

Prevention of Smuggling Activities Act, 1974.

MR. SPEAKER: The question is:

"That leave be granted to introduce a Bill further to amend the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974."

The motion was adopted.

SHRI PRANAB KUMAR MUKHERJEE: Sir, I introduce the Bill.

STATEMENT RE. CONSERVATION OF FOREIGN EXCHANGE AND PREVENTION OF SMUGGLING ACTIVITIES (AMENDMENT) ORDINANCE

THE MINISTER OF STATE IN CHARGE OF THE DEPARTMENT OF REVENUE AND BANKING (SHRI PRANAB KUMAR MUKHERJEE): I beg to lay on the Table an explanatory statement (Hindi and English versions) giving reasons for immediate legislation by the Conservation of Foreign Exchange and Prevention of Smuggling Activities (Second Amendment) Ordinance, 1975, as required under rule 71(1) of the Rules of Procedure and Conduct of Business in Lok Sabha.

12.04 hrs.

MAINTENANCE OF INTERNAL SECURITY (AMENDMENT) BILL*

THE DEPUTY MINISTER IN THE MINISTRY OF HOME AFFAIRS (SHRI F. H. MOHSIN):

Sir, I beg to move for leave to introduce a Bill further to amend the Maintenance of Internal Security Act, 1971.

MR. SPEAKER: Motion moved:

"That leave be granted to introduce a Bill further to amend the Maintenance of Internal Security Act, 1971."

MR. S. M. BANERJEE.

SHRI S. M. BANERJEE (Kanpur): We supported the Maintenance of Internal Security Bill when it was introduced in the beginning to punish those who were putting hurdles in the way of implementation of progressive measures. At that time we were assured by the Home Minister, Shri Brahmananda Reddy, that this would be used judiciously and would not be used for political gains. And this had been amended and re-amended. If for the success of the 20-Point Programme, this Act is to be amended 20 times, we are not going to be a party to it—I want to make it clear—because many people who supported the 20-Point Programme have been arrested. Our party workers in Himachal Pradesh are rotting in jail, having been arrested on the basis of reports given by some Sub-Inspector or Head Constable. My objection to the Bill is this. I would like to invite your kind attention to the Statement of Objections and Reasons where it is said:

"...no detenu shall be entitled to the communication or disclosure of any such ground, information or material."

If I am arrested, I shall not be entitled to know the reason for it, no information will be given to me, no material will be given to me; there can be no representation, no question of going to High Court or Supreme Court, no Advisory Board. Who will write the report on the basis of which a person will be arrested? By whom will the warrant be signed? Not by

*Published in Gazette of India Extraordinary, Part II, section 2, dated 20-1-76.

[Shri S. M. Banerjee]

the Prime Minister, not by the Home Minister, not by Mr. Mohsin, not even by the IG or DIG of Police, not even by the Superintendent of Police, but by an ordinary Sub-Inspector of Police who, at times, is more powerful than a Minister in a particular area, or in his absence, by the Head Constable, or in his absence by the Constable. On the basis of that report, a person will be put behind the bars for years together

It further says :

" that sub-section (2) of the section is applicable also to cases of expiry of detention orders and to make it clear that the power to make a fresh order of detention on the expiry or revocation of a detention order under the sub-section cannot be used to detain a person . "

Even if I am released and the moment my relations come to take me home in a taxi, I am arrested and re-arrested and if they want, they can also arrest my relations. It has happened many times.

Now, the representatives of our All India Defence Employees Federation have nothing to do with the active politics Shri M K Rahut, a Member of the Working Committee of All India Defence Employees Federation was granted bail in Calcutta twice by the High Court and again detained. And what is the charge against him? The charge is that in 1973, he was throwing bomb in Alipore Police Station. He has been arrested in 1975. He is our Defence employee.

