

[श्री श्रीम प्रकाश त्यागी]

उन्हें वहां डिटेन कर के रख लिया । यह व्यवहार पुलिस कानून के सर्वथा विरुद्ध है और पुलिस की तानाशाही का द्योत्तक है ।

इसके फलस्वरूप तीसहजारी के वकीलों की एक बैठक हुई और सर्वसम्मति से उनकी एसोसियेशन ने हड़ताल करने का निश्चय किया और कल से वहां हड़ताल चालू हो गई है । कोर्ट का समस्त काम ठप्प हो गया है और पटियाला हाउस, नई दिल्ली में जो कोर्ट है, इस कचहरी में भी कोई काम नहीं हुआ । उदाहरण के तौर पर मैं कहना चाहता हूँ कि कल जो कचहरी में वहां पर हजारों आदमी गये, वह सब वहां पहुंचकर वापिस चले गये, क्योंकि कोई वकील वहां पर नहीं था । कल वहां 3 इम्पोर्टेंट केसेज थे, एक किस्सा कुर्सी का, सुन्दर डाकू वाला केस और शाह कमीशन का जो केस था इस में संजय गांधी वहां सब पहुंचे हुए थे लेकिन लोगों ने कचहरी में जाकर देखा, उनका एडवोकेट नहीं पहुंचा और वह वहां बोले और तारीख ले ली । एडवोकेट्स ने घोषणा की है कि पुलिस का जवाब असंतोषजनक है । उन की हड़ताल कल भी जारी रहेगी । मैं सरकार से अनुरोध करता हूँ कि वह तुरन्त इस ओर ध्यान दे कर इस हड़ताल को समाप्त करायें, पुलिस की ज्यादती के मामले की विशेष रूप से जांच करायें और साथ ही इस समय पुलिस का जो व्यवहार है, उस में सुधार करें, ताकि वह जनता के साथ सही व्यवहार करे ।

15.21hrs.

MAINTENANCE OF INTERNAL SECURITY (REPEAL) BILL—Contd.

MR. DEPUTY-SPEAKER: We shall now continue the discussion on the Maintenance of Internal Security (Repeal) Bill, Shri Saugata Roy was on his legs yesterday. He is absent. He has finished probably. Dr. Ramji Singh.

श्री राम किशन (भरतपुर) : उपाध्यक्ष महोदय, कल मुझे चेयर की ओर से बताया गया था कि श्री सांगत राय के बाद मेरा नाम है । मैं जानना चाहता हूँ कि मेरा नाम वहां मे कैंस हटा दिया गया है ।

उपाध्यक्ष महोदय : मेरे पाम ऐसा कोई आर्डर नहीं है ।

श्री राम किशन : कल समापति महोदय, श्री शेजवलकर ने बताया था कि मेरा नाम श्री सांगतराय के बाद है और मुझे उन के बाद बुलाया जायेगा ।

उपाध्यक्ष महोदय : मुझे पता नहीं है —डा० राम जी सिंह ।

डा० राम जी सिंह (भागलपुर) : उपाध्यक्ष महोदय, इस सदन में सरकार की ओर से मीसा कानून को निरस्त करने के लिए एक विधेयक रखा गया है, यह किसी भी स्वतंत्रता प्रेमी के लिए एक दुर्घ का विषय है । गांधी ने रोलेट एक्ट का विरोध किया था और उस के खिलाफ आन्दोलन चलाया था । कहा जाता है कि मीसा कानून रोलेट एक्ट से सीगुना ज्यादा बुरा था । इसलिए यह सीभाग्य की बात है कि सम्पूर्ण सदन इस "लालस ला" को निरस्त करने के लिए आज एकमत है ।

1950में जब प्रिवेंटिव डिटेंशन ऐक्ट को सरदार पटेल ने इस सदन में रखा था, तो वह तीन रात तक नहीं सो सके थे। उन्होंने वह कानून इस लिये लाया था, क्योंकि उस समय विभाजन के पश्चात हिन्दुस्तान की परिस्थिति बड़ी खराब थी। लेकिन उस के बाद कांग्रेसी सरकार ने शोकिया तौर पर प्रिवेंटिव डिटेंशन ऐक्ट को हिन्दुस्तान की छाती पर रख दिया और चौदह वर्षों तक उमको रखे रही। यह नहीं, उस के बाद मीसा कानून में उस को आदेश कर दिया गया।

जब 1971 म मीसा कानून की और भी परिपुष्ट किया जाने लगा था, तो केवल श्री शमीम अहमद को छोड़कर सभी सदस्यों ने कहा कि मीसा कानून जरूर मी०पी०आई० के भी बन्धु सब के सब तालियां बजा कर मीसा कानून को पास करने में लगे हुए थे। लेकिन उस समय अटल जी ने, जो उस समय विरोधी दल में थे, प्रिवेंटिव डिटेंशन और मीसा कानून का विरोध किया था। उन्होंने स्पष्ट कहा था कि इस समय देश में ऐसी स्थिति नहीं है, जिस में इस प्रकार के कानून की आवश्यकता हो। उन्होंने मीसा की अस्वीकृति के लिए सदन में प्रस्ताव रखा था।

जो सरकार कहती थी कि हम प्रजातंत्र के कायल हैं, उस सरकार ने स्वतंत्रता-प्रेमियों के वचनों की ओर ध्यान नहीं दिया। जब श्री के०एम० मुंशी को अमरीका में पूछा गया कि आप के जैसे प्रजातांत्रिक देश में, जो दुनिया का सबसे बड़ा प्रजातांत्रिक देश है, इस प्रकार का अप्रजातांत्रिक कानून क्यों लाया गया, तो उन्होंने केवल यह कहा कि यह एक "एडमिनिस्ट्रेटिव नेसेसिटी" हैं। लेकिन आज जनता सरकार व्यक्ति की स्वतंत्रता की लड़ाई को एक

नया बिजयी यश दे रही हैं। इस लिए आज हम सब के लिये यह एक खुशी का दिन है।

जब मीसा कानून का संशोधन हो रहा था, तो कांग्रेस के दिग्गजों और सी० पी० आई० के बन्धुओं ने मीसा कानून का विरोध नहीं किया था और किमी भी सज्जन ने मीसा के "मिसयूज" की बात नहीं रखी थी। उन का साहस कहाँ चला गया था कि उनमें से किमी ने मीसा कानून का विरोध नहीं किया? इसलिए आज जनता सरकार का बधाई मिलनी चाहिए।

उपेक्ष महोदय, मीसा कानून अनैतिक है। जब संयुक्त राष्ट्रसंघ में मानव अधिकार में मनुष्य की स्वतंत्रता का अधिकार दिया गया है तो कोई संसद या कोई कानून जब व्यक्ति के उस अधिकार का अपहरण करता है तो वह मानव अधिकार के साथ विश्वासघात करता है। इसलिए मीसा कानून हरगिज नहीं रहना चाहिए

यह असंवैधानिक भी है। जेठमलानी साहब यहां बैठे हैं। वह जानते हैं कि संविधान के घोषणापत्र में, उसके प्रिम्बल में स्वतंत्रता और समता लिखा हुआ है। हमने उस स्वतंत्रता को कब्र में दफना दिया था इस आंशुका कानून और प्रिवेंटिव डिटेंशन ऐक्ट के द्वारा और लोग यह कहते हैं या जो 26 एवं 19 धारा है उस के भी खिलाफ पड़ता है।

लेकिन सब से बड़ी बात तो यह है कि कहते हैं कि कानून और व्यवस्था के लिए, परिस्थिति को संभालने के लिए आंशुका कानून चाहिए या प्रिवेंटिव डिटेंशन ऐक्ट चाहिए। मैं बहुत नम्रता के साथ कहना चाहता हूँ कि जो प्रशासन अक्षम होता है।

[डा० रामजी सिंह]

वही सामान्य कानून के द्वारा शासन नहीं कर पाता है। जो प्रशासन अक्षम होगा, भ्रष्ट होगा, अक्षुण्ण होगा वही इस प्रकार के खोफनाक कानून का जो नागरिक अधिकार को खत्म करता है इस्तेमाल कर सकता है। इसलिए कहा है "इट इज ऐन एलिबी फॉर करप्शन एण्ड मिज़रकन"। आज तक जिन सरकार ने आणुका कानून और प्रिवेंटिव डिटेन्शन ऐक्ट से शासन किया है वह अक्षम और अक्षुण्ण सरकार रही है। इसी प्रकार के कानून से प्रजातांत्रिक देश में सचमुच तानाशाही का आविर्भाव होता है और हम ने इसका नजारा देख लिया है। जर्मनी में भी देखा है और हिन्दुस्तान में भी देखा है। इसी आणुका कानून की सीढ़ी पर चढ़ कर इंदिरा जी ने प्रजातंत्र को ध्वस्त कर के तानाशाही यहां पैदा कर दी थी। .. (व्यवधान) .. साठे साहब तो इस मामले में आज हमारे साथ हैं क्योंकि इसी कानून को नष्ट करने के बाद आज वह हम को कितनी भी गालियां देंगे, हम उन को सचमुच भीसा के कानून में बन्द नहीं करेंगे। इसलिए वह तो हमें बघाई देंगे।

सचमुच में यह कानून बिलकुल अप्रजातांत्रिक है। उस समय माननीय अटल जी ने यह कहा था कि यह आणुका कानून ऐसा है कि जहां न वकील है, न दलील है, और न अपील है। 19 महीने हुकमदेवभाई के साथ मुझे भी मीसा के अन्दर जेलों में रहने का सीमाव्य हुआ था। वहां न कोई वकील हमें मिल सकता था, न कोई दलील हमारी चल रही थी और न कहीं पर हम अपील कर सकते थे। इसलिए ऐसा कानून जो प्रजातंत्र की हत्या करता है उस को उठाने के लिए आज हमारा

गृह विभाग जा आगे बढ़ रहा है उस के लिए वह बघाई का पात्र है।

बड़े बड़े कानूनदां कहते हैं कि जहां हैबिस कार्पस नहीं है वहां डेपॉजिरी नहीं है। सचमुच में मैंने देखा कि इन के माध्यम से हैबिस कार्पस नहीं रह गया था। इसलिए हमें मान लेना चाहिए कि जब से यह कानून भारतवर्ष में लाया हुआ था उस समय से भारतवर्ष में प्रजातंत्र नहीं था। यह बिलकुल एक कानूनी बात है।

जो भी उस समय के लोग यह कहते थे कि यू०के० में, यू०एन०ए० में और आस्ट्रेलिया में भी इस तरह के कानून हैं, उन को यह देखना चाहिए कि कितनी बार वहां यह इस्तेमाल हुआ है और किस परिस्थिति में इस्तेमाल हुआ है। मैं निवेदन करूंगा कि यह जो मीसा का कानून है, इन के जरिए फ्राम मिस रूत टु मीसा रूत की ओर हम बढ़े थे। आज कहा जाता है कि हमारे कानून के अन्तर्गत जो विद्युत्कारि और विद्युत्सकारी शक्तियां हैं उनका नियमन करने का कोई प्रावधान नहीं है। लेकिन हमारे नियम बनाने वालों ने कानून के अन्दर काफी इन के प्रावधान रखे हैं और वह प्रावधान हमारे कानून में मौजूद है। लेकिन जब हमारा प्रशासन अक्षम होता है, तब मीसा जैसे और प्रिवेंटिव डिटेन्शन ऐक्ट जैसे आपातकालीन कानून की इच्छा करता है। अगर सभ्य प्रशासन हमारा रहेगा तो हमारे जो नियम हैं और हमारा जो आई०पी०सी० और सी०आर०पी०सी० है उस के अन्दर जो नियम और कानून हैं उन के जरिए वह देश में व्यवस्था और प्रशासन को कायम रख सकता है। इसलिए वास्तव में आज हमारे लिए यह बड़ी खुशी का दिन है। मैं उदात्त

महोदय, इसके लिए आपको और गृहविभाग को बर्बाद देना है कि आज इस काले कानून का हिन्दुस्तान की प्रजातांत्रिक धरती से सन्त उच्छेद किया जा रहा है।

MR. DEPUTY-SPEAKER: The Bill was allotted only 2 hours and we are left with just 40 minutes. But the list of speakers is a big one—32 more speakers. I think we will have to extend the time. I suggest we extend it by one more hour. I think the House agrees with it. Shri Mayathevar.

SHRI K. MAYATHEVAR (Dindigul): Sir, I welcome this MISA Repeal Bill. So far as my party is concerned, although we extend our welcome to this Bill, our appreciation is not in toto. We partly welcome it. The Janata Government could not repeal it in toto directly. We are repealing the Bill indirectly. In other words, we are only partly repealing the Bill because it is needless to say that MISA is still continuing in the form of Preventive Detention. So far as the present situation prevailing inside the House is concerned, I have been watching it for the last two days—today and yesterday—and jokingly or in comedy, I say, MISA is very essential at least to control this House. Emergency is essential or inevitable for the purpose of maintaining law and order inside the House.

MR. DEPUTY-SPEAKER: I will be the beneficiary!

SHRI K. MAYATHEVAR: You will behaving no headache! We must understand our responsibilities towards our country. This House is the supreme body which is answerable to the entire nation. Therefore we should not shout and we should concentrate our attention on useful and fruitful things for the country.

As I said, this Preventive Detention is continuing in the Cr. P. C. This Preventive Detention Act was mainly used against political leaders. In other words, political opponents were

suppressed and arrested under the Preventive Detention Act from 1952 onwards in Tamilnadu and Kerala. In Kerala, Mr. A. K. Gopalan was victimised under this Act. Even his counsel was not allowed to interview him when he was put in jail in Kerala under this Act. The same thing happened during the regime of Mr. Kamaraj in Tamilnadu. Mr. Kamaraj arrested his political opponent, Mr. Muthuramalinga Thevar, who was a famous leader. Mr. Chitta Basu and our communist comrades know him. Mr. Muthuramalinga Thevar was arrested under the Preventive Detention Act mainly because of political vindictiveness. Why I am explaining all this background is that the Janata Government should not use the Preventive Detention Act tomorrow against Mrs. Indira Gandhi, although MISA was used without any moral justification against J.P., the present Prime Minister, Home Minister and so many ministers and leaders during the emergency. That is not advisable and that will not be welcomed by my party. Therefore, the same mistake, the same illegality, the same atrocity, should not be repeated by the Janata Government in future by using the weapons which is in the name of Preventive Detention Act.

By dropping the Maintenance of Internal Security Act we do not have any law to control the smugglers. The COFEPOSA is there of course. But COFEPOSA is there of course. But control the smugglers. This COFEPOSA is an incompetent law or incompetent enactment or Act to control the hoarders or profiteers or anti-social elements in this country. Therefore, by letting loose all smugglers by lifting this MISA you are having a bitter experience that people are feeling that the prices are going up and you are unable to arrest any hoarders or profiteers or blackmarketeers in this country. Therefore, to control all these kinds of anti-social elements in this country and arrest the price level, you must have certain enactments or certain laws. You are letting loose all

[Shri K. Mayathevar.]

these maneaters and tigers and you are crying that prices are going up. We were having the fruits or benefits during the time of Emergency as also certain disadvantages. At the time of Emergency we were gaining in foreign exchange. The foreign exchange gained was unprecedented. It was recovered and recouped fully, but now it is going backwards. You should not allow it to go backward in future by letting loose the smugglers in the country in the name of liberty and in the name of individual freedom.

Tomorrow all the people of Tamil Nadu or South India may agitate for their right of language, for their economic freedom, for their social freedom or freedom of language. For that, I request the Government that they should not vindictively use the Preventive Detention Act on those people who are going to agitate or who are agitating inside and outside the House for safeguarding the mother-tongue of Tamil Nadu and South Indian languages. This was used by Jawaharlal Nehru during the time of late revered leader 'Anna', the great leader who founded the D.M.K. Party in Tamil Nadu. Now, my leader, MGR is the follower of the late leader 'Anna'. He is following the same policy of safeguarding the Tamil language and Dravidian culture. In the Advisory Board you should appoint High Court Judges and Chief Justices of High Courts. It is stated in the Act itself, Section 5(1) or 5(2), in the printed paper provided to us, that a detenu has got no fundamental right to be represented by Counsel. That should not be because when there is no right to move either the Supreme Court under Article 32 of the Indian Constitution or the High Court under Article 226 of the Indian Constitution, you must provide the fundamental right or opportunity to be heard before the Board through the lawyer. Suppose there is a certain detenu who does not know ABC of law. Suppose I am arrested or my brother Mr.

Bala Pajanor is arrested or some other Members are arrested, we can argue the cases very well legally before the Advisory Board, but some leader who may be greater or bigger than a lawyer, may not be knowing law. Therefore, he must be given an opportunity and a right to be represented by a counsel in the Advisory Board. That right is not guaranteed or provided for under the provisions of this Act. This may be considered favourably by the Government.

