी, जो परिस्थिति पैदा होगी, उस को देखते हुए मैं समझना हूँ कि इसका गलत ढंग से इस्तेमाल हो सकता है। इस लिये जो लोग डिटेन हों इन को कम से कम इनका अधिकार अवश्य होना चाहिये कि सरकार उन को डिटेन करने का कारण बतलाये। इसलिये मैं चाहता हूँ कि इन लाइनों को हटा दिया जाय।

दूसरी बात—

"At any time after the receipt of a report under sub-section (3), the Central Government may require the State Government to furnish to the Central Government the grounds on which...."

इसके संबंध में मुझे कहना है कि सेंट्रल गवर्नमेंट वह रिपोर्ट कब मांगेगी, मांगेगी या नहीं मांगेगी—स्टेट गवर्नमेंट के लिये इस में कोई बाध्यता नहीं है। मैंने बाध्यता

लाने के दृष्टिकोण से यह संशोधन दिया है ताकि सेंट्रल गवर्नमेंट बाध्य हो, वह रिपोर्ट मांगे और स्टेट गवर्नमेंट बाध्य हो, वह रिपोर्ट दे कि किस कारण से प्रमुख व्यक्ति को डिटेन किया गया है। मैं समझता हूँ कि इस में इन को कोई ऐनराज नहीं होना चाहिये और वे इस को मान लेंगे।

SHRI DINEN BHATTACHARYYA:
rose—

MR. DEPUTY-SPEAKER: No, please. You have spoken already.

SHRI DINEN BHATTACHARYYA:
This is amendment No. 6.

I spoke only on amendment No. 5.

MR. DEPUTY-SPEAKER: Mr. Halder can speak if he wants.

SHRI KRISHNA CHANDRA HALDER: Here, subsection (5) is sought to be substituted by:

"In making any review, consideration or reconsideration under sub-section (2), sub-section (3) or sub-section (4), the appropriate Government or officer may act on the basis of the information and materials in its or his possession without communicating or disclosing any such information or materials to the person concerned or affording him any opportunity of making any representation against the making under sub-section (2), or the making or confirming under sub-section (3), or the non-revocation under sub-section (4), of the declaration in respect of him."

In my amendment I want this to be substituted by:

"In making any review, consideration or reconsideration under sub-sections (2), (3) or (4), the appropriate Government or officer may act on the basis of the information or materials in its or his possession but shall communicate and disclose the facts and any such information or materials to the person concerned and shall afford such

[Shri Krishna Chandra Halder]

person a reasonable opportunity of making a representation against the making under sub-section (2), or the making or confirming under sub-section (3), or the non-revocation under sub-section (4), of the declaration in respect of him and also against the order of detention."

This is a amendment....

MR. DEPUTY-SPEAKER: All these amendments are printed and circulated. There is no need to read them anyway you have done it.

SHRI KRISHNA CHANDRA HALDER: What I want to say is that the detainee should be given the grounds of detention so that he can reply, he can repudiate and make a representation to the Board or to the proper authority or to the government. So this is a very important amendment and I hope the Minister will accept it. Even during the times of the British raj, when we were arrested under preventive detention, even at that time the government supplied us grounds of detention, but here, without any grounds of detention any person can be detained. So, I would say that the Government should accept my amendment.

SHRI K. BRAHMANANDA REDDY: It is obvious that I should oppose this amendment. The Government's stand is that the grounds of detention should not be disclosed for reasons of security. That is why we have to bar the courts also from going into the grounds since that would have meant the grounds becoming public. It is for the same reason that we have taken away the legal right of a detenu....

SHRI KRISHNA CHANDRA HALDER: You are afraid of the people and the public.

SHRI K. BRAHMANANDA REDDY: No, we are not afraid of anybody. If such a right is embodied in a law, that will cause the courts to go into the whole matter again which we are not prepared to allow on grounds of security.

MR. DEPUTY-SPEAKER: I shall now put amendment Nos. 5, 6, 7, 13, 14, 15 & 16 to Clause 4 to the vote of the House.

Amendments Nos. 5 to 7 and 13 to 16 were put and negatived.

MR. DEPUTY-SPEAKER: The question is:

"That Clause 4 stand part of the Bill."

The motion was adopted

Clause 4 was added to the Bill.

Clause 5 (Amendment of section 18)

SHRI DINEN BHATTACHARYYA: I beg to move:

Page 3, line 34,—

omit "or purported to be made" (8)

Page 3, lines 34 to 36—

omit ", and shall be deemed to have been substituted with effect from the 25th day of June, 1975" (9)

MR. DEPUTY-SPEAKER: I shall now put Amendment Nos. 8 and 9 to Clause 5 to the vote of the House.

Amendments Nos. 8 and 9 were put and negatived

MR. DEPUTY-SPEAKER: The question is:

"That Clause 5 stand part of the Bill."

The motion was adopted.

Clause 5 was added to the Bill.