I am happy that Shri Gokhale is here. In his State, Maharashtra there is a factory called Ordnance Factory, Ambarnath; it is one of the biggest Ordnance factories. There was some dispute going on between the General Manager and our employees. That was a minor dispute and which had

been settled by the General Manager and the employees' union. There was no demonstration; some ten-fifteen office bearers of that particular union went to the General Manager to solve that dispute. The General Manager connived with the local police and got our representatives arrested, ten under DIR and four under MISA. I am thankful to Mr. Gadgil, Minister of State for Defence Production, who had a talk with the Chief Minister of Maharashtra. It has been completely misused. The powers with the Government are enormous, they can use the powers judiciously and courageously. They can possibly arrest all those persons who are against the society, whether they are hoarders, black-marketeers, anti-social elements, anti-national and others, but they want to use these for some other purposes. They want to be armed with more powers and this has been necessitated after the judgement of the Allahabad High Court in case of Kuldip Navar. Is that the solution? After another judgement, it will be amended. That way, Sir, I resist it. There is no advisory board today. If I have anything, I cannot even make a representation, I cannot have that right.

Sir, as an hon Member of this House and belonging to a group which has supported the 20 point programme, which has supported nationalization and which has supported this Government, I feel a day has come, that they should not take us for granted. Let us raise our voice and say that this pernicious piece of legislation is a Draconian one and should be withdrawn.

MR SPEAKER: The Minister

SHRI SOMNATH CHATTERJEE (Burdwan) Sir, this is a very important matter. I want to speak for a minute.

MR. SPEAKER: I am sorry, I would have allowed, but under the rules,

only one Member can speak at this stage. No exception please, otherwise we will get into trouble.

SHRI SOMNATH CHATTERJEE:
We have been reduced to worse than slaves. This is a very important matter.

MR. SPEAKER: The Minister.

SHRI F. H. MOHSIN: I have heard the objections of Shri S. M. Banerjee but they are not relevant at this stage, that is, at the introduction stage.... (Interruptions)

SHRI SOMNATH CHATTERJEE: It was argued by the Attorney General of the Government that there was no right to life in this country, there was no right to liberty in this country. This Government is justifying that. What is the Supreme Court's answer? Let us know, before you go on with this legislation. This is pernicious legislation.

SHRI F. H. MOHSIN: This is emergency legislation.... (Interruptions) Emergency has been proclaimed because of such a situation and such legislation is inevitable in a situation like this.

SHRI SOMNATH CHATTERJEE:
Spurious emergency.

SHRI F. H. MOHSIN: Shri Banerjee says that there are certain cases of misuse of MISA. May be; I do not rule out that possibility. But the policy of Government is to review the cases of detention under MISA from time to time.

SHRI DINEN BHATTACHARYYA:
(Serampore): Who will review? You have dispensed with the advisory board.

SHRI F. H. MOHSIN: If you do not want to hear me, that is a different matter. Mr. Banerjee has referred to some points and I want to reply to them. We have requested the state

governments to review the cases of detention under MISA from time to time. Grounds may not be disclosed and information may not be given, because certain persons went to the court and they were released. This legislation is in the interest of the State. If there are any cases of misuse, the Central Government have got the power to get a report from the State and the Central Government have got the power to revoke the detention order. If such cases are brought to the notice of the Central Government, certainly they will be looked into.... (Interruptions) Certain Opposition Parties are propagating against this particular ordinance. This is inevitable and necessary to maintain the security of the country; and it is in the interest of the country. Anyway all those are matters for discussion when the Bill comes up for discussion.

SHRI SOMNATH CHATTERJEE:
On a point of order. This question is before the Supreme Court and the matter is being argued by day to day; we know this from the papers and we can expect a judgement, I am sure, within a fortnight or a month. Can those questions which are being argued before the Supreme Court be taken up here? I want your ruling in the matter.

SHRI S. A. SHAMIM (Srinagar):
You presume that they have respect for the Supreme Court?

MR. SPEAKER: It is not the same matter.

SHRI F. H. MOHSIN: Parliament has got absolute powers.

SHRI SOMNATH CHATTERJEE:
Let us wait for what they say.

SHRI F. H. MOHSIN: Hence I request Mr. Banerjee and his friends to reserve their comments for the consideration stage of the Bill; at this stage those objections are irrelevant.

MR. SPEAKER: The question is :

"That leave be granted to introduce a Bill further to amend the Maintenance of Internal Security Act, 1971"

Let the Lobbies be cleared

The Lobbies are cleared. I will now put the question. The question is

"That leave be granted to introduce a Bill further to amend the Maintenance of Internal Security Act, 1971 "

The Lok Sabha divided.