A right should be given to challenge the Preventive Detention Act on grounds of *mala fide*. Even if this is not challenged on grounds of *mala fide*, it amounts to another MISA—if not a mini-MISA, an original MISA. Therefore I plead for people, political parties and politicians and say that you must provide for a fundamental right to challenge this Preventive Detention Act and the arrest of the detenu on grounds of *mala fide*. If they create enmity and religious feelings, it is an offence under certain provisions of the law, i.e., under this Act, vide Section 4(3)(b) in page 3 of the material supplied to us.

We are having a secular Government, from the time of inception of the Indian Constitution. It means that it is above religion. It is neither irreligious nor anti-religious. Therefore, we are above religion. That is why we are allowing all religions—Hindu, Muslim and Christian and other—to preach their religions. Whenever there is trouble, we cannot arrest people under this Act. In Madras City, I have come across many religious persons preaching against Hinduism. I don't want to name them. A certain set of people are preaching against Hindu religion. Such people cannot be arrested because our State is secular. Such an arrest will be repugnant to the fundamental rights guaranteed in Chapter III of the Indian Constitution.

Then, creating chaos and community feelings is an offence punishable under this law. This is also violative of and

contrary to the fundamental rights under Chapter III and Article 17 of the Constitution. Article 16(a) provides for backward classes pleading with the Government for improvement. Article 17 guarantees all rights and benefits and protection to Scheduled Castes and Scheduled Tribes. Therefore, when we are allowing these Articles to continue in Chapter III of the Constitution, we cannot say that there should not be any creation of feelings. Therefore, these things also are not in accordance with the protection given in the Constitution.

Finally, I have to say that: our learned friend Mr. Vajpayee when he was sitting as an Opposition leader, was advocating the manufacture of atom bomb. He is now the External Affairs Minister and he now says: "No, we cannot make the atom bomb." (Interruptions) We should not talk something irresponsible while we sit in the Opposition benches and when we come to sit in the Treasury benches, we should not change the entire policy, that is, *in toto*. We must be responsible both when we are sitting in the Opposition as well as when we are in the Treasury benches. Why I am pointing this out is this. You are attacking MISA 100 per cent. In your election manifesto itself you told the country, told the nation that if you are voted to power, if you are given the seat of Government, deposing the Congress Government of Shrimati Indira Gandhi, you will be eliminating the entire MISA itself. But now you are allowing a mini MISA to continue. That is why I am extending my party's partial support to this Bill to that extent. To the extent of your reviving the personal liberty of the people of India, I welcome it partly.

Finally, I thank you, Sir, for giving me this opportunity.

श्री राम किशन (भरनपुर) : मीसा को जनता सरकार और जनता पार्टी जो समाप्त करने जा रही है इसके लिए वह धन्यवाद की पात्र है ।

जिस संदर्भ में जनता सरकार बनी थी और जिस प्रतिक्रिया के फलस्वरूप वह सत्ता में आई थी अगर उसकी निष्ठा लोकतंत्र में नहीं होती तो वह इसको उन्हीं लोगों के खिलाफ इस्तेमाल कर सकती थी जिन्होंने इसका इस्तेमाल उसके खिलाफ किया था । उन लोगों का वह इसी मीमा में बन्द कर सकती थी जिन्होंने लोकतंत्र को समाप्त किया था । आप दुनिया के इतिहास को उठा कर देखें । जब जब किसी सरकार का किसी क्रांति के फलस्वरूप परिवर्तन होता आया है तो जो पहले लोग हैं उनके खिलाफ उन्हीं हथियारों का प्रयोग किया गया है, उन्हीं हथियारों का उनको शिकार बनाया गया है जिन के वे शिकार बन थे । लेकिन चूंकि हम लोग सम्पूर्ण रूप से प्रजातंत्रवादी हैं हमने मीमा को समाप्त करने का अपने घोषणापत्र में वादा किया था और उसी के अनुसार हम अब अपने वादे को पूरा कर रहे हैं । यह इतिहास में अपने आप में एक अनोखी घटना है । कांग्रेस के सदस्य अब भी कहते हैं कि जनता पार्टी किसी दबाव में आ कर मीसा को समाप्त कर रही है । वे अपनी स्वतंत्र राय रखने का अधिकार रखते हैं । लेकिन मेहरबानी करके वे इतिहास को उठा कर देखें कि दुनिया में क्या कभी ऐसा हुआ है और जिस प्रकार का काम जनता सरकार कर रही है किसी सरकार ने किया है ? हमने देश में लोकतंत्र की पुनःस्थापना की है । जनता सरकार विपरीत परिस्थितियों में कटुता के वातावरण में अस्तित्व में आई थी । फिर भी उसने इस हथियार का उनके खिलाफ उपयोग नहीं किया जिन्होंने उनके खिलाफ इनका इस्तेमाल किया था । जिन्होंने लोकतंत्र को समाप्त कर दिया था, हजारों परिवारों को नष्ट कर दिया था, लाखों लोगों की नागरिक स्वतंत्रताओं का अपहरण किया था उनके खिलाफ हमने इस हथियार का उपयोग नहीं किया ।

[श्री राम किशन]

कल कांग्रेस के माननीय सदस्य कह रहे थे कि मीसा के उपयोग के कारण देश में कीमत घटी थी, नीचे आई थी। उनकी इस बात को सुन कर मुझे बहुत ताज्जुब हुआ।

1548 hrs.

[SHRI N. K. SHEJWALKAR in the Chair]

अगर ऐसी बात है तो हमें माफ तोर पर कहना चाहिए कि आपातकाल और तानाशाही हमारे देश के लिए उपयुक्त व्यवस्था है। वे यह कहते तो एक विचारधारा का वे समर्थन करते। लेकिन जब वह यह कहते हैं कि मीसा की वजह से कीमतें कम हुईं तो मैं केवल उनको यह याद दिला देना चाहता हूँ कि वह देखें कि हमारे देश में कीमतों का ट्रेंड क्या रहा है? मितम्बर 74 में हमारे देश में 34 परसेंट इनफ्लेशन था। जब आपातकाल लागू हुआ उससे पहले ही कीमतें कम हानी शुरू हो गई थीं। आपातकाल के बाद निश्चिन्त रूप में कुछ चीजों की कीमतें कम हुईं और छः महीने तक नीचे गईं। लेकिन उसके बाद कीमतें बढ़नी शुरू हो गई थीं। आपातकाल के कारण न वे घटीं और न बढ़ीं। मार्च 76 से मार्च 77 तक आपातकाल के दौरान मीसा के रहते हुए कीमतों में 13 प्रतिशत की वृद्धि होती हुई। मैं कहना चाहता हूँ कि जो माननीय सदस्य कीमतों के साथ इतना जाड़ते हैं उनके मन में तानाशाही सरकार के समर्थन की भावना है यह चीज उनको स्वीकार कर लेनी चाहिये। कीमतों से इसको उनको नहीं जाड़ना चाहिये।

जिस किसी देश में तानाशाही स्थापित होती है वहां शुरू शुरू में कीमतें कम हो जाती हैं। पाकिस्तान में अरब आए उस समय कीमतें कम हुईं। बर्मा में ने विन आए, कीमतें घटीं। इंडोनेशिया में सुहार्तो आए, कीमतें कुछ कम हुईं। लेकिन यह चीज थोड़े दिन तक ही रह पाती है। मैं कहना चाहता हूँ कि जब तक सम्पूर्ण व्यवस्था को नहीं बदला जाएगा, पूंजीवादी समाज जब तक रहेगा तब तक

कीमतों की लूट निरंतर जारी रहेगी, किसी भी तर्क से इसको समझाया या सिद्ध नहीं किया जा सकता है। तर्क से साबित नहीं किया जा सकता है। एक बात और है जब देश में कीमतों में गिरावट आयी थी तब आपका ध्यान होगा कि खेती की उत्पादित वस्तुओं की कीमतें घटीं थीं, न कि कारखाने की उत्पादित वस्तुओं की। उस समय खेती से उत्पादित वस्तुओं की कीमतें 27 से 50 परसेंट तक घटी थीं। बाजरा, ज्वार की कीमतें घटी थीं, लेकिन कारखाने में उत्पादित वस्तुओं की कीमतों में केवल 0.8 प्रतिशत की कमी आयी थी। इसलिए आज जो कांग्रेसी सदस्य तानाशाही का समर्थन करते हैं उनको याद रखना चाहिये कि तानाशाही व्यवस्था न समाज को रोटी दे सकती है, न कीमतों को घटा सकती है। वह तो क्षणिक दौर होता है जो दुनिया में सभी जगह देखने को मिलता है।

यह कहा जाता है कि हमारे देश में अव्यवस्था है, चोर बाजारी बढ़ रहे हैं, भ्रष्टाचार बढ़ रहा है। यह बात बिल्कुल सही है। इस वक्त देश की हालत अच्छी नहीं है। लेकिन इससे भीसा का क्या सम्बन्ध है? सरकार की जो प्रशासनिक व्यवस्था है, जो कानून हैं उन पर ठीक से और ईमानदारी से अमल हो तो व्यवस्था को सुधारा जा सकता है। अगर कोई हथियार किसी के हाथ में देगे तो उसके उपयोग और दुरुपयोग करने का अधिकार उसे हमेशा रहता है। इसलिये ऐसा कभी नहीं सोचना चाहिये कि देश में लोकतांत्रिक व्यवस्था समाप्त हो जाये।

आज हमारे देश में चोर बाजारियों और जमाखोरों का हौसला बढ़ रहा है, देश में विषमतायें बढ़ रही हैं। सरकार ने इनको समाप्त नहीं किया तो तानाशाही दुबारा आ सकती है। तानाशाही मीसा की वजह से नहीं आयी बल्कि हमारे देश में प्रोथ रेट कम है, विषमतायें बढ़ रही हैं, अगर इन दोनों को ठीक नहीं किया तो आप चाहे मीसा

रखें या समाप्त कर दें, तानाशाही को नहीं रोक सकते। 1967 में कांग्रेस, जब संयुक्त कांग्रेस थी, वह पराजित हो गई थी। लेकिन चूँकि उस समय देश में गरीबी थी, अकाल था, भुखमरी थी श्रीमती इन्दिरा गांधी ने गरीबी हटाने का नारा दे कर सत्ता में आने को उनको अवसर दे दिया था। आज अगर हमने व्यवस्था को नहीं सुधारा, अगर खेत मजदूरों की हालत को नहीं सुधारा, हमने मजदूरों के हितों को ठीक नहीं किया, हमने चौर राजाशियों को नहीं रोका तो श्रीमती इन्दिरा गांधी, आज जनता ने उनको चाहे किन्ना ही कंडेम कर दिया हो, किमी और हमारे नारे से वापस आ सकती हैं। असल में तानाशाही को अगर रोकना है तो जो तानाशाही का केन्द्र है पूँजीवाद, उसको समाप्त करना पड़ेगा, विषमता को मिटाना होगा, देश में विकास दर को बढ़ाना पड़ेगा। असली मवालों के बारे में जब तक नहीं साँवेंगे तब तक बीच के रास्ते से कोई समस्या हल होने वाली नहीं है।

कल माननीय मोहम्मिन साहब कह रहे थे कि चुनाव लड़ लो। वह चुनाव को मीसा पर लड़ना चाहते हैं। अगर उनमें यह साहस है कि केवल मीसा पर और इस मुद्दे पर चुनाव लड़ें तो मैं पार्टी की तरफ से आश्चर्य नहीं करता, लेकिन इस पर आज वह चुनाव लड़ सकते हैं इससे चुनावों का कोई फंसला होने वाला नहीं है। श्रीमती इन्दिरा गांधी को जो सहारा मिला है वह जनता पार्टी की आर्थिक असफलताओं का सहारा मिला है। वह कोई कांग्रेस के लोगों से प्रेम हो गया है ऐसी बात नहीं है। न वह श्रीमती इन्दिरा गांधी को भूले न कांग्रेस के राज्य को भूले, लेकिन जिस प्रक्रिया के स्वरूप उन्हें हटाया था उसी हमारी निष्क्रियता के स्वरूप श्रीमती इन्दिरा गांधी शक्ति ग्रहण कर रही हैं। मैं जनता पार्टी से और खास तौर से उन लोगों से जो समता और लोकतंत्र में विश्वास करते हैं निवेदन करता हूँ

कि अभी समय है हमें संभल जाना चाहिये। हमें पूँजीवाद पर, काले धन पर और ग्रामीणों की स्थिति सुधारने पर एकदम दमला करना चाहिये अन्यथा हालत हमारे काबू से बाहर निकल जायगी। इन चीजों पर हमें सोचना चाहिये। संविधान में जब संशोधन हो तो निश्चित तौर पर ऐसी व्यवस्था करें जिससे हमारे देश में लोकतंत्र को कभी खतरा न हो। लेकिन हमारे कहने से सारी बातें नहीं हो पायेंगी।

एक बात और कहना चाहता हूँ। आम तौर पर यहां जिक्र किया जाता है कि हमारे देश में अव्यवस्था हो गई है इमरजेंसी के बाद। जिन लोगों ने क्रान्ति का पाठ पढ़ा है, मैं यह नहीं कहता कि यह कोई बहुत बड़ी क्रान्ति थी, लेकिन 30 साल का शासन बदलने में और जिन हालात में हमने सरकार को बदला था, वह निश्चित क्रान्ति थी। और जब क्रान्तियां होती हैं तो सारी दुनिया में कुछ समय के लिये अव्यवस्थाएँ पैदा हो जाती हैं। जब रूस में क्रान्ति हुई तो कुछ दिनों तक व्यवस्था नहीं रही थी, चीन में भी क्रान्ति के बाद कुछ समय तक व्यवस्था नहीं रही थी, और क्यूबा में भी नहीं रही थी। इसलिये इससे हम घबरायें नहीं। जो पुराने लोग हैं, जो वेस्टेड इंटेरेस्ट वाले लोग हैं वह देश में अव्यवस्था पैदा करेंगे। जिन लोगों ने इमरजेंसी में फ़ायदा उठाया है वह पूँजीपति और वह तत्व देश में अव्यवस्था पैदा करेंगे यह बिल्कुल एक क्षणिक स्थिति है, इससे हमें घबराना नहीं चाहिये और लोकतंत्र के बारे में शक नहीं करना चाहिये, लेकिन हमारी दृष्टि और दृष्टिकोण साफ होना चाहिये। हमारा कार्यक्रम इस प्रकार का होना चाहिये जिससे जिन कारणों से तानाशाही की जन्म मिलता है, उनको समाप्त कर दिया जाये।

हम मीसा को समाप्त करने जा रहे हैं। हमारी तरफ से हमारे प्रवक्ता, हमारे दल के नेता और जनता पार्टी सरकार के जो अधिकारी हैं, उनके अक्सर बयान आते

[श्री राम किशन]

हैं कि हमारे देश को भय-मुक्त हो जाना चाहिये, डर निकल जाना चाहिये मन से। मैं एक बात कहना चाहता हूँ कि दुनिया में मनुष्य समाज और जाति का जब से जन्म आ है, इतिहास में जब तक उसका लेख होगा, वह दो चीजों से प्रभावी होती रही है, या तो राज्य से या धर्म से डरती रही है। इंडस्ट्रियलाइजेशन, औद्योगिक सभ्यता के विकास के बाद धर्म का डर तो दुनिया से समाप्त होता जा रहा है। वह होगा भी, उसको रोकना नहीं जा सकता, लेकिन अगर राज्य का डर भी समाप्त हो गया, डर किम के लिये, कानून मानने वाले नागरिकों के लिये मन में डर होना चाहिये। लेकिन आज तो हालत यह हो गई है कि चोर-ब्राजारी करने वाले, तस्करी करने वाले निडर हो गये हैं, ग्रामीण जमीन के मालिक निडर हो गये हैं, वह भूमिहीनों को बेदखल कर रहे हैं। इनको निडर करने का मनलब हमारा उन लोगों का निडर करने का है जो कानून का पालन करते हैं। लेकिन जो कानून नाड़ते हैं, समाज-विरोधी लोग हैं उनके खिलाफ मजबूत कार्यवाही करनी चाहिये, उसमें अझक और डर नहीं होना चाहिये। हमारे ऊपर कई प्रकार के प्रभाव आ सकते हैं, लेकिन हमें समाज विरोधी तत्व के खिलाफ कार्यवाही करनी चाहिये। तभी हम देश के लोकतंत्र की रक्षा कर सकेंगे। लोकतंत्र की रक्षा केवल लोकतंत्र रटने से या उसका जाप करन से नहीं होगी, हमें उन कारणों को समाप्त करना होगा जिनसे लोकतंत्र समाप्त हो जाता है।

मैं इन्हीं शब्दों के साथ जनता सरकार और जनता पार्टी को दोबारा मुबारकबाद देना चाहता हूँ। खासतौर से मैं कांग्रेसी मित्रों से निवेदन करूंगा कि वह थोड़ा सा धीरज रखें, घबरायें नहीं। उनको राज्य में आने की बड़ी आतुरता है, लेकिन 30 साल

के इतिहास में नजर घुमा कर देखें कि वह दुनिया में हिन्दुस्तान को छोड़कर कहाँ गये हैं। आज सारा यू०एन०आर० का चार्ट उठा लीजिये, विषमता, गन्दगी और गरीबी म आज हिन्दुस्तान सबसे नीचे है फिर भी आप इस हाउस में इस तरफ किसलिए आना चाहते हैं ?