Clause 6 (Validation)

SHRI DINEN BHATTACHARYYA:
I beg to move:

Page 3, lines 41 to 44,—

for "as valid and effective as if the amendments made to the principal Act by section 2 and 3, and clause (a) of section 4, of this Act had been in force at all material times."

substitute—

"invalid unless all the provisions of the principal Act have been duly complied with." (10)

It will be invalid unless all the provisions of the Principal Act have been duly complied with. Here I am speaking of the original Act and they are including here an amendment in such a way that the little scope that was there for the personal liberty of the citizens of this country may be taken away and be man cannot plead for his personal liberty or civil liberty in the court.

As before, the previous amendments also relate to the same aspects and this also relates to that very aspect that you must give the reasons for the detention. The detenus must be given an opportunity to plead, the case or to refute the charges in the court of law that are brought against them and the court of law should give the verdict as to whether the detention is *bona fide* or not. The amendments should be viewed in this light and should be accepted by the Minister.

SHRI K. BRAHMANANDA REDDY: I do not accept.

SHRI DINEN BHATTACHARYYA:
Why not?

MR. DEPUTY-SPEAKER: That is between you and the Minister.

(Interruptions)

MR. DEPUTY-SPEAKER: I shall now put amendment No. 10 to the vote of the House.

Amendment No. 10 was put and negatived.

MR. DEPUTY-SPEAKER: The question is:

"That Clause 6 stand part of the Bill."

The motion was adopted.

Clause 6 was added to the Bill.

MR. DEPUTY-SPEAKER: The question is:

"That Clause 7, Clause 1, the Enacting Formula and the Title stand part of the Bill."

The motion was adopted.

Clause 7, Clause 1, the Enacting Formula, and the Title were added to the Bill.

SHRI K. BRAHMANANDA REDDY: I beg to move:

"That the Bill be passed."

MR. DEPUTY-SPEAKER: I have three names here of the Members who want to participate in the Third Reading. I will not shut them out. But may I again remind them that in this debate, the arguments should be only in support or opposition of the Bill. Do not go into the details of the Bill any more.

SHRI H. N. MUKERJEE (Calcutta—North-East): Mr Deputy-Speaker, Sir, I feel more than usually melancholy on this occasion when we are putting on the statute-book this particular piece of legislation. Sir, I am very sensible of what I consider the fundamental hypocrisy of Anglo-Saxon Jurisprudence. I realise the fundamental hypocrisy of Anglo-Saxon Jurisprudence.

[Shri H. N. Mukherjee]

15.31 hrs.

[SHRI VASANT SATHE in the Chair]

But there is in that system certain elements which do happen to have an inspiring content. And for some time now since I have seen this particular business on the Agenda of our House, I have been thinking of those days when I had a kind of a very inauspicious innings at the high courts when in reference to certain cases related to something like habeas corpus after preventive detention had come into operation. I had learnt of such things as the Liversidge case where Lord Atkin had given his judgment where he had quoted a Latin tag which in translation means that even in the clash of arms the laws are not silent. Even when there is a case of war the laws are not silent in a society which we would like to cherish.

In this country at the moment it is quite clear that those of us who belong to our party have expressed our support to the Government in so far as the proclamation of emergency and other concomitant activities were concerned, because, we have been aware of a fundamental danger to the country, which had been posed by certain very unfortunate events. But I do not see, for the life of me I cannot understand, why the Government happens to require the kind of authority which this law invests in their hands. I do not see, for example, what purpose would be served by making it appear before all the world that the heavens would fall if in regard to certain detention cases the principal grounds of detention are communicated to the detenué concerned and he is enabled to make a representation. There are friends here like our friend the Minister for Agriculture who had been here for so many years. I remember those days when the Preventive Detention law was being put on the statute book and how the Government used to come in a very apologetic fashion. I remember having read

in the papers reports about Sardar Vallabhai Patel and later Shri Rajagopalachari proposing some very drastic changes in preventive detention law and telling the House in those days that they were spending sleepless nights over that matter. I do not consider that the situation today is so drastically dangerous that they have to have more than what an emergency puts in the hands of the administration when they are, as Mr. Brahmananda Reddy had the grace to acknowledge, liable to commit mistakes from time to time. Mr. Brahmananda Reddy told this House a little while ago that certain representations did happen to have been made either by the detenus themselves or by their friends or by some Members of Parliament on their behalf, and he did have these things examined. Even now he says that if there are representations made before him he would have them examined.