Divisions No 6

12.18 hrs.

AYES

Aga, Shri Syed Ahmed
 Ahirwar, Shri Nethu Ram
 Alagesan, Shri O V
 Ambesh, Shri
 Ansari, Shri Ziaur Rahman
 Awdhesh Chandra Singh, Shri
 Aziz Imam, Shri
 Babunath Singh, Shri
 Balakrishmah, Shri T
 Banerjee, Shrimati Mukul
 Barua Shri Bedabrata
 Brahmanandji Shri Swami
 Brij Raj Singh-Kotah, Shri
 Chandrashekharaappa Veerabasappa
 Shri T V
 Chaturvedi, Shri Rohan Lal
 Chaudhari, Shri Amarsinh
 Chhotey Lal, Shri
 Chikkalingaiah, Shri K
 Daga, Shri M C
 Delp Singh, Shri
 Damani, Shri S R.
 Darbara Singh, Shri
 Das, Shri Anadi Charan
 Das, Shri Dharnidhar

Daschowdhary, Shri B. K.
 Deo, Shri S. N. Singh
 Desai, Shri D. D.
 Dhamankar, Shri
 Dhillon, Dr G. S.
 Dumaña, Shri L. K.
 Dwivedi, Shri Nageshwar
 Engti, Shri Biren
 Gavit, Shri T H
 Gill, Shri Mohinder Singh
 Godara, Shri Mani Ram
 Gokhale, Shri H R
 Gomango, Shri Giridhar
 Gopal, Shri K
 Gotkhinde, Shri Annasaheb
 Hansda, Shri Subodh
 Hanumanthaiya Shri K
 Hari Kishore Singh, Shri
 Hari Singh, Shri
 Hashim, Shri M M.
 Jamilurrahman, Shri Md
 Kader, Shri S A.
 Kedar Nath Singh, Shri
 Khan, Shri I H
 Kotiaschetti, Shri A. K.
 Kulkarni, Shri Raja
 Kureel Shri B N
 Lakappa, Shri K.
 Lambodar Baliyar, Shri
 Laskar, Shri Nihar
 Mahajan, Shri Vikram
 Maharaj Singh, Shri
 Malhotra, Shri Inder J
 Mallanna, Shri K
 Mallikarjun, Shri
 Manhar, Shri Bhagatram
 Mishra, Shri Bibhuti
 Modi, Shri Shrikishan
 Mohsin, Shri F H
 Murthy, Shri B S.
 Negi, Shri Pratap Singh
 Oraon, Shri Kartik

Palodkar, Shri Manikrao
 Pandey, Shri Narsingh Narain
 Pandey, Shri Sudhakar
 Pandey, Shri Tarkeshwar
 Pant, Shri K. C.
 Parasar, Prof. Narain Chand
 Patil, Shri Anantao
 Patil, Shri Krishanrao
 Patil, Shri S. B.
 Peje, Shri S. L.
 Prabodh Chandra, Shri
 Pradhan, Shri Dhan Shah
 Purty, Shri M. S.
 Raghu Ramaiah, Shri K.
 Rai, Shri S. K.
 Rai, Shrimati Sahodrabai
 Ram Singh Bhai, Shri
 Ram Surat Prasad, Shri
 Ramshekhar Prasad Singh, Shri
 Rao, Shri Jagannath
 Rao, Shri M. Satyanarayan
 Rao, Shri Nageswara
 Rao, Shri Pattabhi Rama
 Rathia, Shri Umed Singh
 Raut, Shri Bhola
 Reddy, Shri K. Ramakrishna
 Reddy, Shri M. Ram Gopal
 Reddy, Shri P. Ganga
 Reddy, Shri P. Narasimha
 Reddy, Shri P. V.
 Richhariya, Dr. Govind Das
 Roy, Shri Biswanath
 Rudra Pratap Singh, Shri
 Samanta, Shri S. C.
 Sanghi, Shri N. K.
 Sarkar, Shri Sakti Kumar
 Savant, Shri Shankarrao
 Sayeed, Shri P. M.
 Shankar Dayal Singh, Shri
 Sharma, Shri A. P.
 Sharma, Dr. H. P.
 Sharma, Shri Nawal Kishore