मुझे ताज्जुब है कि जनता पार्टी ने इन दिनों में आर्थिक कार्यक्रम तेजी से लागू नहीं किये, पूंजीवाद के खिलाफ सतत कार्यवाही नहीं की इसलिये जो दूसरी पार्टियाँ हैं उनको बोलने की हिम्मत हो गई है। उन्होंने जो पिछले सालों में काम किये हैं उनके लिए जनता ने उनका जो सरकार से हटाया है, यह काफी नहीं है, उन्होंने जो कार्यवाही की है, उनके लिये उन्हें निरन्तर दंड मिलेगा। यह दंड उन्हें तब मिलेगा जब जनता पार्टी की नीतियाँ समाजवादी और समतामूलक होंगी।

इन्हीं शब्दों के साथ मैं अपनी बात समाप्त करता हूँ।

श्री डी० जी० गवई (बुलडाना) : सभापति महोदय मेरा एक व्यवस्था का प्रश्न है। इस सदन में सब ग्रुपों को न्याय दिया जाता है, हर ग्रुप को बोलने के लिये बुलाया जाता है, लेकिन हमारा एक आल इंडिया का ग्रुप है रिपब्लिकन पार्टी, हमको किमी डिबेट में नहीं बुलाया जाता है। हम दो सदस्य हैं, किसी को भी नहीं बुलाया जाता है, हमारा कोई नाम नहीं लिया जाता।

MR. CHAIRMAN: I assure you that your name will be called.

PROF. P. G. MAVALANKAR (Gandhinagar): Mr. Chairman, Sir, at the outset, I would like to congratulate the Janata Government for bringing forward this Bill. Although they came somewhat late—I wish they had done it not just gratefully as my

friend, Mr. Saugata Roy wanted to say, but more honestly and sincerely soon after in March 1977—I warmly welcome this because it is an honest, full, serious and sincere implementation of one important part of the election manifesto of the Janata Party where they had said 'MISA will be repealed'. I welcome it for all those reasons.

Sir, it is not unknown to this House and to this country how MISA was piloted and got passed repeatedly by Government after Government, beginning from 1950, first in the name of Preventive Detention Act, and then in the name of MISA. It has indeed a sordid history to recount. There was the PDA beginning from the days of the late revered Sardar Patel, in 1950, within a month of the new Constitution. But Sardar Patel was at least apologetic. Within 16 years Mrs. Gandhi came to power and she was not only not apologetic, she and her supporters were absolutely jubilant over the fact that MISA was an essential Act for the governing of this country.

16 hrs.

In 1975, in this very House, my hon. friends sitting on my right—I respect them as friends—they were jeering at us. When we were repeatedly asking questions, when we were opposing the Bill, they were saying that the MISA amendment was only for smugglers. When we said that we were opposed to that, even for smugglers because the smugglers also must know why they were detained, we were told, "Are you for the fundamental right of smugglers?" I still remember those echoes. We told them, we were not for smugglers, but we were not sure that in the name of smugglers, they will not arrest one day all their political opponents. It came to be true within a matter of one year.

I am glad, many Congress members are today honestly repenting for what

they had done. We do not go on jeering at them. Let them repent if they really feel so.

The MISA was piloted from the beginning in the name of PDA, from 1950 to 1969. Every year, this was being passed. In 1969, it lapsed, because the then Congress Government had no majority. In 1971, when the Congress party and Mrs. Gandhi got a thumping majority, they brought in the MISA. It became an Act on 2nd July, 1971. In September, 1974, an amendment was brought in apparently for smugglers, and then started the blackest history possible of the MISA, in the democratic history of the world. From 1975 onwards, in one year, there were four Amendments—Mr. Vasant Sathe will recall with regret,—I hope—between June 29 and July 15, two Ordinances came; on October 16 and November 17, two more Ordinances came. It was my privilege to oppose that in July, 1975. We were in a captive Parliament then. We spoke freely, but the countrymen outside did not know what we were talking. We opposed it all the same.

Again, on 22nd January, 1976, when the erstwhile Congress President, Shri Brahmananda Reddy, was the Home Minister, this Bill came up for discussion. I do not like to repeat what I said. One should not hear one's own voice continuously. But I cannot resist the temptation of quoting at least one part of what I said in 1976. This is what I said on January 22, 1976:

"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."

That story began with shamelessness and nakedness. We were already on the road to tyranny. I am glad that

[Prof. P. G. Mavalankar]

this lawless law is gone. I am happy that Shri Dhanik Lal Mandal, the Minister of State in the Ministry of Home Affairs, and the Prime Minister who is in-charge of the Home portfolio, at least have come to believe and tell us, the Parliament, the country and the world that we can depend on an effective Government without the MISA. I tell you, Sir, it is a test of this Government, and not only of this Government but also of this Parliament, of all of us, not only all of us but of all the people in the country. When we say, that MISA must go, when we say that political dissent must not perish, we also must remember that political dissent must be channelised through democratic and peaceful forms. It must never become violent, chaotic, disorderly and disruptive. If we do that, we will be inviting the Government—it may be any Government—to bring back new forms of MISA or new forms of draconian law.

The fact is that MISA has become a dirty word, not only a dirty word but it has become a word with the connotation of torture, brutality, coercion, illegality, immorality, detention without trial for months and years and so on and so forth. I am sorry to say that even after 15 months of the Janata Government, although I am glad the Janata Government has not used the MISA from 1977 onwards for detaining any political opponent, the fact remains that still a large number of political dissenters are lying in jail. I am not saying that all of them should be released immediately. By passing this Bill, however, we are morally obliged now to review the cases of all those detenué in jail who have been kept without any trial. Unless the State is convinced, on substantial grounds, acceptable to judiciary, not to the Government of the day, that those people are for violence, for creating chaotic conditions, for disturbing the law and order and they are a threat to the security of

the State, all of them will have to be released one by one. I say this became 'Freedom' is an Article of Faith.

Now, Sir, I would say one or two more things before I sit down, and that is, by this MISA Repeal Bill, the emergency aberration is removed. It is a good riddance and a welcome relief. But, as I said, if freedom is an article of faith for us, then let us honour it and implement it with all the force at our command. Let us now take a firm resolve that we shall behave responsibly, constructively, openly, fearlessly and always democratically to express our dissent in a manner which will not bring in any kind of disturbance and difficulty for any future Government including the present Government. If we do that, then I want to suggest one thing. Mr. Chairman, and that is this. I want to warn all of us concerned, meaning the Government, the Opposition, the Parliament and the country at large and the Press that we should not do anything in terms of exciting and encouraging violent, fascist, authoritarian tendencies in this country, because if you and I talk that way in this Parliament, and the Press in their writings and the public at the platforms and the citizens in their meetings go on talking irresponsibly and violently, then it is again a subtle and invisible invitation to MISA. We do not want that. That is why I say that freedom has become an article of faith with us, because civil liberty, civil rights and right to privacy, my own right to individuality are important.

Only the other day or perhaps this morning, I read a news item that a certain Congress Member, may be Congress or Congress(I) Member, I do not know to which congress he belongs; but even if he belongs to Congress (I) I do not mind; when he and his party were in power, they misbehaved with us and we have a right to say that they misbehaved with us, and yet he complained that even private telephones were tapped.

I would say that no telephone should be tapped and the privacy should not be assaulted because that is one of the most important fundamental rights enshrined in our Constitution. I agree with him that the right to privacy is important and sacred. But, then, if we want to have that, the responsibility is all the more great, and that increased responsibility is something which I want to take liberty to emphasise in this debate. The repeal of MISA is not merely in words, not just the reassertion of the article of faith in freedom and democracy, but it also further implies that it is an article of faith in terms of our democratic responsibility.

Finally, I would say that many ordinary laws are existing. I do not know whether all of them are effective enough or not. Mr. Mandal will be able to tell us whether the present ordinary laws are effective enough to deal with anti-social elements, economic offenders, smugglers, tax evaders, dodgers, traitors and those who want to dislodge this Government or any Government for that matter, whether it is in the States or at the federal level. The point is that if ordinary laws are proved inadequate, please come to us with amendments, explain to us why those amendments are needed, explain to us why you want more powers than those ordinary laws and so on. But for heavens sake, do not use MISA again under any pretext and in any form, because that is the surest way of leading the country to dictatorship and authoritarianism. Therefore, I want to conclude by saying that if laws are ineffective, amend them, tighten them, but do not dream of MISA which has become a dirty word, because detention without trial, the phenomenon of political prisoners, political dissenters, these are not very happy phrases in any democratic dictionary, in any democratic practice.

With these words, Sir, I, therefore, conclude by saying that when violence, crimes, unsocial acts, economic

offences, tax dodging and authoritarian tendencies are coming on the horizon, then when we are repealing this MISA Bill, rightly so, we should be all the more careful and vigilant that all these ugly signs on the horizon are not allowed to grow in any manner. When we do all this, only then we shall be able to deliver the goods effectively and meaningfully.

Mr. Chairman, Sir, I am grateful to you for allowing me to speak on this very important subject, because I had spoken on this very subject of MISA in the last Parliament and had criticised it more than once, whenever the then Government brought MISA in one form or the other with a series of amendments one after another making it more and more stringent. Therefore, it was right for me to speak today and welcome this repeal of MISA by the Janata Government even though they are somewhat late in doing it. I only hope that the Janata Government will be on the right path in functioning more effectively, more responsibly and that this Parliament also will become more responsible in assisting the Government to perform its functions in conformity with the fundamental rights and freedom of the citizen. Then alone we shall go ahead on the right path of public vigilance, public opinion, public behaviour and normal democratic standards of freedom and civil liberty.

SHRI PABITRA MOHAN PRADHAN (Deogarh): Mr. Chairman, Sir, I welcome the repeal of the Maintenance of Internal Security Act. I welcome it now formally. Really the spirit of repeal has been given effect to from the day the Janata Party came to power in India. So, my welcoming this now is only a formal one. Not only I but the entire House, nay, the entire nation congratulates the Janata Government for repealing this Act which was extremely bad, as the previous speakers have already stated. I very attentively listened to

[Shri Pabitra Mohan Pradhan]

the speeches of Shri Kanwar Lal Gupta and Prof. Mavalankar, and I fully accept and share their suggestions and apprehensions, because while saying that the MISA is a nuisance, a danger, to the country, they have said that, if Government do not take care to maintain peace and law and order in the country, then that will be another danger. They have, therefore, given certain suggestions, they have expressed their mind, and I am sure that Government will do accordingly.

Coming to the purpose of a special law like MISA, I think, as our society is today, though it may not be named as MISA, still some sort of a special law is necessary for maintaining law and order in the country in the abnormal situations. Whether such a situation arose or not, the Congress Government, under the leadership of Shrimati Indira Gandhi, passed this law and the Congress people supported it only to fulfil their inordinate designs of being in the Government for years together, for ages together; therefore, they did not object to such a law. If we dive deep into the intentions and actions of Shrimati Indira Gandhi, it will be seen that she had the intention of establishing family rule in India, that is, Shrimati Indira Gandhi would remain in power till her last day and thereafter her son, Sanjay Gandhi, and thereafter her grandson, Rahul. The person—Shri Sanjay—who was never a politician, was all at once brought to the political atmosphere. Rahul, the grandson, who was nine years then—now he will be ten years—was made the leader of the children in India. This means that Mrs. Indira Gandhi had an inordinate desire to establish family rule, due to which she was genuinely sincere about passing and executing such a law. Our Congress friends were then entirely with her, because they thought that, with her influence, they could become MPs,

Ministers and other such dignitaries. With this intention they supported her, but some Congressmen finally became dissatisfied with her and with such a law, and today they are willing to nullify the passing of such a law because they have found out that she was going to establish family rule. So, they became dissatisfied—I am not going to name the persons who became dissatisfied—and the closest friends of Shrimati Indira Gandhi became her enemies when Sanjay Gandhi was brought to the political fore-front and was sent to go round different States and the Chief Ministers of all the State Governments were required to welcome him by spending lakhs of rupees for his welcome. I am not going to give the names of such Chief Ministers: (there are three or four in number) who saw that it was for this purpose that the MISA was enacted. They have said that it is something like a Hitlerite or Mussolinite system. I would say that it is something like—of course my friends who are Communists will not be pleased with me when I say this—a Stalinite system also. The same method which was practised or was being practised either in China or in USSR was practised here in India also. Leaders, workers and other people were kept in solitary confinement without their being given any facilities and amenities. I may tell you that Harekrishna Mehtab was arrested on June 28, 1975, as also Mr. Chaudhury and other important persons. But, five months after that, when I came to Delhi to attend the AICC Working Committee meeting of the Congress, I found they never knew that Harekrishna Mehtab and Choudhury were arrested. This was the situation that was created by the administration then. So I would say it is not Hitlerite or Mussolinite alone but is also Stalinite.

While congratulating the Government for bringing this Bill to repeal this dictatorial Act, I would say that

I share the views of Mr. Mavalankar and Mr. Kanwar Lal Gupta who have already spoken. The society is such that there is bound to exist some un-social persons. How do we deal with such un-social persons? There must be some sort of a special law. Without a special law we cannot control the masses and the life and property and prestige of individuals and groups cannot be maintained and cannot be kept intact. So, some sort of a special law is necessary and I apprehend that this Government is afraid of bringing such a law.

Now, I will give a certain example. In Bihar the Panchayat election is over. Government says 60 or 70 people were killed, while non-official sources say that hundreds were killed. So, how can we deal with such persons without a special law? The press is completely free and the Judiciary is completely free. In case this fact or incident is true, if it is not put in black and white in the records, although a man has been killed and the killer is there, he goes scot-free. For this purpose, some special law is necessary and I am sure, the Government would not be lacking in spirit if a situation arises to bring forward such a Bill and to pass it into an Act in this House with the cooperation of all the parties and hon. Members. With these words, I conclude my speech.

MR. CHAIRMAN: Shri Gawai.

SHRI P. RAJAGOPAL NAIDU (Chittoor): rose

SHRI C. M. STEPHEN (Idukki): There is also a party here...

MR. CHAIRMAN: You will get your time. Those who are entitled to be called will be called. I have got the list with me.

Shri Gawai.

श्री जी० जी० गवाई (बुलडाना) : सभापति महोदय, आपने मुझे मीसा सम्बन्धी बिल पर जो बोलने का मौका दिया है, इस

के लिए पहले मैं आप का शुक्रिया अदा करता हूँ ।

आज जो चर्चा हो रही है वह एक ऐसे महत्वपूर्ण विषय पर हो रही है, जिस का सम्बन्ध इस देश के जन-जीवन, इस देश की स्वतन्त्र संसदीय प्रणाली और इस देश के हर व्यक्ति से है और हर मानव के मानवाधिकारों को बचाने के लिए और मीसा को रद्द करने के लिए हमारे गृह मंत्री जी जो बिल इस सदन में लाए हैं, उस का मैं हृदय से स्वागत करता हूँ । सब साथी अपने अनुभव की बात कर रहे हैं क्योंकि हर आदमी ने जेल की हवा खाई है, मूंग की दाल और लाल गेहूँ की रोटी भी खाई है । इसलिए सब को अनुभव है कि मीसा क्या चीज होती है और मीसा से क्या कुछ नहीं होता है । मैं तो यह देख रहा हूँ कि हर आदमी मीसा के विरोध में बात कर रहा है और कह रहा है कि मीसा नहीं होना चाहिए । इस देश में अगर सच्चा प्रजातन्त्र लाना है, आज भी प्रजातन्त्र है, लेकिन उस में कुछ खामियां हैं, तो 25 जून की अंधेरी रात जो इस देश में आई थी, जिस ने इस देश के संविधान को एक कलंक लगाया और इस देश के जीवन को कलंकित किया, ऐसा दिन फिर इस देश में नहीं आना चाहिए । इसलिए गृह मंत्री जी जो यह कानून लाए हैं, मैं उन का और भी शुक्रिया अदा करता हूँ लेकिन इस के साथ ही साथ यह भी कहना चाहता हूँ कि जब हम इस आजाद देश में रहते हैं तो हमें इस देश में लोकशाही और इस संसदीय व्यवस्था को और मजबूत करना चाहिए और उस को आगे बढ़ाना चाहिए । आज हमें उस को ऊंचा करना है लेकिन इस का मतलब यह नहीं है कि हम कुछ डरपोक हो गये और हम किसी बात से डर गये । जेल का हवा हम ने खाई तो कहने लगे कि मीसा बुरा है इसलिए इस को बन्द करना है । ऐसी बात नहीं है । मीसा जैसे काले कानून को निश्चित रूप से खत्म करना

[श्री डी० जी० गवई]