Now, what harm is there if the broad grounds of detention—not the detailed facts behind those grounds—are being considered to be the reasons for detention? If the broad grounds of detention are made known to the person who is being detained, why this particular predilection on the part of Government to be absolutely overcautious not to allow anything to go out anywhere? Everyday I come to this House I see the superabundant measures of security which you have taken and some of us feel as if we are in fear trembling as we cross the hurdles of the security guards. And we to live in this atmosphere when, as a matter of fact, the country is feeling differently; why should an impression go abroad that justice is not being done in these cases? If the Home Minister can tell the world, for example, the details about what has been done, I am sure, he could do that with a brave face—he could do so—that ‘we have detained so many people for good reasons and we have let off so many other people’.

he could with a very brave face confront the people in the Opposition in this country who are opposed to the emergency wholesale and say how he is trying to operate the emergency in a humane and enlightened manner. If that is the case, in certain respects, I feel the government does have a case but I do not know why they do not have the guts to put it forward before the country. If they could do so, then they do not have the need to have recourse to all these draconian measures—more than draconian measures. For instance, what benefit accrues to Government? Government could tell us a great deal more about it. Here in Parliament we do not even know who amongst us, are in detention? Even the Parliamentary Bulletin these days does not include news in regard to the arrest and detentions of people about which we get reports from the other people outside. This happens in spite of the fact that again we find that in certain respects Government is quite lax. Government, I hope, is quite ready to behave in a more civilised fashion. In that case, why this particular fear? Why do you fear the people? People are not so much interested in the letter of the law. But they are interested in the idea of justice being still there but, if they are told that a man can be detained and anything can be done by anybody, until today, no questions can be asked because ordinances after ordinances are supported by Parliament: if every miserable thing that you can or you cannot do is raised and feelings are aroused in this country that injustice is being rampant, then what happens? Are we not in an emergency situation where by positive work and by constructive amelioration and advance we can win over the people's support? Is this the time to give an unnecessary display of extra punitive authority to government to supplement whatever their programme may be—20-point or 21-point or whatever programme it may be? And why does the Government not have the guts or courage or moral

sense to get up and say that we can treat the Opposition with a greater amount of leniency and justice? We are not going to say 'goodbye' to justice; we are not going to do hand-to-hand fighting; we are not at war in our country; we are not in a situation where everybody is feeling insecure. We are having a situation where you have to mobilise the government that is to say, is to mobilise the enthusiasm, the enthusiasm of the people; are not the people going to be enthusiastic in implementing whatever programme you may or may not have? If you are going to have this idea, under the law as we need to-day—God knows for what reasons they need it to-day—that no questions can be asked and by this kind of presidential and authoritarian laws which are going to be put on the statute book which go against the grain of all genuine political activities, with all the desire to help the Government during this period of stress and strain when the people have to be mobilised in order to build a better future for our country, then we find ourselves constrained to oppose the legislation which seems to me to have no sense, no rhyme or reason behind it? This is an illustration of a certain authoritarian trend which is dangerous. You may be talking very sweetly to-day but, if this is the way in which the Government chooses to function or if the Government wishes to live by the word, unfortunately, then a time may come when you may have to perish by the sword.

That is the lesson of history. Do not forget these things. And when you have the time, the opportunity and the support of the people, why don't you bank on it? Why don't you capitalise on that support? Why don't you appear before the people in a better light? Why you cannot choose to do so is beyond my comprehension. Certain mysteries are happening these days which I in my time of life at least find it absolutely impossible to understand.

[Shri H. N. Mukherjee]

So all I can say is that I am extremely unhappy that we have to oppose, and we do oppose, this kind of legislation.

SHRI DINESH JOARDAR (Malda): We are discussing this Maintenance of Internal Security Act since 1971 in this House and also in the other House. Many views have been expressed, particularly opposing this draconian law taking away the rights and liberties of the free citizens of our country. Since then, the Government has been promising many things. We were told in 1971 that these laws would not be applied to political parties, that political parties would not be the victims of MISA. They repeated it in 1973 and 1974. Now in 1975, what they were telling all these years, they have forgotten. Now they have started attacking MPs and leading citizens and journalists, professors, Principals, educationists and all people representing all walks of life, not to speak of political parties or opposition members.

We also know that in spite of what the hon. Minister, Shri Brahmaanda Reddy, has promised, what he has stated this day, within a few months he will come again with another amendment. I am sure of that. I do not know what is left behind after this amendment for you to further take away. Whatever rights, privileges and liberties are left still now, they will be taken away totally.

This is the thing going on. We do not understand why, if the ruling party is still popular in the country and are holding mass support, they are so much afraid of disclosing the grounds. What is the secrecy about? If the grounds are anti-national activities endangering the security of the country, you can very well get the benefit of these anti-social activities of the opposition members or detainees. You can make them public.

You can let the people know of the nature of the offence committed by the detainees. The people will appreciate your action. But no, you will not do that. You are afraid of the people you are detaining; you are afraid of the people lest they know the grounds for the action you have taken. You are afraid of the courts. You are afraid of Parliament. You are afraid of anything and everything in this country. Now you are taking shelter under this sort of laws, and with this sort of measures, repressive measures, you want to rule over us and remain in power.

So this is a futile exercise we are doing here in this Parliament. We know that nothing we do here will do anything good to the people, the way we are taking part in this House. Even the Lok Sabha debates and the Rajya Sabha debates are not going to be published. People will not know what is happening here.