Shashi Bhushan, Shri
 Shenoy, Shri P. R.
 Shinde, Shri Annasaheb P.
 Shivnath Singh, Shri
 Shukla, Shri B. R.
 Sinha, Shri Nawal Kishore
 Sinha, Shri R. K.
 Sohan Lal, Shri T.
 Sunder Lal, Shri
 Surendra Pal Singh, Shri
 Suryanarayana, Shri K.
 Swaran Singh, Shri
 Tiwary, Shri D. N.
 Ukey, Shri M. G.
 Vekaria, Shri
 Venkatswamy, Shri G.
 Verma, Shri Sukhdeo Prasad
 Vikal, Shri Ram Chandra
 Virbhadra Singh, Shri

NOES

Bade, Shri R. V.
 Banerjee, Shri S. M.
 Bhargavi Thankappan, Shrimati
 Bhattacharyya, Shri Dinen
 Bhattacharyya, Shri S. P.
 Chandrappan, Shri C. K.
 Chatterjee, Shri Somnath
 Chowhan, Shri Bharat Singh
 Deb, Shri Dasratha
 Deshpande Shrimati Roza
 Goswami, Shrimati Bibha Ghosh
 Halder, Shri Krishna Chandra
 Horo, Shri N. P.
 Jha, Shri Bhogendra
 Jharkhande Rai, Shri
 Kathamuthu, Shri M.
 Kiruttinan, Shri Tha
 "Madhukar", Shri K. M.
 Mehta, Shri P. M.

Mohanty, Shri Surendra
Pandey, Shri Sarjoo
Patel, Shri Bhaljibhai
Patel, Kumari Maniben
Patel, Shri H. M.
Ram Hedao, Shri
Sequeira, Shri Erasmo de
Shastri, Shri Shiv Kumar

MR. SPEAKER: The result* of the division is: Ayes 127; Noes 27.

The motion was adopted.

SHRI F. H. MOHSIN: I introduce the Bill.

12.17 hrs.

STATEMENT RE. MAINTENANCE
OF INTERNAL SECURITY
(AMENDMENT) ORDINANCES

THE DEPUTY MINISTER IN THE
MINISTRY OF HOME AFFAIRS
(SHRI F. H. MOHSIN): I beg to lay
on the Table an explanatory state-
ment (Hindi and English versions)
giving reasons for immediate legisla-
tion by the Maintenance of Internal
Security (Third Amendment) Ordi-
nance, 1975 and the Maintenance of
Internal Security (Fourth Amend-
ment) Ordinance, 1975, as required
under rule 71(1) of the Rules of Pro-
cedure and Conduct of Business in
Lok Sabha.

12.18 hrs.

STATUTORY RESOLUTION RE. DIS-
APPROVAL OF SMUGGLERS AND
FOREIGN EXCHANGE MANIPU-
LATORS (FORFEITURE OF PRO-
PERTY) ORDINANCE

and

SMUGGLERS AND FOREIGN EX-
CHANGE MANIPULATORS (FOR-
FEITURE OF PROPERTY) BILL.

MR. SPEAKER: Now we take up
the Statutory Resolution of Shri
Erasmo de Sequeira on the Smug-
glers and Foreign Exchange Manipu-
lators (Forfeiture of Property) Ordi-
nance, 1975.

THE MINISTER OF WORKS AND
HOUSING AND PARLIAMENTARY
AFFAIRS (SHRI K. RAGHU RAMA-
IAH): Sir, before you take up this
item, I would like to make a submis-
sion. The Business Advisory Commit-
tee takes into consideration all rele-
vant factors, and allot time for various
items. In the case of Voluntary Dis-
closure of Income and Wealth Bill
three hours were allotted but yester-
day we took five hours.

I would like to submit to you and
to the House through you that it
would be very difficult to finish the
work before us if we do not stick to
the schedule. In this case two hours
are allotted. May I suggest that you
may be good enough to say that the
Minister will reply at 14.45. That
will have 1½ hrs. Another half an hour
may be left for clause by clause dis-
cussion and the third reading.

MR. SPEAKER: That is all right.

*The following Members also recorded their votes:

Ayes: Saryshri Paripoornanand Painuli and C. C. Gohsia and Dr. G.S. Melkote ;
Noes : Shri S. A. Muruganatham.