चाहिए लेकिन सरकार को जो प्रशासकीय व्यवस्था है, उस को भी और ज्यादा सुधारना चाहिए। अभी हम देख रहे हैं कि सब लोग यह कह रहे हैं कि मौसा बन्द करना चाहिए। उस को खत्म करना चाहिए और इस देश के हर नागरिक को उस के नागरिक अधिकार मिलने चाहिए, उस को जीने का अधिकार चाहिए, यह सही बात है लेकिन मैं सदन को यह बताना चाहता हूँ कि श्रीमती इन्दिरा गांधी के जमाने में जिस टाइम पर मौसा था, उन के शासनकाल में जब मौसा लागू था, तो बहुत से भाई जेलों में गये, यह तो सही है, लेकिन इस देश में जो गद्दार थे, जो स्मगलर्स थे और बम्बई जैसी जगहों पर, हमारे साठे साहब जानते हैं, 'मटका' सट्टा चलता था—हमारे दूसरे भाई शायद यह न समझते हों कि 'मटका' क्या होता है और गृह मंत्रालय भी इस को न समझता हो कि 'मटका' क्या होता है क्योंकि गृह मंत्रालय के हाथ में, पुलिस के हाथ में सांटा होता है—उस टाइम पर मैं सच्ची बात बोलता हूँ, मैं इन्दिरा गांधी का कोई समर्थन नहीं कर रहा हूँ और न किसी के खिलाफ बोल रहा हूँ, मैं आपको सच बता रहा हूँ कि उन वक्त सारे देश में स्मगलिंग करने वालों का मुंह बन्द हो गया था, हाथ बन्द हो गए थे, सट्टा तब बन्द हो गया था। आज हम देख रहे हैं जब से जनता सरकार अस्तित्व में आई है और उसने कहना शुरू किया है कि हम सच्चा प्रजातंत्र देश में लाएंगे, हर आदमी को मानव अधिकार देंगे, हंसों और हंसने दो की नीति पर चलेंगे, यह चीज देश में फिर से चालू हो गई है। आप देखें कि इसका क्या नतीजा निकल रहा है? साठे साहब तीन तीन दिन तक किसी को बोलने नहीं देते हैं, एक एक घंटा बोलते रहते हैं। उसी तरह से आज देश में हो रहा है। सट्टा बाजारी बढ़ रही है, स्मगलिंग बढ़ रही

है। दिल्ली को ही ग्राप लें। यहां पर राबॉरिंग बढ़ रही है। महिलाओं के गले में से लाकेट छीने जा रहे हैं। मैं आपको कल परसों की बात बताता हूँ। आपने आज अखबारों में भी इसको पढ़ा होगा। जयपुर से एक बस आ रही थी। उसको लूट लिया गया। महिलाओं के जेवर छीन लिए गए। घड़ियां उतरवा ली गईं। यह हमारे देश का दुर्भाग्य है कि यहां इस तरह की घटना हो रही है। जनता सरकार सच्चा प्रजातंत्र देश में ला रही है, संसदीय लोकशाही के रास्ते पर चल रही है। उस अवस्था में उसने कुछ भी करने की लोगों को छूट दे रखी है। जो हरिजनों को जमाने दी गई थी वह भी उन से छीना जा रहा है। न इंदिरा गांधी ने अपनी जेब से यह दो थी और न संजय गांधी की जेब से दी गई थी, सास की दोलत थी और जवाई को दामाद को दान कर दी गई थी लेकिन आज उसको छीना जा रहा है। दुर्भाग्य की बात है कि जनता सरकार के राज्य में वह भी गरीबों से छीनी जा रही है। हरिजनों पर अत्याचार बढ़ रहे हैं। आगरा जैसी जगह में एक हरिजन कम्युनिटी के लोगों पर बहुत पाशविक अत्याचार हुए हैं। उसके लिए कोई ज्यूडिशल इन्क्वायरी तक नहीं बिठाई गई है। मौसा रद्द करके आप स्मगलर्स को, सट्टाबाजों को, काले बाजारियों को आजाद कर रहे हैं क्या? अगर उनकी गतिविधियों को रोकने की आप में क्षमता है तो मौसा जरूर रद्द आपको कर देना चाहिए मैं इसका समर्थन करता हूँ।

एक छोटी सी बात कह कर मैं समाप्त कर देता हूँ। मुझे पता चला है कि असम में तथा और जगह भी पहाड़ी में बड़े बड़े सांप होते हैं। जिस को अजगर बोलते हैं और जो दस दस और पन्द्रह पन्द्रह किलो के होते हैं। एक जाति ऐसी है जो इन सांपों को पकड़ती है, उनको मारती है, उन की चर्बी निकाल लेती है और उस को घी के डिब्बे में बन्द कर देती है।

डिब्बे पर घी का लैबल लगा कर मार्केट में उपको बेचनी है। मैं जानना चाहती हूँ कि क्या सरकार को यह बात मालूम है, गृह मंत्रालय को मालूम है? इसको खाने से आदमी को हार्ट अटैक हो जाता है, हृदय रोग हो जाते हैं, दूसरे रोग हो जाते हैं। यह सही बात है जो लोगों ने मुझे बताई है। मीसा को रद्द करने के साथ साथ मैं सरकार को सुझाव देना चाहता हूँ कि वह अपने प्रशासन में कोई अच्छी कड़क व्यवस्था स्थापित करें। जहाँ भी अपराध होते हैं वहाँ अपराधियों का सख्त सजा होनी चाहिये भले ही वह मैं होऊँ, या इंदिरा गांधी हो, साठे साहब हों, स्टिफ़न साहब हों, कोई भी हों। सब को शिक्षा मिलनी चाहिये।

मेरा सुझाव यह है कि कानून में कोई परिवर्तन आप करो। मीसा को समाप्त करो। लेकिन मीसा को समाप्त करने के बाद अगर कानून ढीला होगा तो देश में अन्याय और अत्याचार बहुत बढ़ जाएगा। मैं निवेदन करना चाहता हूँ कि ऐसा न हो इसके लिए आप कोई दूसरे कदम उठाएं।

चौधरी बलबीर सिंह (हंशिपारपुर): मीसा को कहानी डा० राम मनोहर लोहिया से शुरू होती है। उनको गिरफ्तार किया गया। वह हाई कोर्ट में पेश हुए और वहाँ पर सरकार ने कहा कि डा० राम मनोहर लोहिया के बनारस जाने से देश की ला एंड आर्डर को खतरा है। तो वहाँ बहुत बहस हुई और हाई कोर्ट ने फैसला दिया देश को जो खतरा है उस के लिये डिफेंस आफ इंडिया रूल है, लेकिन मुल्क के अन्दर अगर ला एंड आर्डर का सवाल है तो डी० आई० आर० उस पर लागू नहीं हो

सकता है। अतः उनको रिहा कर दिया गया। उस के बाद कांग्रेस सरकार ने फिर मीसा लगाया इन्टरनल सेक्योरिटी के लिये। तो यह मीसा लागू किया गया और उस वक्त कांग्रेस सरकार ने कहा कि यह सियासी लोगों पर लागू नहीं होगा, बल्कि ऐंटी सोशल ऐलीमेंट पर लागू होगा। मैं मुबारकबाद देता हूँ जनता सरकार को कि हमने जो वायदा किया था मीसा खत्म करने का उसको सरकार पूरा कर रही है। लेकिन मीसा गरीबों पर आज भी लगा हुआ है। दफा 107 और 151 में पुलिस गरीबों को पकड़ कर मनमाने ढंग से परेशान करती है। इमरजेंसी में सब से पहले लोग दफा 107 और 151 में पकड़े गये और उम के बाद जब दुबारा रिहा होने वाले थे तब उन पर मीसा लागू किया गया। तो मीसा कानून किसी भी शकल में नहीं रहना चाहिये। कुछ लोगों ने कहा कि ऐंटी सोशल और स्मगलर्स के लिये मीसा रहना चाहिये। लेकिन मेरा कहना यह है कि यह काला कानून किसी भी शकल में नहीं होना चाहिए। आप के पास जो आर्डिनरी कानून हैं उन्हीं का ठीक तरह से इस्तेमाल करें, और पुलिस वाले उन से मिल न जायें, तो नार्मल कानूनों से ही आप ऐंटी सोशल ऐलीमेंट और हर किस्म के समाज विरोधी तत्वों की ठीक कर सकते हैं। जो सरकार निकम्मी हो, ठीक ढंग से ला एंड आर्डर को मेन्टेन न कर सके, और कभी अपनी हो वही सरकार इस किस्म के दूसरे कानूनों का इस्तेमाल कर सकती है। एक शायर ने क्या कहा है :

सैयाद की क्या खूब हुनरबन्दी है,
हर बात पर ऐलाने खुदाबन्दी है,

[चौधरी बलबीर सिंह]

पहले थी बन्द कफ़स में बुलबुल,
अब सेहने चमन में भी जुवांबंदी हैं ।

साठे साहब और उनके दूसरे साथी बैठे हुए हैं और आज तरह तरह की बातें कर रहे हैं, लेकिन इन्दिरा गांधी के राज्य में यह बात नहीं कर सकते थे ।

भोम सेन सचचर जो गवर्नर रहे, पंजाब के चीफ़ मिनिस्टर रहे, उन्होंने सिर्फ़ चिट्ठी लिखी और उस पर दस्तख़त करने वाले 13 आदमी थे जिन्होंने आजादी की लड़ाई में हिस्सा लिया था, तो सचचर साहब ने सिर्फ़ एक चिट्ठी लिखी कि जिस ढंग से मीसा का इस्तेमाल हो रहा है वह ठीक नहीं है । तो उनको भी पकड़ लिया गया । आप देखें कि देश में किस तरह से मीसा का इस्तेमाल हुआ । श्रीमती मृगाल गोरे हमारी संसद सदस्या है इन का जिस जगह पर रखा गया इन्होंने हाई कोर्ट में दख़ास्त दी कि मुझे जहां रखा गया है वह ठीक जगह नहीं है किसी और जगह जेल में रखा जाये जहां कोई कम्पनी मिल सके । तो सरकार कितनी पागल हो गई थी कि हाई कोर्ट के उस फैसले के खिलाफ़ भी अपील कर दी । आप देखें कि मीसा का किस ढंग से इस्तेमाल किया गया कि लोगों को किसी शकल में भी हाई कोर्ट थोड़ी बहुत रिलीफ़ दे देता था उसको भी मना कर दिया । अगर अखबार वालों ने हाई कोर्ट में दख़ास्तें दी हाई कोर्ट ने उन के हक में फैसला दे दिया, तो उस की अपील कर के भी उनका आदमी अदालत में जाकर पेश नहीं हो सका ।

मैं जानना चाहता हूँ कि श्री जे.एम.जानी का क्या कबूर था ? जब मीसा के बारे में

बहस हो रही थी तो इन्होंने भी कुछ बातें कहीं, लेकिन जो उस वक़्त के खुदा थे, जो कानून का इन्साफ़ देने वाले थे, उन को भी इनकी बातें पसन्द नहीं आईं । इसलिये इनको हिन्दुस्तान से बाहर जाना पड़ा । इन जैसे, कानूनों द्वारा लोगों को रिलीफ़ दिलाने वाले लोगों को भी देश के बाहर जाना पड़ा । जो देश के ऐसे टुकड़े थे, इन्होंने उन सब को गिरफ़्तार कर यहां का राज्य चलाया ।

मैं आज फिर सरकार को मुबारकबाद देता हूँ कि इन्होंने मीसा खत्म कर दिया । इस हाउस में कुछ लोग दूसरी बातें भी कर रहे हैं लेकिन मेरा कहना यह है कि एंटी-सोशल एलिमेंट और दूसरे लोगों को काबू करने के लिये भी कोई और इमी ढंग का कानून आये तो वह भी गलत बात है ।

सभापति महोदय : दोहरायें नहीं, यह बात आप कह चुके हैं ।

चौधरी बलबीर सिंह : मैं सिर्फ़ यह कह रहा हूँ कि मीसा किसी भी ढंग से बिल्कुल नहीं आना चाहिये । हर आदमी को हुक़र होना चाहिये कि वह अदालत में जाकर अपनी बात कर सके और वहां से अपना इन्साफ़ हासिल कर सके । कोई कानून, जिससे अदालत में पेश होने का हक़ बन्द हो, वह किसी भी शकल में नहीं आना चाहिये ।

श्री उग्रसेन (देवरिया) : चौधरी साहब, बोलने वालों की संख्या काफी हैं मैं चाहता हूँ कि एक घंटा समय और बढ़ा दिया जायें ।

सभापति महोदय : एक घंटा समय पहले ही बढ़ चुका है, उसे तो पूरा हो जाने दीजिये ।

श्री वसन्त साठे (अकोला) : सभापति जी, इतनी चर्चा इस मीसा के बारे में यहां पर हो रही है, मैं इस पर सोच रहा था कि यह कानून जब आया 1971 में, उस वक़्त इमर्जेंसी तो नहीं थी, मकसद और विरोधी दल के भी लोगों ने उसकी ताईद की थी, बहुत-सों ने ...

श्री कंवर लाल गुप्त (दिल्ली सदर) : किसी ने भी नहीं की ।

श्री वसन्त साठे : आप रिकार्ड उठाकर देखिये ।

SHRI KANWAR LAL GUPTA: Mr. Vajpayee opposed it. It is on record.

AN HON'BLE MEMBER: I have seen the record. Nobody from the Opposition supported it.

SHRI VASANT SATHE: MISA was not a creation of Emergency. Many a member here have been advocating that when there is a danger of lawlessness by certain anti-social elements of the society there is a need of some special law to take care of such elements.

Now, I would like to recall the words of Sardar Vallabhai Patel as has been quoted by Shri Kanwar Lal Gupta. Sardar Patel had said that it is only when persons flout the ordinary law of the land; when normal democratic procedure is over-thrown by persons who want to resort to extra-constitutional and ultra-constitutional methods to overthrow the Government established by law and the Constitution only in such contingencies the extra-ordinary measures can be used.

Now, let us recall the situation. Sir, in 1977, people had been waxing about what happened during Emergency. The conception of Emergency itself is an extraordinary period. It is not a normal period in terms. But let us see and recall what was the situation in the country. At that time what

happened in Bihar? What was happening in Gujarat? Every meeting of the Congress during the elections of Gujarat was stoned systematically by certain elements.

PROF. P. G. MAVALANKAR: It is totally wrong.

SHRI VASANT SATHE: And the best proof....

PROF. P. G. MAVALANKAR: Not in all the meetings.

SHRI VASANT SATHE: But in many meetings....Are you satisfied? So much so, the person who is today the Defence Minister—Babu Jagjivan Ram—was severely hurt on the head with a big stone in Baroda.

SHRI KANWAR LAL GUPTA: That was your party conspiracy.

SHRI VASANT SATHE: There, the elected M.L.As' homes were raided and surrounded. They were dragged out, their faces were backened, their heads were shaved and they were threatened that their children would be burnt alive unless they were to sign the resignation letter placed before them. That was the situation. The same thing happened in Bihar. (Interruptions). Trains were burnt in the name of Nav Nirman Andolan. Buses were burnt.

PROF. P. G. MAVALANKAR: Sir, he is giving wrong information to the House.

SHRI VASANT SATHE: Sir, anarchy was let loose by not the so-called Marxists, but I call them Maoists. They are talking of democracy.

AN HON. MEMBER: Today there is no Emergency. That is why you are talking like this.

SHRI VASANT SATHE: Kindly read my speech made in the House in regard to the Constitution Amendment Bill and it was made during Emergency and then come and talk.

MR. CHAIRMAN: Don't answer their questions.

SHRI VASANT SATHE: Sir, if there is any danger in democracy, it will be when a dictator comes to power. Dictatorship in a set up can only come when a political party gets control over the military. Show me a single country in the world where a political party could bring dictatorship without having control over the military itself. Hitler's Nazi party saw to it that the military was controlled by the party. Musolini did the same thing. In Communist countries, the same thing happened. In no country where a political party like either yours or ours can infiltrate military. Who can infiltrate military in this country? Only those who have para-military training can infiltrate military and take over the Government. If the Communist party or a Maoist Government comes in this country, will there be any political party at all? What are they talking about democracy? The real danger is there, because under the Maoist concept Mr. Jyotirmoy Bosu said in this House: we do not believe in Parliament; we have come to Parliament to destroy it from within. This was the statement of Shri Jyotirmoy Bosu in this very House; that is their faith... (Interruptions) Their faith is not in parliamentary system; they want to use it only to capture power and once they are in power that is the end... (Interruptions) You will have to appreciate one thing when you talk of dictatorship. Mrs. Indira Gandhi knew that unless the option of change from one party to another political party by ballot is left open there will be anger; the only other alternative was the military. Therefore it is to her credit that she took the country to polls and accepted the result gracefully. That is why we are having democracy. Who is the saviour of democracy? If anyone is the saviour of democracy it is Shrimati Indira Gandhi... (Interruptions) They are talking of violence. Do you know a single instance of congressman having

gheraoed some legislator of the Janta party, pulling out, shaving his head or anything of that kind? Even today having come to power, they have not given up the habit. Shrimati Gandhi's processions have been systematically stoned in Bhubaneswar, in Madura, in Mysore by the gangsters and hooligans employed by these people, by Shri Biju Patnaik.