As regards what the hon. Minister stated that there may be misuse or abuse of these powers by the executive in stray cases, I think he will not forget that myself, Mr. Gopalan, Mr. Samar Mukherjee and Mr. Dinu Bhattacharya met him two or three months back and gave him certain specific instances of the misuse of MISA which are going on. What have you done on that? You have given no consideration to our representation. Nothing has been done in respect of these cases of misuse and abuse of MISA provisions by the executive.

We are again placing some cases before you. In my constituency the district magistrate happens to be the president of a college and the principal is the secretary of that college. There was some misunderstanding and some difference of opinion in the governing body meeting of the college and the district magistrate wrote to the principal: if you do not agree

to my proposal, I will take legal action against you. After a few days the emergency came. Who was the first victim of the emergency? The principal. The district magistrate issued an order detaining the principal of the college, who was never a member of any political party and never participated in any political activity. He was released within fifteen days. Thereafter the district magistrate asked the local BDOs to fabricate false reports about the principal saying that the principal was making public statements that he would see the Prime Minister and that he would do other things; the BDO fabricated such false reports against that principal and after 10 or 15 days the principal was again detained under the orders of the same district magistrate. We bring to your notice such cases but nothing happens, because the district magistrate is mobilising local congress goondas, the youth congress people and the local congress MLAs, he is going from door to door and got his order confirmed by the state government. You cannot do anything in such cases; and there is no remedy. This is not an isolated case; there are several such cases. In Rajasthan jail one detenu was killed. No action was taken. In Indore and other jails, what is the treatment that they are getting? In Berhampore central jail, I knew the cases of two or three young men of robust health, who were detained there. After a month or so they were found to be suffering from TB and we wrote to the jail superintendent, the I.G. of prisons and to the government that they were ill with TB but no treatment was given to them; there was no remedy to their illness. You know the kind of treatment accorded to political leaders, M.Ps. If such is the treatment given to those people, you can imagine what kind of treatment will be meted out to common people when they are detained, representatives of labour, trade union workers, workers in the peasant movements and representatives of the toiling masses. Every day more and

more such people are being detained. They are shifting the detenus from jails of Tripura to jails in Tamilnadu; from Calcutta to Calicut; transferring detenus from one State to another far off State. You are afraid to disclose the grounds of detention. But why are you afraid of detaining a person in his home state? You transfer them over long distances incurring heavy expenditure and also causing much inconvenience to the families of those people. We know that the Home Minister is helpless; we appreciate the position of the Home Minister; we also know that nothing will come out from him because he has no power to give us relief. Still we bring such instances to his notice. We oppose the Bill and we request that the Minister should withdraw this Bill.

श्री कमला मिश्र 'सधुकर' : सभापति जो, हमारी पार्टी ने मिसा को इस्तेमाल ब्लैक मार्केटियर्स, होडर्स, प्रतिक्रियावाद को सहारा देने वाली ताकतों, प्रतिक्रियावादी ताकतों, साम्राज्यवाद के ऐसे एजेंटों जो हिन्दुस्तान के अंदर विदेशों से मिलकर इनएस्टेबलाइजेशन पैदा करने वाले हैं तथा ऐसे लोगों के खिलाफ इस्तेमाल करने का हमेशा समर्थन किया है जो आनन्दमार्गी और आर० एम० एम० जैसे सगठनों में संबंध रहते हैं। लेकिन यह जो सगोधन आप लाए हैं इसमें बहुत ही कठिन स्थिति हो गई है जो हमारे नेता इंद्रजीन गुप्ता ने बताई थी और मैं भी कहना चाहता हूँ अपने कुछ अनुभवों से कि कैसे आप के इस कानून का दुरुपयोग हुआ है। जिस समय एमजॉन्सी का एलान हुआ बिहार के करीब 100 से ज्यादा सी०पी०आई०के लोगों को मिसा और डी आई आर में गिरफ्तार कर लिया गया। आप के ध्यान में यह बात लाई गई। इतना ही नहीं मैं खूब जानता हूँ मेरे इलाके में हमारे लोगों ने तथाकथित सम्पूर्ण क्रान्ति के लोगों के साथ मुकाबिला किया और फल क्या हुआ हमारे लोगों को जेल में भेजा गया। बिहार

[श्री कमला मिश्र 'मधुकर']

के चीफ मिनिस्टर ने आर्डर किया उन को निकालने का लेकिन वहाँ के जिलाधीश ने नहीं कबूल किया। आप की नोटिस में भी यह थाया होगा लेकिन उस के बा; भी वह काम नहीं हुआ।