THE MINISTER OF STEEL AND MINES (SHRI BIJU PATNAIK): You must take it back. But for Biju Patnaik he would not be talking of Mrs. Indira Gandhi. We had to take police action which had really severely dealt with nearly 100 very fine youngmen whom Indira Gandhi's regime handcuffed and dragged in the streets of Orissa; so they protested. To save Indira Gandhi the Government of Orissa took all steps. Do not misuse our generosity.

SHRI VASANT SATHE: Are you trying to defend those who stoned her? I am really surprised that he should say this.

SHRI KANWAR LAL GUPTA: Do you defend the murder and killings of Mrs. Indira Gandhi?

SHRI VASANT SATHE: Which murder?

SHRI KANWAR LAL GUPTA: Hundreds of people were murdered and killed; in Delhi alone people were killed in tens... (Interruptions).

MR. CHAIRMAN: I request hon. Members not to address each other but address the Chair.

SHRI KANWAR LAL GUPTA: Hundreds of people were killed and she destroyed many families.

SHRI VASANT SATHE: Law and order was restored and rule of law was restored. 22 Congressmen were murdered in West Bengal by Maoists in this period.

SHRI DINEN BHATTACHARYA (Serampore): It is a false, blatant lie. You cannot dream how the Government of Bengal is being run.

SHRI VASANT SATHE: There is a saying in Sanskrit....

(Interruptions)

MR. CHAIRMAN: You should not do that.

SHRI VASANT SATHE: I am not angry at all. (Interruptions) Then there is no argument. The thieves and murderers have no argument. They will divide this country. I am warning this country. These fellows, one day, with the help of China, their fatherland and motherland, will divide India. Be careful....

SHRI DINEN BHATTACHARYA: Your party has got not a single seat in this election. (Interruptions)

SHRI VASANT SATHE: I will conclude. MISA was used when internal Security was in danger. The aim is maintenance of internal security. Now you know that the Congress is in the Opposition. The Congress believes in non-violence and peaceful methods. We are in Opposition. We are never going to try to overthrow the Government by violence. Therefore, there will never be danger to the internal security from us, from the Opposition. Hence it is right that you have decided to abolish MISA. I congratulate you for that because there is no case for the continuance of MISA. But be careful of only one element, these fellows will endanger the whole country and the entire freedom. Be careful about that. Thank you.

MR. CHAIRMAN: Mr. Ram Jethmalani.

(Interruptions)

THE MINISTER OF STEEL AND MINES (SHRI BIJU PATNAIK): Only for the information of Mr. Sathe, I would like to say, whether there

was internal Emergency or not, whether all the arrests were made legally or not, that is a matter which is sub judice and it will be decided by the Special Court soon to be set up.

SHRI VASANT SATHE: Special Court indeed, this is the Martial Law style. What was done for Bhutto you are going to do for Indira Gandhi. Special Court—wonderful; full justice will be done.... (Interruptions)

SHRI VAYALAR RAVI: I am on a point of order.

MR. CHAIRMAN: What is that?

SHRI VAYALAR RAVI: My point of order is that Mr. Biju Patnaik, who is a Member of the Union Cabinet, being a Member of the Union Cabinet, whenever he makes a statement which relates to a policy of the Government, he should give it in the proper form of a statement. I am not going into the merit of the case. He just now made a statement that they are going to set up a special court to try Mrs. Gandhi. (Interruption). He said it. That may be the decision of the Cabinet. It has some Constitutional implications. I am not going into the merit of the case. But the Minister must make this statement under Rule 372. Instead of taking permission from you to make such a statement, the Minister jumped into this thing. It is irrelevant and so you rule out this statement.

SHRI BIJU PATNAIK: I do not want to argue. I am saying it as Government that we have decided to set up a special Court and we are going to refer the matter to the Chief Justice of India in due course and....

SHRI VASANT SATHE: It is a wrong statement. How do you say that it is decided. It is usurping the right of the Prime Minister. At best you can say that you have decided to consult the Supreme Court. You cannot say that you have decided to

[Shri Vasant Sathe]

set up a Special Court. Then you are pre-empting the views of the Supreme Court.

As Government, you have decided to set up a special court. That is what you said. That means, the Supreme Court is meaningless now. What is the use of referring it to the Supreme Court?

SHRI BIJU PATNAIK: We are bringing a Bill. I am saying it as Government. (*Interruptions*).

SHRI VASANT SATHE: MISA goes and martial law comes Wonderful idea!

SHRI BIJU PATNAIK: I have said and I repeat for the members of this House that the Government has decided to set up a special court. A Bill is being brought in this House—may be Mr. Ram Jethmalani's Bill—(*Interruptions*)—under which the Government have decided to refer it to the Supreme Court. This is the decision taken by the Government.

PROF. P. G. MAVALANKAR: In all seriousness, I am raising a point of order. Here is what we have just now witnessed. At the end of Shri Sathe's speech, a minister of the Cabinet gets up. He does not intervene; he is not making a speech by way of intervention in the debate on the MISA Repeal Bill. He is making an interruption not in the middle of the speech, but at the end of the speech, which means it is not an interruption but an addition. In that addition, he takes the floor of the House and repeats not once but three times that this is the Government's decision. I want guidance from you whether such an important decision of the Government of India—I am not saying whether a special court is good or bad, whether it is right or wrong—can be announced like this and whether the minister is within his rights and whether the Minister of Parlia-

mentary Affairs has taken your permission to direct the Minister for Steel and Mines to make this statement. I am seeking your guidance. Sitting here as I do, I have never seen a minister of the Union Government getting up like this by way of interruption or intervention—I can understand a speech by way of intervention and making a policy statement, but here is not an intervention, not an interruption, but an addition at the end of a speech. He may say what he wants to say and if the Government want, they can decide and announce it. But I want to know, if the press reports this matter on the basis of his statement today that this is the Government of India's decision, and tomorrow the Prime Minister says, "this is not the decision", how are we to know? Therefore, has your permission been taken by the Minister for Parliamentary Affairs? I do not see him here, but his deputy is present sitting here. Has he been given permission to make this statement? If not, under what authority does he get up and say it? I can understand his defence of what happened in Bhuvaneshwar during Mr. Gandhi's visit, but coming out with a statement on government policy, which is very much a matter of public concern, without proper permission is highly irregular. I want your guidance. (*Interruptions*).

17 hrs.

SHRI VAYALAR RAVI (Chirayinkil): I want a ruling on my point of order.

SHRI VASANT SATHE: Sir, I have a point of order. My point of order is this. Rule 372 says:

"A statement may be made by a Minister on a matter of public importance with the consent of the Speaker, but no question shall be asked at the time the statement is made."

Now, Sir, I would like to know from you, and you can enquire from

the office, whether such an important statement of public importance or a policy of the Government can be made in this manner, about a special court to try the ex-Prime Minister.

(Interruptions)

श्री उपसेन (देवरिया) : मंत्रिमण्डल का जो निर्णय है, उसको बताया है। सरकारी घोषणा है, इस में स्पेशल स्टेट-मेंट की ज़रूरत ही नहीं है।

सभापति महोदय : आप जो कहना चाहेंगे, जरूर कहिये लेकिन बीच में मत टोकिये। यह कोई तरीका नहीं है।

SHRI KANWAR LAL GUPTA: Sir, my submission is that on any debate any time a Minister can intervene. Now my friend says it was not a speech and he cannot make a policy statement. This is absolutely wrong. The speech may be for a minute or it may be for one hour. There is no definition of a speech and a Minister who intervenes can make any important statement. There is no bar. Mr. Chavan may bear me out that any Minister who intervenes during the debate can make any statement whether important or unimportant.

▼(Interruptions).

MR. CHAIRMAN: Let us have some order. I am prepared to hear everybody, but instead of talking amongst yourselves, please address me one by one, not all together.

SHRI KANWAR LAL GUPTA: When he stood up, he took permission from you and you gave the permission and then he said all these things, and he only said. (Interruptions). So my submission is, the Minister has a right to intervene and he has rightly intervened and the information that he has given to the House is very valuable and the House wanted it and so there is no violation of rules.

MR. CHAIRMAN: Before we proceed, I would like to tell you that the time allotted is just going to be over

by 5.05 p.m. So, is it the pleasure of the House to extend the time by one more hour?

SEVERAL HON. MEMBERS: Yes.

MR. CHAIRMAN: All right, it is extended by one hour.

SHRI VAYALAR RAVI: Sir, there is a specific reason for my point of order. This is not an intervention merely. It is the follow-up action on the Shah Commission's Report. The Shah Commission is the creation of this House. When the Shah Commission was created, the then Home Minister made a statement. Later, in placing it on the Table of the House also there was some problem. It is the follow-up action on the Report of the Shah Commission which is the creation of the Parliament itself. Then, this is a major policy statement. It must come from either the Prime Minister or the Home Minister. It is an interruption and abruptly making a statement. Every norm or rule of the House prohibits it. You may give a ruling on this point.

(Interruptions)

SHRI A. C. GEORGE (Mukandapuram): Before you give your wise ruling, I want to add only one more important point, namely, that this is an issue which has been submitted to the Supreme Court for their well-thought-out opinion. (Interruptions) Yes; they are going to do it—which is, for all practical purposes, to be decided by the Supreme Court. Since it is an unprecedented step, or unusual or important step, obviously we come to the conclusion that this is a policy matter. In such a policy matter, the Prime Minister or the Home Minister who are concerned with this matter, are to make a statement under rule 372 or to take permission to make a statement. In what context, under what circumstances and under what authorization has the Minister of Steel and Mines come forward with an important policy statement? (Interruptions)

SHRI BIJU PATNAIK: This is not a great policy matter, as the hon. friends want to make out. This is a very technical matter. I merely conveyed what Government have decided, viz. that we wish to try the cases, as follow-up actions of the Shah Commission's Report, by a special court. And the Chief Justice of the Supreme Court will be consulted. This is a decision of the Government. I merely conveyed a very minor, small decision which is not at all a policy matter, or of a very great importance.

SHRI A. C. GEORGE: Now we come to another important issue.

SHRI BIJU PATNAIK: If we have to try criminals in a special court, it is not a great policy matter.

SHRI A. C. GEORGE: Now we have come to a (Interruptions).

MR. CHAIRMAN: If you have anything new to say, you can say.

SHRI A. C. GEORGE: The matter on which Government of India is referring to the Supreme Court for an opinion—how can you say that it is not an important policy matter? (Interruptions)

SHRI SOMNATH CHATTERJEE (Jadavpur): It is very clear from whatever interruption, intervention or speech of Mr. Biju Patnaik that what he said is that "subject to the clearance of the Supreme Court...." (Interruptions)

SHRI BIJU PATNAIK: I make it clear.... (Interruptions)

SHRI SOMNATH CHATTERJEE: The speech of Mr. Sathe was sufficiently provocative.... (Interruptions) He wanted to make the position clear.

SHRI BIJU PATNAIK: When I say that the Government have taken a decision, I am sure the hon. Members understand—they have been Ministers

themselves—that the Cabinet has taken a decision. In fact, it was given as a hand-out by the Cabinet, nearly 10 days ago. If it has not come to his notice, I merely wanted to remind Mr. Sathe that such a decision has taken place; and in continuation of that decision, and in pursuance of that decision, the matter will be referred to the Chief Justice of the Supreme Court for his opinion. (Interruptions)

SHRI V. KISHORE CHANDRA S. DEO (Parvathipuram): I am on a new point. (Interruptions).

MR. CHAIRMAN: The point of order has to be disposed of.

SHRI V. KISHORE CHANDRA S. DEO: This may not be a policy matter. It may not be an important matter. I agree with it. The setting up of a special court may be justified by the Government; or may be by us or may be everybody. I am not disputing that fact.... (Interruptions) I am not getting perturbed.... (Interruptions). The hon. Minister has said that Government has decided to set up a special court. Later on, he continued to say that it will be referred to the Supreme Court. Then what is the fun in referring this matter to the Supreme Court, when the Government has already taken a decision to set up a special court? It is a contempt of the Supreme Court.

SHRI BIJU PATNAIK: The hon. Member Mr. Chauhan should know. He was formerly a Home Minister, a very senior Minister. First the Government takes a decision, before it takes up further action—it is normal. You first decide and then you take some other action.

SHRI PABITRA MOHAN PRADHAN (Deogarh): The hon. Minister, Shri Patnaik, was compelled to make this statement because the use of MISA in the context of Orissa was brought in.

MR. CHAIRMAN: I just want to give my ruling on the point raised. It is true that no permission has been sought under rule 372. It is a fact. I have ascertained it from office also that it has not been taken as yet. But, so far as the right of the Minister is concerned, he can intervene in the debate at any stage. It is not necessary that it should be when one hon. Member is speaking. After the end of a speech, the debate does not end; it is still continuing. So, he can make a statement. I think there is no force in the point of order.

SHRI RAM JETHMALANI: (Bombay North-West): Mr. Chairman, having seen the list of speakers before you today, I had decided that I shall surrender my right to address this House in favour of other members of this House. But, I have been inspired to speak first by a kindred soul and professional brother, the distinguished Shri Somnath Chatterjee, who uttered some words of wise advice, and, at the same time, I have been provoked by the malicious abuse of my Government and party on an occasion on which we deserve the congratulations of everybody present in this House.

Sir, I shall first deal with Shri Chatterjee. I whole-heartedly agree that the repeal of MISA is not the last or the penultimate act for the restoration of freedom and democracy in this country. Our task has just begun. We are not wedded merely to the formal repeal of the MISA. Our Government and Party, through its manifesto, is wedded to the wider objective of re-establishing the rule of law, which had been destroyed by Shrimati Gandhi, about whom Shri Sathe has just told us that she was the saviour of Indian democracy. I have never heard such perfidy, I have never heard such calumny, I have never heard such falsehood uttered, not only on the floor of the House but anywhere else in the country. But, coming as it does from Shri Sathe, I do not take it as a wicked falsehood, but I take it as a vulgar joke.

1540 LS—12.

[SHRI M. SATYANARAYAN RAO, in the Chair]

Mr. Chairman, as a lawyer and as one who is publicly committed to the rule of law, I would say that the rule of law shall be established in this country when we have finally succeeded in making a provision in our Constitution that there shall be no detention without trial except during the time of a real emergency, not the phoney emergency which Shrimati Gandhi had declared, facing the country.

Speaking for myself, I have moved in this House a Constitution Amendment Bill, which seeks to outlaw the whole institution of preventive detention when there is no real emergency before the country. I am free to confess that, perhaps, my Government and my Party does not, at the moment, feel inclined to go the whole hog with that measure and with the policy which the Bill represents. I must, therefore, in fairness to the House and in fairness to the Government, explain the reluctance of my Government and my Party to go to the extent to which I want my Government and my party to go.

Shri Sathe was not right when he told you that preventive detention comes when there are some people who oppose, those who are in political power and wish to dislodge them from power. When there is a determined batch of criminals in the country, which batch of criminals makes the working of the normal judicial processes a mockery, when judicial processes cannot function, then unjudicial, non-judicial and even anti-judicial methods, of which preventive detention is one, comes into operation. That is the truth.

It is a lie that preventive detention was used by Mrs. Gandhi from 1971 onwards. Mrs. Gandhi started making objectionable use of the MISA to nullify the judicial process when on the 12th June her election was set aside, thereafter her political opponents

[Shri Ram Jethmalani]

began to be jailed in copious numbers and the evil fall of MISA became manifest to this country. But it has been over a decade, for a period of ten years, that your party had been wedded to one evil policy alone, and that policy has been to set at naught the judicial process somehow by corrupt and illegal political actions.

I have not forgotten that when the Judges of the Supreme Court were sitting and hearing in their court room the appeal in the Nationalisation case, Mrs. Gandhi's cohorts, and some of them have the distinction of belonging to your party even today, went round the corridors of the Supreme Court seeking signatures on an application to impeach the Judges who were performing their judicial duties sitting in their court room.

It is a part of that nefarious policy that on the 12th June when the distinguished Judge of the Allahabad Court, to whose memory some day we shall have to build monuments throughout this country, delivered his judgment, you started burning the effigies of the Judge. And it is a continuation of that same nefarious policy that when a distinguished Judge of this country, a man who has held the distinguished office of the Chief Justice of India, gives a report, a report which ought to reach every citizen of this country who can read and write, again your hired hoodlums go round the country and burn that noble, monumental document.

I thought you would at least learn some lesson, you would carefully ponder over the contents of that report, and at least improve your behaviour for the future, so that those in the Janata Party who want to make preventive detention a thing of the past and end it or all time to come would be encouraged to act, bring pressure on their Government and compel the Government to outlaw preventive detention for all time to come.