अभी हाल ही में दिसम्बर जनवरी के महोने में पश्चिमी चम्पारन जिले में एक हाई स्कूल है जिनके एक शिक्षक वहाँ के हेडमास्टर है जो 20 सूत्री कार्यक्रम पर अमल करने के लिए अपना तमाम विद्यार्थियों से कहते रहते हैं और जो अपने आप में एक संस्था बन चुके है तथा हमारे लोगों को इस बात के लिए जगते रहते है, वहाँ पर कांग्रेस पार्टी के दो युक्स में झगडा हुआ, एक ग्रुप ने डी एम को प्रभावित किया और उन के कहने पर डी एम ने डी प्राई आर वा एक केस उन के खिलाफ लगा दिया। फिर हम लोग मुख्य मंत्री से मिले तब यह हटाया गया। यह दुरुपयोग की बात मैं कह रहा हूँ। ऐसे ही अखिल भारतीय किसान सभा की ओर से किसानों के सवालों को लेकर अखिल भारतीय माग दिवन मनाया गया, लेकिन उभ के खिलाफ भी ऐसे ही अस्त्र या इस्तेमाल किया गया। इस प्रकार से अधिकारियों के द्वारा जो दुरुपयोग हो रहा है इस कानून का उम की ओर मैं ध्यान दिखाना चाहता हूँ और इन नये सशोधन में उम की कोई रेमेडी नहीं है।

आप यह भी जानते है कि ऐसे अधिकारी है और पुलिस के अधिकारी ऐसे है जो यानन्द मार्गी रहे है, डिवलेगड आनन्दमार्गी है, उनका रेकार्ड है लेकिन बिहार के गृह मंत्री ने और यहा के गृह मंत्री ने उनको बचाया है और बचा रहे है। आज भी जब कि सरकार की नोटिस में है कि ये आनन्दमार्गी है तब भी उन को बचाया जा रहा है। वह यह कह देते हैं कि हम बदल गए है और उसी को मान लेते हैं। ऐसे कहने वाले बहुत मिलेंगे जो पहले आनन्दमार्गी रहे है या आर एस एम से संबंधित रहे है। एकाएक उन्होंने तिरगा

झंडा धारण कर लिया और गांधी टोपी पहन ली तो उस से वह बदल कैसे गए ? इसलिए मैं सावधान करना चाहता हूँ कि ऐसे अधिकारियों की कोई गारंटी नहीं है। ऐसे जिलाधीश या ऐसे ए डी एम इन अधिकारो का मही डंग से इस्तेमाल करेंगे इस की कोई गारंटी नहीं है।

दूसरी बात जो मैं ध्यान में लाना चाहता हूँ मंत्री महोदय के वह यह है कि यह सही बात है कि आप मिसा का इस्तेमाल कर रहे है, आप ने कानून भी पास कर लिया लेकिन जो मिनिमम अधिकार होना चाहिए अपनी बातों को रखने का और डिटेंशन के कारणों को जानने का वह अधिकार इस में होना चाहिए। उस के चलते कोई ऐसी बात नहीं थी जिस के कारण आप के अधिकार को इस्तेमाल करने में कोई बाधा आती।

प्रधान मंत्री के 20 सूत्री कार्यक्रम के एनान के बाद उन पर अमल कहां तक हुआ यह आप हिसाब लगाइए, हम लोग लगा रहे हैं लेकिन जनता में जो एक सहयोग का वातावरण पैदा हुआ है उम का इस्तेमाल कर के जन-जागृति पैदा कर के उम कार्यक्रम को सफल बनाने का प्रयास किया जा सकता है और राजनैतिक तीर पर जो ऐसी काली शक्तिया है जो देश को गुमराह करना चाहती है, जो देश को प्रगति के रास्ते में रोकना चाहती है, जो साम्राज्यवाद की दलाली कर के आप के काम में बाधा उत्पन्न करना चाहती है ऐसी तावतो का मुकाबिला बिना हम कानून में सशोधन लाए भी किया जा सकता है। हम सगोधन के लाने से ही यहभव नहीं होगा कि जो आप के प्रोग्राम है उन को अमल में ले आया जाय। उसके लिए जो जन-जागृति पैदा हुई है उस को सही दिशा में ला कर उस से नही काम लिया जाय नहीं तो जितने कानून बनाने जाएंगे उन कानूनों से जनता को जो असंतोष है वह असंतोष दूर नहीं होगा। उस असंतोष को दूर करने के विषय में कदम उठाए। साथ ही अधिकारियों के द्वारा जो दुरुपयोग होने

की संभावना है उस को रोकने के लिए कदम उठाए। वरना इस सभोधन के पास होने के बाद जो आप का एलान है और जो उस की पूर्ति है उस में खाई पैदा होती रहेगी।

श्री एम० एम० बनर्जी (कानपुर)
समाप्ति महोदय, जो बिल पास होने जा रहा है, अक्षरियत जिनकी है वह इसको पास करने जा रहे हैं, मैं इसकी मजहूमत करने के लिए खड़ा हूँ ? मैं आपसे एक चीज कहना चाहता हूँ कि इस बिल की आखिर क्यों जरूरत थी। यहाँ पर हमारे दोस्त श्री ब्रह्मानन्द रेड्डी ने बहुत समझाने की कोशिश की लेकिन जो दलील उन्होंने दी है उसका कोई भी अक्षर हमारे ऊपर नहीं हुआ है। मिर्क श्री इन्द्रजीत गुप्त के ऊपर ही उसका अक्षर न हुआ हो, ऐसी बात नहीं है, हमारे ऊपर भी उसका कोई अक्षर नहीं हुआ है। हम समझते हैं उसको नायाज तरीके से नौकरशाही इस्तेमाल करेंगे। मैं आपसे कहना चाहता हूँ कि जब आपने प्रतिक्रियान्वी शक्तियों को गिरफ्तार किया तो हमने उसका स्वागत किया, आपने बीस सूत्री कार्यक्रम का एलान किया, हमने उसका स्वागत किया, आपने इभर्जेन्नी लगाई तो उसका भी हमने स्वागत किया हालाँकि हमारे घरा पर लोग मजहूमत करते थे, गालियाँ मारते थे लेकिन उन सारी बातों के बाद भी हमने बीस सूत्री कार्यक्रम का स्वागत किया, इभर्जेन्नी का स्वागत किया। फिर क्या वजह है कि आपको बीस सूत्री कार्यक्रम का और दूसरी बातों का खिलाजान से समर्थन करने के बजाय आप इसकी यहाँ पर मजहूमत कर रहे हैं ? क्या हमारे आपके रिश्ते खराब हो गए ? क्या वह आदर्श जिनकी बिना पर हम आपका समर्थन करते थे वह चले गए ? आज जब पैसा और पसोता बहाने वालों में लड़ाई होगी, जब वे आपसे मिलेंगे तो क्या पसोता बहाने वालों को आप गिरफ्तार नहीं करेंगे ? हमने चिल्ला चिल्लाकर इस बात को कहा कि आप एगो कानून बनाइये

जिसमें रिट्रिब्यूमेंट, लाव-आउट और ले-आफ को बन्द किया जाये। आज देश में हजारों मजदूर फाकाकशी कर रहे हैं और इस तरह से धीरे धीरे वह बर्बट की तरफ जा रहे हैं। लेकिन आपने उनकी तरफ देखा नहीं, उनके बारे में कुछ सोचा नहीं। अक्षर 22 अध्यादेशों में एक अध्यादेश इस बात का भी होता जिसमें रिट्रिब्यूमेंट, लोक-आउट ले-आफ को रोकना जाता लेकिन नहीं, उनके लिए आपके हाथ रुक गए। जहाँ टाटा, बिडला ने आपको आखे दिखाई तो सारे धरते रह गए। समाप्तिवाद की सारी बातें धरी रह गईं। आप लामे भी तो बोनस के लिए आडिनेन्स लाए। ठीक है, आप पास करे लेकिन हम इसकी मुखाक्षिप्त करते हैं। हो सकता है इसका उल्टा अक्षर आपके ऊपर ही पड़े।

आखिर में मैं फौज अहमद फौज का एक शेर कहना चाहता हूँ जोकि उन्होंने जेल में लिखा था

न बवालें वगल न अर्ज गम, न हिकायते
न निकायते

तेरे अहद में दिले जार के सभी अस्तियाय
चले गए।

SHRI K. BRAHMANANDA REDDY:
Sir, I have not much to say in reply. So far as the shift in the attitude of the CPI as has been made known by my friend, Mr. Banerjee is concerned, I would only repeat that except for clearing some doubts and removing some legal difficulties, the amending Bill does not seek to change in a big way the earlier Act. Now, if for other reasons, because no other ordinances have been issued in favour of certain sections of people, the CPI proposes to consider the matter in a different light, that is a different matter. I again wish to thank the members opposite belonging to the CPI for their support and cooperation in the implementation of the 20 point programme. As Prof. Mukherjee said, it

[K. Brahmananda Reddy]

is widely known that not only representative institutions in great majorities but even the masses of the country have supported in an overwhelming manner the steps that have been taken by the Prime Minister since 25th June 75.

16.00 hrs.

Therefore, it is not the question of fearing the people. I agree with him that it is an opportunity where all of us together will have to mobilise the people against the force of right reaction, against the force of de-stabilisation. But you may also be aware that there are not a majority people. If they have a majority, there would not have been any need for them to resort to de-stabilisation. The point, therefore, would be that we have to be careful about the force of de-stabilisation or the force of right reaction and other forces which disrupt the normal democratic life of this country by creating panic among the people of the society, by creating disaffection against the Government, etc.

I particularly see the senior Member's anguish that we are not creating our image in the broad world. As I have already replied that we should make an effort to put in the proper perspective our point of view but beyond a point, as is wisely said, if a man refuses to be convinced, what is the point in trying to convince him because he will never be convinced.

I have submitted in my reply that reasons are not submitted to the detenu for reasons of security. We do not want that the reasons should be made public and we do not want that these persons who are detained, should have recourse to legal remedy.