But, so long as there is an organised political party in this country which does not believe in constitutional proprieties, which does not believe in political decencies, and which still continues to draw inspiration from the greatest criminal which this country has produced, there shall be no rule of law, and you will compel the Government of the day to continue preventive detention at least as a possible measure to be used when you get out of control.

You do not expect us to outlaw it from the Constitution when the Leader of the Opposition, who spoke the other day, told us: he is proud of the emergency, he was proud of the emergency, he shall remain proud of the emergency. Speaking for myself, I consider it to be the most disgraceful statement that I have ever heard from any Member of the Opposition, and it came from your distinguished Leader of the Opposition.

What does it mean when you say that you are proud of the emergency? The hallmark of the emergency was the deprivation of freedom, the use of preventive detention, the clamping into jail of hundreds and thousand of innocent people who had done nothing at all to merit that wrath of yours. You are still proud of that emergency. You have proclaimed on the floor of the House that you will, if God, a cruel God, puts you in power again, still use that evil instrument you have given public notice. My Government....

SHRI A. C GEORGE: It is the precedent, practice and convention that only the Prime Minister will speak about "my Government". Mr. Jethmalani is using the words "my Government".

SHRI RAM JETHMALANI: It is everybody's Government. It was only Mrs. Gandhi's Government which was not the Government of its Members. We are all comrades and I

am proud to say that the Janata Government is my Government. (*Interruptions*). The Janata Party will fulfil the advice and expectations of Mr. Chatterjee, the moment we learn from those gentlemen who occupy benches opposite that they have for all time fore-sworn that ill-fated philosophy which Mrs. Gandhi made the country familiar with. Tell us solemnly on the floor of this House that you do not believe in preventive detention, that you shall never use that instrument of your policy against political opponents and we in the Janata Party will compel our Government to amend the Constitution for all time so that we do not see preventive detention ever used again in this country. We want to go further that. We are even persuading our Government not only to outlaw preventive detention in peace time but even during the emergency time when preventive detention is ever used, if at all it is used in that unfortunate contingency, it shall still be used subject to the safeguards of Article 22. Article 22 shall not be suspended either during peace or during war and that is the commitment. But the condition of that commitment is the restoration of political decency by all who claim to aspire to political power in this country. Let the distinguished Leader of the Opposition repent, let him assure this House that there is some remorse, that there is some feeling of shame, that there is some feeling of repentance about the emergency and its excesses, and see the extent to which we go in the restoration of freedom. I am surprised that with you people still stalking the political stage of this country, with Mr. Sathe behind his assertion putting all the lung power of which he is capable, I wish he could use some intellectual power, some spiritual power behind that....

SHRI VASANT SATHE: You did not suffer under the emergency at all.

SHRI RAM JETHMALANI: I did.

SHRI VASANT SATHE: You enjoyed in America under the patronage of all the smugglers. Why are you making a grievance of it?

SHRI RAM JETHMALANI: The smugglers gave you money. That is how you lived for so long.

There is a condition for the continued outlawing of preventive detention and that is that nothing should be done hereafter to weaken the judicial process. You weakened judicial process by three methods. Each one of these methods you will have to abandon and fore-swear for all time. First of all, you will not involve those whose duty it is to enforce the law, in your crimes. Today, you berate us, you attack us day in and day out, you tell us that law and order has failed under the Janata rule. Have you ever had the honesty to ask yourself one question—why is it that the law and order has failed? If at all it has failed, it has failed for the simple reason that the Janata Government is compelled to enforce law and order with the assistance of those very agencies whom you had corrupted for the last ten years. We cannot overnight remove every policeman from office**

SHRI VASANT SATHE:**

SHRI RAM JETHMALANI: It is you who started the idea that judges should be committed to the ruling party. We never started it.**

MR. CHAIRMAN: Why do you land yourself in trouble—I do not know.

SHRI RAM JETHMALANI: Even today, you burn the effigies of Judges. (*Interruption*). My legal profession has taught me one thing and it is to take adverse decisions with good grace. But Mrs. Gandhi had never accepted any adverse decision of the courts with good grace.**

**Expunged as ordered by the Chair.

SHRI VASANT SATHE**

SHRI KANWAR LAL GUPTA:
I rise on a point of order.**

MR. CHAIRMAN: About the point of order that you have raised, I will consider and, if necessary, I will expunge the objectionable remarks or both of them.

SHRI KANWAR LAL GUPTA:
Rule 380 says, if the Speaker is of the opinion.....

MR. CHAIRMAN: I told you, I will see and I will expunge it.

SHRI KANWAR LAL GUPTA:
It should be expunged outright. What is your decision?

MR. CHAIRMAN: When I tell you, I will see and expunge, that is enough. It will be done.

SHRI KANWAR LAL GUPTA:
Kindly permit me to read out Rule 380. It is a very exceptional remark that he has made. It was never allowed in this House by any Speaker. You may belong to this party or that party. You are now in the Chair. You do not belong to any party.

MR. CHAIRMAN: I will do it.

Mr. Jethmalani, you have to conclude now. You have taken already about 20 minutes. There is a way of making the speech. Why do you provoke others unnecessarily? Without provoking them, you can make a speech.

SHRI RAM JETHMALANI: Any- way, I want to tell them.... (Inter- ruptions)

SHRI VASANT SATHE: How can you expunge my remarks.**

MR. CHAIRMAN: I will expunge his remarks also.

SHRI VASANT SATHE:**

SHRI RAM JETHMALANI: I do not know what the Government's decision on this point is. But let me tell you my way of looking at it.

My way of looking at it is that the judicial process is destroyed when justice cannot be assured within a reasonable time. It has been a part of your policy to see that the prosecution which takes 20 minutes takes 6 months before the Magistrate's court. You have created the greatest evidence of the need for a special court to try the criminals of yesterday who even today are trying to capture political power in the country.

SHRI VASANT SATHE: How much time do you take to argue a case in the Supreme Court? You also take the cases in the Supreme Court. (In- terruptions)

MR. CHAIRMAN: You have al- ready taken more than 20 minutes. I call Shri Chitta Basu.

SHRI RAM JETHMALANI: May I take 2 minutes more?

I want to tell them that today they are playing with fire in this country. You are going to the most combusti- ble, the most volatile and the most irascible elements in the society and those who are suffering, the poor harijans, the poor down-trodden and the Muslims. You are going to them and inciting them to crime.

(Interruptions)

That is the trouble with you that you people have never developed a habit of listening to anybody. It is never too late to learn; learn it. You are the fabricators of Khetri. Have you forgotten that? Who created a story of 100 Harijan women having been raped? You had fabricated it. You are going around the country and telling those poor people that it is the Janata Government which is trou- bling them. But you are responsible for it and you are inciting crimes; you are committing crimes. Please look within yourself and give us an as- surance that you will not have any criminal in your party and the rule of law shall be restored and the pre- ventive detention shall go for all time. Please have the decency to congratu- late us.

**Expunged as ordered by the Chair.

SHRI CHITTA BASU (Barasat): Mr. Chairman, I rise to welcome the Repeal Bill, Sir, while welcoming this measure for the repeal of the most hated Act, I would also fail in my duty if I do not mention the courage taken by a large number of Members on the Janata benches who really made the Government to revise their decision with regard to the complete repeal of this hated Act; in particular, I will be failing in my duty if I do not mention the valiant fight that was offered by my distinguished colleague and hon. Member, Shri Jethmalani on this very Floor of the House on the very day of the introduction of the Criminal Procedure Amendment Bill incorporating certain hated sections of the MISA. I do not like to tread on the beaten track of the subject. I will only like to draw the attention of the hon. Minister who is piloting the Bill to this aspect that when we are repealing this hated MISA, I think, in different States of our country, there are laws providing for preventive detention. For his information, I will like to draw his attention to this fact that as per information by his Ministry as on 1-12-1977, more than 7 States even today have on their statute books laws providing for detention without trial. I would like to mention some of them. They are: The Andhra Pradesh Preventive Detention Act, 1970. The Rajasthan Preventive Detention Act, 1970. The Uttar Pradesh Rashtra Virodhi Tatwa Niwaran Adhiniyam, 1970, The Madhya Pradesh Lok Avyavastha Nivaran (Asthai Shaktiyan) Adyadesh, 1977 and of late The Jammu and Kashmir Public Safety Ordinance, 1977. What I want to mention is this.

(Interruptions)

No, no, you do not know. You educate yourself, Mr. Vasant Sathe. Do not get educated in the way you got educated earlier.

While I welcome the move of the Government to repeal the MISA, I also welcome the spirit shown by my hon. friend, Shri Jethmalani to out-

law detention without trial. I want that the Government should also give an assurance to the effect that they would strive to see that the Constitution of our country should be properly and suitably amended, so that there may not be any law in any part of the country providing for detention without trial.

In this connection I would also like to mention the statement which was quoted by the hon. Minister while piloting the Bill—the statement made by Shri B. D. Jatty on March 28, 1977, on this very question of MISA:

“A thorough review of the Act (MISA) will be undertaken with a view to repealing it and examining whether the existing laws need further strengthening to deal with the economic offences and security of the country without denying the right of approach to courts.”

This statement implies two points: one, repeal of the MISA; and the other, whether the existing laws can be further strengthened to take care of certain economic offences and offences committed by anti-social elements. I think, while Government has accepted the principle of repealing the MISA, Government have also come to this conclusion that the existing laws are sufficiently strong to deal with the economic offences and other offences under the existing ordinary laws. I want that kind of an assurance from the Government. I want to know whether this conclusion has been reached by the Government or not, because there is a dangerous trend in this House which means that there might be a necessity for special laws which might provide for detention without trial. As a matter of fact, my friend, Mr. Kanwar Lal Gupta, has gone to the extent of saying that the situation as it exists today warrants a special or some kind of an Act to deal with anti-social elements or, in his words, to maintain properly the law and order situation. I thoroughly disagree with him. According to us, the existing laws are strong

[Shri Chitta Basu]

enough to deal with the economic offences and the offences that are likely to be committed by anti-social elements. There is no dearth of laws in this country. The point is this. We should not give this Government an opportunity to take to that path which was taken by the regime of authoritarianism. I think, the view of the overwhelming majority in this House is against the emergence of authoritarian rule in this country. If we are really interested in wiping out the trends of authoritarianism in our country, it is necessary to bring about socio-economic changes so that the people can be and will be involved in the matter of administration.

In this connection I want to refer to the most mischievous information given by Mr. Sathe regarding West Bengal Government. The West Bengal Government does believe that the State can be run properly and the law and order situation can be brought under control without resort to any kind of preventive detention. As a matter of fact, Mr. Chairman, you will be happy to learn that 20,000 political prisoners have been released as a measure of political amnesty after the installation of the Left Front Government. I can claim, and am proud to say, that the law and order situation in the State of West Bengal is in no way worse than that prevailing in any other State in the country today. The philosophy of the West Bengal Government is that law and order is a question which cannot be dealt with by the trigger-happy Police; the law and order situation can be properly tackled if the vast masses of our people are involved in the administration of the State.

Therefore, I would also like to remind my esteemed friend Prof. Mavalankar who, in his anxiety to be a distinguished Parliamentarian, has also found the necessity for some kind of a special law to deal with the anti-social elements....

PROF. P. G. MAVALANKAR: I never said that; nor did I mean it.

SHRI CHITTA BASU: I am happy to hear it.

So, if we really want to create a congenial situation for the democratic functioning of the country, for the strength of Parliament and the fabric of Parliamentary democracy, it is not the existing socio-economic system which can really guarantee the strengthening of the fabric of Parliamentary democracy. Therefore, it is for the Janata Polity to take a lesson from history. If, in the name of fighting the forces of authoritarianism, they maintain and preserve the forces of authoritarians, they will have no other alternative but to take to the hated methods which the erstwhile authoritarian regime had taken resort to.

Therefore, I would again plead with my friend, Mr. Jethmalani not to say that it is not the time to act. It is time for this Hon. and august House to see that the Constitution is suitably amended to prevent detention without trial. This sanction in the Constitution and the repeal of the MISA cannot go together. If we are really serious about the repeal of the MISA we have to do away with the Constitutional sanction for preventive detention without trial. Therefore, I would once again appeal to my friend Shri Jethmalani not to say that the time is not ripe for the deletion of the Constitutional provision and for outlawing detention without trial. This is the test as to whether the Janata Government really sincere about fighting the different forces of authoritarianism and strengthening the fabric of Parliamentary democracy, as my good friend Prof Mavalankar wishes.

श्री राम विलास पासवान (हाजीपुर): समापति महोदय , मेरा ब्यवस्था का प्रश्न है । पार्लियामेंट का कोई भी प्रोसीजर एक तरीके से चलता है । डा० रामजी सिंह के नाम के बाद श्री बृजभूषण तिवारी का नाम था, उन के बाद मेरा नाम था, लेकिन हम लोगों को मौका

न दे कर दूसरे लोगों का मौका दिया जाता रहा। हम लोग अभी तक यह समझते थे कि पार्टी के आधर पर लिस्ट चलती है, लेकिन आज एक नया फार्मूला निकाला गया है कि स्टेट-वाइज बुलाया जायेगा। सभापति महोदय ने कहा है कि स्टेट-वाइज लिया है, इसका मतलब है कल आप जाति-वाइज लेंगे। आपका लिस्ट के मुताबिक चलना चाहिये था, लेकिन जिन्होंने नाम नहीं दिये हैं, उन का बुलाया जा रहा है। हम लोग कल से यहाँ बैठे हुए हैं, हम लोगों ने नाम दिये हैं, दूसरे मन्वर पर मेरा नाम था, लेकिन हम को नहीं बुलाया गया।

सभापति महोदय : आपने जो कहा है, वह बिलकुल ठीक है। मैं आपकी बात समझ रहा हूँ।

श्री राम नरेश कुशवाहा (सलेमपुर) : क्या जिन को आप जानते हैं, उन को बुलायेंगे? हमने पहले से नाम दिया हुआ है, फिर भी हम का मौका नहीं मिला है।

PROF. DILIP CHAKRAVARTY (Calcutta-South): If necessary, the time should be extended: everyone would like to speak.

सभापति महोदय : मेरे आने से पहले क्या हुआ, या कैसे किया गया मुझे मालूम नहीं है, लेकिन मेरे आने पर जो लिस्ट मुझे दी गई, वह स्टेट-वाइज लिस्ट बना कर रखी हुई थी। यह ठीक है कि आप के बिहप ने जो लिस्ट दिया है, उस के मुताबिक बुलाना चाहिये, लेकिन कभी-कभी चेयरमैन को डिस्क्रीशन होता है, वह डिस्क्रीशन एक-दो के लिये ले सकते हैं, सब के लिये नहीं होना चाहिये। जो कुछ हुआ है, वह हुआ है—आप जानते हैं इस बिल के लिये दो घण्टे थे, दो घण्टे और बढ़ा दिये गये, वह समय भी 6 बज

कर 5 मिनट पर खत्म होने वाला है। अभी मिनिस्टर साहब का जबाब देना है। उसके बाद क्लोज वाई क्लोज करना पड़ता है। तां इस में हमारी यह मजबूरी है कि समय बहुत कम है।

I am in your hands

श्री राम विलास पासवान : आप हमें समय दीजिए। हम लोग चेयर की मर्यादा रखते हैं, इसलिए हमें समय नहीं मिलता।

SHRI BALWANT SINGH RAMOO-WALIA (Faridkot): My party has not been given even a single minute.

MR. CHAIRMAN: That is why I am asking you. I am in the hands of the hon. House. There are other names also. Besides your name, Shri Asaithambi's name is also there. But my difficulty is that the time is very short. This debate has to be ended at 1805 hrs. The Minister has yet to reply. Unless the time is again extended, it is not possible to accommodate all the Members.

श्री राम विलास पासवान : आप समय बढ़ाइए।

श्री धनिक लाल मण्डल : यह तो नीसा को रिपील करने वाला बिल है।

सभापति महोदय : मिनिस्टर साहब कहते हैं कि यह तो नीसा को रिपील करने वाला बिल है, इस में आप और क्या बात करना चाहते हैं, तो मैं क्या करूँ।

Shri Asaithambi, I am giving you a few minutes to speak, because you said you have been to jail and you suffered.

श्री राम विलास पासवान : समय नहीं बढ़ाया। हम लोगों का क्या होगा।

श्री उपसेन हम लोगों का भाषण कब होगा ? हम लोग अपना बयान लिख कर भेज दें।

श्री राम बिलास पासवान : हम लोगों की क्या गलती है। चन्द्र की गलती है, इस में हम लोगों का क्या दोष।
... (व्यवधान) ...

सभापति महोदय : धूप बैठिये।

*SHRI A. V. P. ASAITHAMBI (Madras North): Mr. Chairman, Sir, at the very outset, I would like to thank you for giving me an opportunity to say a few words on the MISA Repeal Bill under discussion.

Sir, it will be no exaggeration to emphatically assert that this MISA Repeal Bill is being welcomed by the entire nation. The Maintenance of Internal Security Act, as its very name suggests, was meant to protect and preserve the internal security of the nation. If this legislation had been used for the purpose for which it was enacted, the people of the country would have had no grouse. But, as is known to every one in this House, this Act was used for perpetuating one single individual in power for ever.