One CPM Member has said that they have made a representation. In fact, they have made a representation. I can assure you that all representations

made either jointly or separately have been looked into and are being looked into. It does not mean that whatever you say, we agree. If you start on that presumption that because you represent, the remedy you seek should automatically follow, that would be wrong. Whatever representations have been made especially by the hon. Members of this House and the other House, have been gone into. State Governments have been consulted and some other agencies have also been consulted and we try to take steps accordingly. I can tell you that whatever representations have been made with regard to our friends in Indore Jail and Rajasthan Jail, they have been looked into.

Yesterday, Mr. Somnath Chatterjee was saying that he did not get a reply. That does not mean that it has been thrown in the waste-paper basket; that is not so. But some things do not require any reply at all. I can assure you that whatever has been represented has been looked into with a desire to help. I can only say that whenever a representation had been made not only to us but even to the Jail authorities, the best attention that could be paid was being paid. And it is being paid and will continue to be paid. I did not want to quote this letter from Mr. Samar Guha, a very respected Member of this House. He is under detention now. He says:

"I had been in British jails, in Pakistan jails at Dacca, and Congress jails on innumerable occasions and I do not remember to have received better treatment from the members of the jail staff including doctors, than I have been receiving from the staff of the jail and its doctor."⁶

I do not need a better compliment. This is from an Opposition leader, leader of respectability, though he may be under detention for other reasons. Therefore, I wish to submit for your consideration that as I have said, these things are not taken for granted

or in a cavalier fashion or in a casual fashion; they are looked into and whatever is possible to prevent misuse, is being done.

MR. CHAIRMAN: The question is:

"That the Bill be passed."

The Lok Sabha divided.

Division No. 8]

[16.11 hrs.

AYES

Agrawal, Shri Shrikrishna
Ahirwar, Shri Nathu Ram
Alagesan, Shri O. V.
Ambesh, Shri
Appalanaidu, Shri
Arvind Netam, Shri
Awdhesh Chandra Singh, Shri
Babunath Singh, Shri
Bajpai, Shri Vidya Dhar
Balakrishniah, Shri T.
Banerjee, Shrimati Mukul
Besra, Shri S. C.
Bhagat, Shri H. K. L.
Bhargava, Shri Basheshwar Nath
Bhatia, Shri Raghunandan Lal
Bhattacharyya, Shri Chapalendu
Bhuvarahan, Shri G.
Brahmanandji, Shri Swami
Chakleshwar Singh, Shri
Chandrakar, Shri Chandula
Chandrashekharappa Veerabasappa,
Shri T. V.
Chandrika Prasad, Shri
Chaudhary, Shri Nitiraj Singh
Chhotey Lal, Shri
Chutten Lal, Shri
Chikkalingaiah, Shri K.
Daga, Shri M. C.
Dalbir Singh, Shri
Damani, Shri S. R.
Darbara Singh, Shri
Das, Shri Anadi Charan
Das, Shri Dharnidhar
Dasappa, Shri Tulsidas
Daschowdhury, Shri B. K.
Dhamankar, Shri
Dhillon, Dr. G. S.
Dixit, Shri G. C.
Dixit, Shri Jagdish Chandra
Doda, Shri Hiralal
Dumada, Shri L. K.
Ganesh, Shri K. R.
Ganga Devi, Shrimati
Gangadeb, Shri P.
Gavit, Shri T. H.
Ghosh, Shri P. K.
Gill, Shri Mohinder Singh
Giri, Shri S. B.
Giri, Shri V. Shanker
Godara, Shri Mani Ram
Gogoi, Shri Tarun
Gokhale, Shri H. R.
Gomango, Shri Giridhar
Gopal, Shri K.
Gotkhinde, Shri Annasaheb
Gowda, Shri Pampan
Hansda, Shri Subodh
Hari Singh, Shri
Ishaque, Shri A. K. M.
Jamilurrahman, Shri Md.
Jayalakshmi, Shrimati V.
Jitendra Prasad, Shri
Joshi, Shrimati Subhadra
Kadam, Shri J. G.
Kale, Shri
Kamakshaiah, Shri D.
Kamala Prasad, Shri
Kamble, Shri T. D.