On June 12, 1975, the Allahabad High Court nullified the election of Shrimati Indira Gandhi, the then Prime Minister. If she had wanted to nurture and nourish democratic ethics and foster democratic ethos in the country, she should have honoured the verdict of the Allahabad High Court and quitted the Government. But she conspired with her cohorts and declared the Emergency on June 25, 1975 not for the purpose of maintaining the internal security in the country but for sustaining herself in power. She put in prison overnight all the respected national leaders of the country. By stifling the voice of dissent, which is soul-force of democracy, she killed

democracy in the country. She converted the entire country into a prison-house for those opposed to her continuance in office.

The hon. Member, Shri Sathe, who spoke just now in defence of this Emergency and its ally MISA, was a Member of this House then and he was quite conversant with the happenings around him. He was a silent spectator then and today he is vociferous. He spoke as if MISA was made use just for the purpose of maintaining internal security of the country and he waxed eloquent about the atmosphere of agitation then prevalent in the country. But he did not say who was the spring-board of such agitation. Perhaps in his concept of democracy agitation is barred.

I have the honour to belong to a political party which opposed the declaration of Emergency and the indiscriminate use of MISA. The Dravida Munnetra Kazhagam in Tamil Nadu and its leader Shri Karunanidhi opposed in unequivocal terms Emergency and the misuse of MISA, and thus incurred the wrath and fury of the defiler of democracy. On January 31, 1976, Shrimati Indira Gandhi showed no compunction in dismissing the duly elected DMK Government in Tamil Nadu just for the sin of supporting democratic elements in the country. I was a victim of MISA and was in prison for more than a year. Many of my colleagues were put behind bars just because they were defenders of democracy.

Here I would like to express my regret that the Janata Government did not do justice to the country. I wish that as soon as Janata Party came to power in 1977 the Government had arrested under the very same MISA Shrimati Indira Gandhi and her conspirators for the very crime of misusing the provisions of MISA. If the Janata Government had done this at that time, we would have been spared

*The original speech was delivered in Tamil.

the sorry spectacle of Members like Shri Sathe eulogising his leader as the saviour of democracy, who according to him used MISA to save the country from the impending chaos. I have no words to describe the horrors of atrocities committed during the Emergency by taking shelter under MISA.

As my hon. friend, Shri Jethmalani stressed, any preventive detention is anathema to democracy. The Government of India have shown wisdom in not pursuing with the idea of amending the Criminal Procedure Code for incorporating certain provisions of MISA. I would like to stress that nothing that smacks of anti-democratic trends should be encouraged by the Janata Government.

Before I conclude, I would like to refer to the pitiable plight of many hundreds of families of MISA and Emergency victims. Along with me, a Member of this House, Shri Chitta Babu, belonging to my party was detained. He died in prison. Shri Balakrishnan of Sattur died in Madurai prison. All over the country many hundreds of people who were detained died in prison leaving their families to fend for themselves. I appreciate that Rs. 500 or so is being given to those Emergency and MISA victims who are alive. But nothing substantial has been done to give succour to those who have lost their earning members during the Emergency. I want to plead with the Government of India that they should not rest content with the repeal of MISA. The Government should formulate a plan of financial assistance to the unfortunate dependants of MISA and Emergency victims.

With these few words, I join my colleagues in welcoming this MISA Repeal Bill, which should have been passed long before.

SHRI BALWANT SINGH RAMOO-WALIA (Faridkot): I am thankful to you at least that you have granted my request. I belong to the Akali Dal, the party which fought continuously

for 19 months against this regime—the regime of Mrs. Indira Gandhi. Sir, for 19th months the Akali Dal never stopped in sending jathas against emergency. We did not stop even for a single day. All the leaders were released on 12th to 18th of January, but our Akali Dal suspended its agitation against emergency only on 25th of January, that is, 7 days later on. Sir, I want to say that MISA was imposed to keep the mighty rule of the so-called might Shrimati ji. But it is not the mighty rule that governs the people of the country; it is the people alone who decide the fate of this country. They are the real rulers. The chains of slavery were broken by the might of the people.

Then, one thing I want to say, Sir. One thing remains unsatisfied. When we used to get MISA warrants, it used to be written therein:

“You are being arrested under MISA.

Reason:—Not to be disclosed in the public interest.”

The real reason should have been not ‘public interest’ but ‘Sanjay’s interest’. The only thing that should have happened is that Mrs. Indira Gandhi and her son Sanjay Gandhi should have tasted this fruit of MISA. They should also have tasted this fruit, as has been the case with our hon. Agriculture Minister who remained for 19 months in detention. There were in jail my two leaders, Sardar Gurcharan Singh Tohra (President, SGPC) and Sardar Jagdev Singh Talwandi (President, Akali Dal). So, Sir, she should also have been in jail, if not for 19 months, at least for 19 weeks or 19 days at least.

She should have known by now. This Government deserves congratulations because the sharp-edged weapons which were being used during the former regime under MISA are now being taken back.

[Shri Balwant Singh Ramoowalia]

But, through you Sir, I want to ask the Government as to what is being done for those people who were injured by these sharp-edged weapons. What is being done for them who fought in the jails and whose properties were confiscated and who were deprived of their rights and who suffered from the diseases for all these days in the days to come?

I humbly request on behalf of the Shiromani Akali Dal that a special cell should be established in the Home Ministry to look after their problems of the MISA sufferers. This is the tradition under the Congress regime. This was written into the history. During the Congress regime, people who fought for freedom and who brought it to this country died in the streets under miserable conditions; they sacrificed their properties; they lived all their lives in jails and they died in the streets without medicine in the Congress regime.

I would sound a note of caution to the Janata Party that it should try to see that the people who suffered and who went to jails during those days should be looked after very well. So, something must be done by the Government for their children and others.

Thus, I support this Bill again.

श्री राम नरेश कुशवाहा (सलेमपुर):
सभापति जी, एक वाक्य मुझे कहने दीजिये।

सभापति महोदय फिर तो मुझे माननीय पामवान और माननीय चक्रवर्ती आदि को भी माफ़ा देना पड़ेगा।

श्री राम नरेश कुशवाहा : मैं सरकार को बधाई तब देगा जब गरीबों का भीसा सरकार हटा ले। दफ़ा 109 और 110 के रहते हुए गरीबों पर भीसा हमेशा

बरकरार रहेगा, उसको आप को हटाना चाहिये। इस कानून को हटा कर आप धन वालों को सुविधा दे रहे हैं। जो जैसे के बल पर मुकदमा लड़ते थे। लेकिन गरीबों को इससे क्या राहत मिलेगी? उस के लिये आपको दफ़ा 109, 110 हटानी चाहिये।

PROF. DILIP CHAKRAVARTY: I would like to know from the hon. Minister whether he would agree to hold an enquiry into nearly 5,000 deaths as also those that were maimed under the cover of MISA between 1971 and 1977.

गृह मंत्रालय में राज्य मंत्री (श्री धनिक लाल मंडल) : श्रीमान, कुछ माननीय सदस्यों को छाड़कर सभी ने चाहे किसी ओर के हों इस रिपॉल बिल का स्वागत किया है और उन्होंने जनता सरकार को इसके लिये मुबारकबाद दिया। माननीय सदस्यों ने जो प्रसन्नता प्रकट की है मैं उस के साथ हूँ। लेकिन उसी के साथ साथ मैं एक कौणन भी देना चाहता हूँ और वह यह जैसी की आशंका व्यक्त की गई कि जो स्थिति देश में है, इसकी ओर कुछ सदस्यों ने इशारा किया कि हिंसा की घटनायें हो रही हैं, कानून को लोगों द्वारा हाथ में ले लेने की प्रवृत्ति बढ़ ही रही है, अशांति फैल रही है आदि आदि। इस तरह की जो स्थिति बन रही है और देश में जो कुछ ताकतें हैं जो इसका फायदा उठा कर देश में फिर अगना सर उठा रही हैं और देश में जो जम्हूरियत के लिये या शांति व्यवस्था के लिये और कानून के राज्य के लिये खतरा पैदा कर सकती हैं उसकी ओर भी माननीय सदस्यों का ध्यान देना होगा। यदि हम चाहते हैं, और हम सब चाहते हैं जैसा कि भाषणों से स्पष्ट भी है,

हम लोग प्रसन्न हैं कि जो वायदा किया गया था और जो जनता पार्टी का इरादा है भय रहित समाज बनाने का, स्वतंत्र समाज बनाने का जिसमें सभी निर्भय हो कर अपनी बात कह सकें, स्वतंत्रता-पूर्वक अपनी बात कह सकें ऐसा समाज बनाने का जो हमारा निश्चय है उस के लिये आवश्यक था कि इस सीमा कानून को निरस्त किया जाए। और आज यह हो रहा है। माननीय सदस्यों ने जो यह कहा है कि सरकार का कुछ हिचकिचाहट थी, सरकार के मन में दो बातें थीं जिन में यह समय लगा। मैं यह कहना चाहता हूँ कि इस में सरकार के लिये कोई प्रतिष्ठता का प्रश्न नहीं है यह जनतंत्र के मन्त्रालय में है कि सरकार जनमत का आदर करती है सम्मान करती है और उसकी स्वीकारती है। जनता सरकार ने जनमत का आदर किया है और इनमें उन को कोई लज्जा या शर्म नहीं है। हम ने इस कानून को निरस्त करने का काम किया है जो कि सामने है, लेकिन माननीय सदस्यों की इन खुर्शों में अपने को शामिल करते हुए जो मैंने कुछ सावधानी की बात कही कि आज जो स्थिति है, उसमें इसे खत्म करने में सब का सहयोग सरकार को मिलना चाहिये, क्योंकि कई माननीय सदस्यों ने कहा कि सरकार इस स्थिति से निबटने के लिये क्या करने जा रही है? कई सदस्यों ने कुछ सुझाव भी दिये थे कि मुख्य मंत्रियों का सम्मेलन किया जाये, राजनीतिक दलों के नेताओं का सम्मेलन किया जाये। जो यह सुझाव आये हैं, यह सारे सरकार को मान्य हैं और इस बारे में इस सदन में भी आश्वासन दिये जा चुके हैं। जो भी दल हैं, उन के नेताओं और मुख्यमंत्रियों का सम्मेलन किया जायेगा और इस पर

विचार किया जायेगा। मुझे विश्वास और भरोसा है कि जिस उत्साह से और जिस खुशी से हम ने इसका स्वागत किया है, उसी तरह से विधि और व्यवस्था की स्थिति कायम रखने में, कानून की व्यवस्था को बनाये रखने में हमको सदन का ही नहीं, सदन के बाहर जो लोग हैं उन का भी सहयोग मिलेगा ऐसी मैं आशा करता हूँ।

यह बात सही है कि विधि और व्यवस्था की स्थिति में देश के कुछ हिस्सों में जो बिगाड़ पैदा हुआ है, जिनकी ओर माननीय सदस्यों ने इशारा किया है और चिन्ता व्यक्त की है, उसके कारण में जायें तो आप देखेंगे कि जो पुलिस है उसका मनोबल घटा है।

माननीय सदस्य श्री जेठमलानी ने जो कारण बताये, वह अपनी जगह पर हैं और दूसरे माननीय सदस्यों ने जो कारण बताये, वह अपनी जगह पर हैं लेकिन यह सच है कि पुलिस वालों का मनोबल घटा है। पुलिस कोई भी काम करे, अच्छा करे या बुरा करे, सब उसकी निन्दा करते हैं। पुलिस यदि कुछ न करे, तो भी निन्दा होती है, अगर पुलिस कुछ करे तो भी उसकी निन्दा होती है।

MR. CHAIRMAN: The extended time for this Bill is upto 1805 hrs. The time is already over. Is it the pleasure of the House to extend the time by a few minutes till the Bill is passed.

SOME HON'BLE MEMBERS: Yes.

श्री धनिक लाल मंडल : यह इसलिये कि विधि व्यवस्था का हम अपने पक्ष में फायदा उठाना चाहते हैं, उसका पार्टीजन इस्तेमाल करना चाहते हैं, अपने दल और अपने समूह के लिये उसका फायदा उठाना चाहते हैं, लेकिन ऐसा नहीं होना चाहिये।

[श्री धनिक लाल मंडल]

यदि हम इसको पार्टीजिन न बनायें, नेशनल इश्यू बनायें और जो अच्छे काम हो रहे हैं उनमें सहयोग दें, उसकी प्रशंसा करें, भरोसा करें और जो गलत हो उसकी निन्दा करें तो बात बन सकती है।

इसलिये मैं माननीय सदस्यों में निवेदन करूंगा कि जो सम्मेलन बुलाया जा रहा है, प्रधान मंत्री और गृह-मंत्री की आरंभ में दल के नेताओं और मुख्यमंत्रियों का सम्मेलन बुलाया जा रहा है, उसमें सारी बातों पर विचार कर के सही निर्णय लें, उसका जनता में स्वागत होगा।

श्री भट्टाचार्य जी ने कहा, श्री मावलंकर जी ने कहा कि मीसा का निरस्त किया जा रहा है, लेकिन अभी भी लोग जेलों में बन्द हैं। मैं कहना चाहता हूँ कि मीसा में अभी मात्र 86 बंदी हैं। इन 86 को छोड़ कर बाकी सभी लोग रिहा कर दिये गये हैं।

श्री उपसेन : ये 86 कौन हैं ?

श्री धनिक लाल मंडल : इन 86 में 67 विदेशी—पाकिस्तानी हैं, जो पंजाब की जेल में हैं और 19 महाराष्ट्र की जेल में, जो एन्टी-सोशल हैं, डाइवन्ज हैं। महाराष्ट्र सरकार को भी कहा गया है कि वह उन्हें नामल ला के तहत लाये, या उन को छोड़े। यह कानून अब निरस्त हो रहा है। इस लिए प्रश्न नहीं उठता है। इस लिए यह कहना ठीक नहीं है कि इन 86 व्यक्तियों को छोड़ कर मीसा निरस्त कोई जेल में है। सब को छोड़ दिया गया है।

यह कहा गया है कि देश के विभिन्न भागों में मीनी-मीसा लागू है। इस सम्बन्ध में मध्य प्रदेश, काश्मीर और उत्तर प्रदेश का

नाम लिया गया है। जैसा कि बार-बार स्पष्ट किया गया है, यह राज्यों का विषय है, यह उन का अधिकार है, यह उन का कार्य-क्षेत्र है। वे ऐसा कानून बना सकते हैं, और उन को हम से मार्ग-दर्शन की भी कोई आवश्यकता नहीं है, कोई हमारी कांफ्रेंस की भी आवश्यकता नहीं है, और हम से कोई मलाह-मशवरा करने, या राय देने की भी आवश्यकता नहीं है।

लेकिन इस के बावजूद हम लोगों ने बराबर राज्यों को यह मलाह दी है कि ऐसे जो भी कानून बनते हैं, उन में सेफगार्डर्ज का प्रावधान होना चाहिए। जैसा कि माननीय सदस्यों का ज्ञात है, जब काश्मीर में ऐसा कानून बना, तो तत्कालीन गृह मंत्री जी ने उन को पत्र लिखा, और उन से यह एपारेंस मांगा कि उस में ऐसे सेफगार्डर्स का प्रावधान होना चाहिए, जिसमें मीसा की आडिटीज का खन्म किया जा सके।

श्री वसन्त साठे : जहां जनता पार्टी की सरकार है, वहां आप क्या करा रहे हैं ?

श्री धनिक लाल मंडल : राज्या के सम्बन्ध में जो बातें यहां उठीं, उन के बारे में मैं आप के माध्यम से सदन को यह आश्वासन देना चाहता हूँ कि यद्यपि वह हमारा अधिकार नहीं है, फिर भी जो भी ऐसे कानून बने, उन में सेफगार्डर्ज के लिए प्रावधान होना चाहिए, यह हम लोग अवश्य इनासिस्ट कर रहे हैं और चाहते हैं कि ऐसा हो।

जहां तक आगे के बारे में बात है, मैंने स्थिति का वर्णन किया है और कहा है कि हमें विश्वास है कि आर्डिनरी ला, नामल ला, देश के कानून से काम चल सकता है। लेकिन भविष्य के लिए हम कोई कमिटमेंट नहीं दे सकते हैं। हम स्थिति पर नज़र रखेंगे, और जैसी स्थिति होगी, उस के अनुसार काम किया जायेगा।

श्री बल्लभ साठे : मंत्री महोदय मेरे सवाल का जवाब दें। केन्द्र में तो आप मीसा को रद्द करेंगे, और जिन राज्यों में जनता पार्टी ही सरकारें हैं, क्या वहां उसका चलने देंगे? क्या यह आप की नीति है?