Kapur, Shri Sat Pal
 Karan Singh, Dr.
 Kaul, Shrimati Sheila
 Kavde, Shri B. R.
 Kisku, Shri A. K.
 Kotoki, Shri Lilladhar
 Krishnappa, Shri M. V.
 Kureel, Shri B N
 Laskar, Shri Nihar
 Lutfal Haque, Shri
 Mahajan, Shri Vikram
 Mahishi, Dr. Sarojini
 Majhi, Shri Kumar
 Malaviya, Shri K. D.
 Malhotra, Shri Inder J.
 Mallanna, Shri K.
 Mandal, Shri Jagdish Narain
 Mandal, Shri Yamuna Prasad
 Manhar, Shri Bhagatram
 Maurya, Shri B. P.
 Mirdha, Shri Nathu Ram
 Mishra, Shri Bibhuti
 Mishra, Shri G. S.
 Mishra, Shri Jagannath
 Modi, Shri Shrikishan
 Mohapatra, Shri Shyam Sunder
 Mohsin, Shri F. H.
 Nimbalkar, Shri
 Oraon, Shri Kartik
 Oraon, Shri Tuna
 Pahadia, Shri Jagannath
 Pandey, Shri Damodar
 Pandey, Shri Narsingh Narain
 Pandey, Shri Tarkeshwar
 Panigrahi, Shri Chintamani
 Paokal Haokip, Shri
 Parashar, Prof Narain Chand
 Paswan, Shri Ram Bhagat

Patel, Shri Prabhudas
 Patil, Shri Anantrao
 Patil, Shri Krishnarao
 Patil, Shri S. B.
 Patnaik, Shri J. B.
 Peje, Shri S. L.
 Purty, Shri M. S.
 Raghu Ramaiah, Shri K.
 Rai, Shri S. K.
 Rai, Shrimati Sahodrabai
 Raj Bahadur, Shri
 Rajdeo Singh, Shri
 Raju, Shri P. V. G.
 Ram Dayal, Shri
 Ram Prakash, Shri
 Ram Sewak, Ch.
 Ram Singh Bhai, Shri
 Ramshekhar Prasad Singh, Shri
 Ranabahadur Singh, Shri
 Rao, Shri Jagannath
 Rao, Dr. K. L.
 Rao, Shri M. S. Sanjeevi
 Rao, Shri Nageswara
 Rao, Shri P. Ankineedu Prasad
 Rao, Shri Patabhi Rama
 Raut, Shri Bhola
 Reddy, Shri K. Ramakrishna
 Reddy, Shri M. Ram Gopal
 Reddy, Shri P. Ganga
 Reddy, Shri P. Narasimha
 Reddy, Shri P. V.
 Reddy, Shri Sidram
 Richhariya, Dr. Govind Das
 Saini, Shri Mulki Raj
 Salve, Shri N. K. P.
 Samanta, Shri S. C.
 Sankata Prasad, Dr.
 Satpathy, Shri Devendra
 Savant, Shri Shankerrao
 Savitri Shyam, Shrimati
 Sayeed, Shri P. M.

Sethi, Shri Arjun

Shahnawaz Khan, Shri
Shambhu Nath, Shri
Shankar Dayal Singh, Shri
Shankaranand, Shri B.
Sharma, Shri A. P.
Sharma, Dr. H. P.
Sharma, Shri Madhoram
Sharma, Shri Nawal Kishore
Sharma, Dr. Shanker Dayal p
Shastri, Shri Biswanarayan
Shastri, Shri Sheopujan
Shivnath Singh, Shri
Shukla, Shri Vidya Charan
Siddheshwar Prasad, Prof.
Singh, Shri Vishwanath Pratap
Sinha, Shri Dharam Bir
Sinha, Shri Nawal Kishore
Sohan Lal, Shri T.
Sokhi, Sardar Swaran Singh
Stephen, Shri C. M.
Suryanarayana, Shri K.
Tayyab Hussain, Shri
Tombi Singh, Shri N.
Tula Ram, Shri
Tulsiram, Shri V.
Uikey, Shri M. G.
Unnikrishnan, Shri K. P.
Venkatasubbaiah, Shri P.
Venkatswamy, Shri G.
Verma, Shri Sukhdeo Prasad
Vidyalankar, Shri Amarnath
Yadav, Shri Chandrajit
Yadav, Shri Karan Singh
Yadav, Shri N. P.

NOES

Bade, Shri R. V.
Bhattacharyya, Shri Dinen
Bhattacharyya, Shri S. P.
Bhaura, Shri B. S.
Deshpande, Shrimati Roza
Durairasu, Shri A.
Dutta, Shri Biren
Gupta, Shri Indrajit
Halder, Shri Madhuryya
Halder, Shri Krishna Chandra
Hazra, Shri Manoranjan
Joarder, Shri Dinesh
Kathamuthu, Shri M.
Lakshmikanthamma, Shrimati T.
'Madhukar', Shri K. M.
Mavalankar, Shri P. G.
Mohammad Ismail, Shri
Mohanty, Shri Surendra
Mukerjee, Shri H. N.
*Painuli, Shri Paripoornanand
Parmar, Shri Bhaljibhai
Reddy, Shri Y. Eswara
Roy, Dr. Saradish
Saha, Shri Ajit Kumar
Sen, Dr. Ranen
Shastri, Shri Ramavatar
Vijay Pal Singh, Shri

MR. CHAIRMAN: The result of the
division is:

Ayes: 181; Noes: 27.

The motion was adopted.

*Wrongly voted for NOES.

†Shri Paripoornanand Painuli voted for AYES