श्री धनिक लाल मंडल : श्री सामनाथ चटर्जी ने बहुत फंडामेंटल बातें कही। हम चाहते हैं कि चाहे कोई भी सरकार हो— और जनता में सरकारें बदलती रहती हैं— इस तरह का कानून आगे भी न बने। इस के लिए भी जनता सरकार प्रयत्न कर रही है। संविधान का जो 45वां संशोधन आने वाला है, उसमें जो कुछ उपबन्ध किये गये हैं, उन की ओर मैं आप का ध्यान दिलाना चाहता हूँ। वह बिल स्वीकृति के लिए आप के सामने आया। उसमें ये उपबन्ध किये गये हैं। उस का जो बिल 3 है, पैरामांश में अमेडमेंट का उसमें ये उपबन्ध किये गए हैं :

The initial period of detention cannot exceed two months and before the expiry of the said two months the opinion of the advisory board will be required to be obtained.

(2) The Advisory Board shall consist of a Chairman who shall be a serving Judge of the appropriate High Court and the two other members shall be serving or retired Judges of any High Court.

(3) The provisions of 22(7) shall be deleted with the result that no law could be made for detaining any person for a period exceeding two months without obtaining the opinion of the Advisory Board.

(4) The amendment relating to article 359 only seeks to protect the rights under article 21 from the scope of any other suspending and enforcement of fundamental rights.

ये उपबन्ध उस में किए गए हैं। इस से इतना तां हो ही जायगा कि जो आर्टिकल 359 को

इनबॉक कर के पिछले दिनों में राइट टु लिबर्टी और राइट टु लाइफ को भी सस्पेंड कर दिया गया था वह नहीं किया जा सकता है और उस के साथ साथ इतना तक उसमें उपबन्ध है कि दो महीने से अधिक डिटेंशन में नहीं रखा जा सकता। . . . (व्यवधान) जो प्रश्न उठे थे उन के संबंध में हमें जो सूचना है उस के बारे में यह काम हो रहे हैं, उस के संबंध में मैंने थोड़ी सी जानकारी दे दी।

मैं माननीय सदस्यों का बहुत धन्यवाद करता हूँ और उन से विनती करता हूँ कि इस को सर्वसम्मति से पारित करें।

श्री उपसदन : मैं माननीय मंत्री जी को एक मुझाव देना चाहता हूँ।

सभापति महोदय : ब्रादर में दे दीजिएगा।

श्री उपर सेन : इसी संबंध में उन से कहना चाहता हूँ कि जब केन्द्रीय सरकार नेता विरोधी दलों और मुख्य मंत्रियों का सम्मेलन बुलाए जिस में मीसा और देश के हमारे कानूनों पर विचार विमर्श हो, उस में मैं यह मुझाव देना चाहता हूँ कि इस बात पर भी विचार किया जाये कि कितन परिस्थितियों में कितन परिस्थितियों में जनता पर पुलिस गोली चलाए। चाहे वह जनता पार्टी की सरकार हो या श्री साठे जी पार्टी की सरकार हो सब के ऊपर इस प्रकार का प्रतिबन्ध लगाया जाना चाहिए और इस के ऊपर विचार किया जाना चाहिए कि कितन स्थितियों में, आया हथियारी बगावत हो, फौज बगावत करे या और कौन सी ऐसी स्थिति हो जब हम गोली चलाए और निहत्थों पर बिलकुल गोली न चलायी जाय इस के ऊपर बिलकुल विचार होना चाहिए। वह जो मुख्य मंत्रियों का सम्मेलन बुला रहे हैं उस में यह भी एजेंडा पर रख दिया जाय।

श्री रामनरेश कुशवाहा : जो गरीबों का मीसा है धारा 109 और 110 उस

[श्री राम नरेश कुशवाहा]

को हटाने के बारे में आप ने कोई जवाब नहीं दिया ।

श्री धनिक लाल मंडल : उस का यहाँ क्या सम्बन्ध है ?

MR. CHAIRMAN: The question is:

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

The motion was adopted.

MR. CHAIRMAN: Now we take up clause-by-clause consideration. The question is:

"That clause 2 stand part of the Bill."

The motion was adopted.

Clause 2 was added to the Bill.

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

MR. CHAIRMAN: Now, we take up third reading of the Bill. The hon. Minister.

श्री धनिक लाल मंडल : मैं प्रस्ताव करता हूँ कि यह विधेयक पारित किया जाय ।

MR. CHAIRMAN: Motion moved:

"That the Bill be passed."

SHRI JYOTIRMOY BOSU (Diamond Harbour): It is better late than never. The main poison tree has been uprooted. But there is some thing more which perhaps is not known to the House. According to the statement that I have, there are laws providing for preventive detention even today. Take for example Andhra Pradesh. The Andhra Pradesh Detention Act, 1970, date of notification 5th March 1970 can keep a person without trial on preventive detention for 12 months;

come to Rajasthan. The Rajasthan Preventive Detention Act, 1970,—can keep a person, without showing anything under preventive detention for three months; come to Uttar Pradesh. The Uttar Pradesh Rashtra Virodhi Tatwa Niwaran Adhiniyam, 1970, for reasons connected with the security of the State or disrespectful of objects of national veneration—one year; come to Madhya Pradesh. The Madhya Pradesh Lok Avyavastha Nivaran (Asthai Shaktiyan) Adyadesh, 1977, that law can keep people behind bars without trial under preventive detention for three months; come to Jammu and Kashmir. The Jammu and Kashmir Public Safety Ordinance, one year without trial.

Now I would like to have an assurance from the hon. Minister that they would advise the State Governments, they would earnestly request the State Governments to repeal all these black Acts. It is not one alone here. There are many guys. My hon. friends here talked about Cr. P.C. 107 in the jails, wherever I have been, I have seen scores of hundreds of boys. I asked "what has brought you here?" and they said "one fine morning the police comes and takes.

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The second thing is, Article 22(1) and Article 22(7) empower Parliament to enact legislations providing for detention without trial for the country as a whole; Seventh Schedule to the Constitution list 111 Concurrent List (3) empowers both Parliament and State Legislatures to enact legislation providing for detention without trial; Proposed Constitution (45th Amendment) Bill, only amend the relevant provisions—power to enact legislations for detention continues to remain. These two Articles should be scrapped forthwith so that in future you do not have Mrs. Gandhi coming again to suck the blood of the country and ruin thousands and thousands of families.

This is most important.

SHRI VASANT SATHE: Only Naxalites will come.

SHRI JYOTIRMOY BOSU: We will answer that. My hon. friends have talked about the rehabilitation of all those who have suffered under MISA during Emergency. From 1971, specially after 1972 in greater number, MISA has been taking a heavy toll of family lives, human lives, minimum property belongings. I know when I was in Rajasthan Jail, there was an advocate, who was in detention, his widowed old mother, who had a small cottage was weeping. IP himself came and told me that he has never seen this kind of unkind things in thirty years of his service. Therefore, the Government must give an assurance that those who have suffered due to misapplication of this wretched law "MISA", the Law of Jungle as we described it in 1971, they should be rehabilitated and compensated so that in future the Government becomes careful about this sort of thing.

Another most disturbing thing is this. The Bhargava Commission, which was conducting its work in Andhra Pradesh and bringing out, unearthing all the fictitious and fake stories of confrontation with the Police, the massive murder of youth that they were conducting—I had been to that Commission, because I stayed in the Andhra Pradesh State Guest House and the hearing was being held in the next room, suddenly the present Government in order to conceal the misdeeds and black deeds of the past, directed the Commission to hold its hearings *in camera*. I would request the hon. Minister—since the Commission was constituted by the Home Ministry—to intervene and see that the Commission is allowed to proceed without hindrance in public as before because this sort of thing cannot be allowed to be suppressed in the interest of public. I have nothing much to say. I would expect that these few things that I have said will go well into their mind and they will act accordingly.

SHRI K. A. RAJAN (Trichur): Sir, I do not want to repeat the points made by my colleagues earlier. I think this is a very vital thing. Even though the Janata Government promised to repeal MISA on the inception of power itself, but unfortunately for their own reasons they could not do it. There is a lot of talk in the House on the special situation, special enactments, special court, etc. Some members on the other side expressed their view on the special situation. But in my opinion, it is quite out of place to think in terms of special situation etc., while you are thinking of protecting the rights and liberties of the people. My request to the government is, in the name of special situation, such things should not be done.

As Mr. Bosu pointed out, in the States, the Preventive Detention Act is still continuing. The Janata Party is in power at the Centre and it is running the Government in some States. Still, it is not able to revoke it in those States. Unless this preventive detention law is revoked in the States, I do not know how far you will be able to save the situation.

I would like to say something about the prisoners. My colleague, Prof. Mavalankar mentioned that hundreds of prisoners are rotting in jail just because of their political convictions. When you are doing away with this nasty legislation, why are you not thinking of the prisoners languishing in the jail in various States? Recently I heard that the West Bengal Government just sent an appeal to the Andhra Government to release some prisoners in the jails in Andhra, but it was turned down. It was shameful on the part of that Government to have done so.

So much was spoken about the protection of the rights and liberties of the people. With all the good intentions of the Janata Government in repealing this Act, I am sorry to say that the rights and liberties of the down-trodden are not being protected and they are being trampled upon in this country. I do not want to quote instances. But so far as the working

[Shri K. A. Rajan]

classes, peasants and Harijans are concerned, their rights for organisation, rights for bargaining etc., are being trampled upon. We know the unfortunate instance of Pantnagar. There the question of right of organisation was involved, whether a particular union should be recognised or not. Those rights are still trampled upon by those in authority. There was the question of the right of Bailadilla workers to have a peaceful demonstration before that public sector undertaking office against retrenchment, but they were shot down. You know the history of Kanpur Mills and Gwalior Mills. The Janata Government which is boasting of normalcy should see that these things are not repeated. While welcoming the repealing of this Act, I submit that it should be kept in mind that simply by repealing such legislations you cannot protect the rights and liberties of the people unless you tackle the social and political problems behind all these things. Unless you do that, by legislation alone you cannot protect the rights and liberties of the people.

श्री धनिक लाल मण्डल : महोदय, श्री वसु माह्व ने जो प्रश्न उठाया है—मीमा वन्दियों के सम्बन्ध में मैं निवेदन करना चाहता हूँ कि दोनों तरह के वन्दियों के लिये—जो मीमा में गिरफ्तार हुए तथा जो डी०आई०एम०आई०आर० में गिरफ्तार हुए—जिन की मृत्यु जेल में हुई या पैरोल पर छूटने के बाद हुई या जेल से छूटने के तीन महीने के भीतर हुई, इन के लिये योजना बनाई है और वह लागू भी हो गई है. उन के डिपेण्डेंट्स को 200 रुपये माहवार मिलेगा।

एक माननीय सदस्य : कब से ?

श्री धनिक लाल मण्डल : व से उन को मृत्यु हो गई है।

श्री ज्योतिर्मय बसु : 1971 में होगा या 1975 में होगा ? मीसा का जन्म तो 1971 में हुआ था।

श्री धनिक लाल मण्डल : 1975 से होगा।

श्री ज्योतिर्मय बसु : 1971 के बहुत से केस पश्चिमी बंगाल में है।

श्री धनिक लाल मण्डल : उस के लिये योजना स्वीकृत हो चुकी है।

MR. CHAIRMAN: The MISA Bill was passed in 1971. I was there then. I am happy I am presiding over the liquidation of that Act. At that time, I tore this Bill.

उस वक़्त मैं इस बिल को अराजक कर रहा था, लेकिन जब मेरी बात नहीं सुनी गई, तो मैंने उस बिल को फाड़ दिया था।

I am very happy you are doing this thing now. It was passed in 1971.

SHRI JYOTIRMOY BOSU: The House would like to have, unanimously I take it an assurance from the minister that those who have suffered because of MISA right from the day of the creation of MISA should get the benefit, from 1971 onwards.

PROF. DILIP CHAKRAVARTY: Mr. Chairman, in my constituency there is one couple, I know, who had lost all their children. All their children had been killed under the cover of MISA.

PROF. P. G. MAVALANKAR: Is it from 1971 or 1975?

MR. CHAIRMAN: 1971.

श्री धनिक लाल मण्डल : जो योजना स्वीकृत हुई है, वह में बतला रहा हूँ। मेरे कहने का बात नहीं है।

श्री ज्योतिर्मय बसु : मीसा तो पहले से लागू है। 1971 से यह चला आ रहा है।

श्री धनिक लाल मण्डल : मीमा और डी०आई०एम०आई०आर० के तहत जो जेल में मर गये या पैरोल पर छूट कर मर गये या जेल से छूटने के तीन महीने के अन्दर मर गये, उन के डिपेण्डेंट्स के लिए योजना स्वीकृत हो चुकी है।

श्री ज्योतिर्मय बसु : 1971 साल से

(अवधान) . . .

PROF. P. G. MAVALANKAR: Mr. Chairman, the Minister has not clarified one very important aspect of the matter which was brought by my friend, Mr. Chitta Basu and by Mr. Jyotirmoy Basu also, and that is, at least in those States like Rajasthan, Uttar Pradesh and Madhya Pradesh, where his own Party is in power—I can understand about other States where political parties are different, he may perhaps like to take time to persuade them—at least in respect of those three States which I have mentioned where Janata Party is in power what are they now going to do to tell them that having repealed MISA at the federal level, they should do it likewise? He should give an assurance on this.

MR. CHAIRMAN: He says he will persuade them.

PROF. P. G. MAVALANKAR: Let him say that he will try.

श्री धनिक लाल मण्डल : इन बारे में मैं स्पष्ट कर दूँ कि यह उन का कार्य क्षेत्र है, फिर भी एडवाइस दे रहे हैं जैसे काश्मीर का मामला है। हम उन को यह एडवाइस कर रहे हैं कि ऐसा कानून बनाएं कि उस में एडीक्ट सेफगार्ड्स हों। हम लोगों की गारंटी की आवश्यकता नहीं है, हम लोगों से राय-मशवरा करने की कोई जरूरत नहीं है। उन को पावर है लेकिन फिर भी जहां ऐसा कर रहे हैं वहां हम एडवाइस कर रहे हैं कि उस में एडीक्ट सेफगार्ड्स रखें।

श्री उपसर्जन : जो मर गये या जो पेरोल पर रहने के तीन महीने के अन्दर मर गये, उन के लिये तो आप कुछ कर रहे हैं लेकिन जो मीसाबन्दी 19 महीने जेल में रहे और

उन के घर बरबाद हो गये, नष्ट-भ्रष्ट हो गये, उन के लिए आप ने क्या किया ? जब हम लोग जेल में थे तो हमारे जिले में पुलिस के कोतवाल ने खड़े हो कर सोशलिस्ट पार्टी के दफ्तर को नष्ट-भ्रष्ट करवा दिया और कोई रपट उस की नहीं लिखी गई। इसी तरह से मीसा बन्दियों के जो परिवार चौपट हो गये, उन की क्षतिपूर्ति आप करेंगे, यह मैं मन्त्री जी से पूछना चाहता हूँ।

(Interruptions)

SHRI K. A. RAJAN: At least in those three States where your Party is in power, you have to see that those Acts are repealed. That is the test of your sincerity in bringing about this enactment.

श्री हुकम देव नारायण यादव (मधुबनी):

श्री मन्त्री जी ने कहा कि 1975 से मीसा-बन्दियों की जो क्षति हुई है, उन को कुछ सहायता दे रहे हैं लेकिन बिहार आन्दोलन में 1974 में हम लोग भी और ये भी स्वयं मीसा के अन्तर्गत गिरफ्तार किये गये थे। बिहार आन्दोलन में हजारों लोग मीसा के अन्तर्गत काफ़ी दिनों तक बन्द रहे। आप कह रहे हैं कि 1975 से मिलेगा। 1974 में जहां हम लोग जेल में गये या जिन की बरबाद हो गई उन को आप इस से वंचित करेंगे। इतना ही नहीं, 1974 तो दूर रहा, 1971 के बाद 1972, 1973 में इस कानून के चलते हुए लोग मारे गये और बहुत से राजनीतिक लोग बन्द किये गये, तो जब सरकार इस चीज को कर रही है, तो सब को समान न्याय दे। मीसा जब से लागू हुआ और उस के अन्तर्गत लोग मारे गये, उन को भी न्याय मिलना चाहिये। आप 1975 से करेंगे तो 1974 का क्या होगा ?

श्री चणिक लाल मण्डल : मैंने पहले इस को स्पष्ट कर दिया है ।

SHRI CHITTA BASU: Mr. Chairman, Sir, there is only one point. The Bhargava Commission appointed by the Government of India is now holding its session *in camera*. Could the Government of India advise the State Government to create conditions for having its sessions in public instead of *in camera*? What action do you propose to take in this regard?

श्री चणिक लाल मण्डल : आप से मैं सहमत हूँ । पब्लिक होने चाहिये ।

MR. CHAIRMAN: The question is:

"That the Bill be passed."

The motion was adopted.

MR. CHAIRMAN: The House now stands adjourned till 11 a.m. tomorrow.

18.30 hrs.

The Lok Sabha then adjourned till Eleven of the Clock on Thursday, July 20, 1978/Asadha 29, 1900 (Saka).