

[श्री हुकम चन्द कछवाय]

साल इस सदन में बाढ़ पर चर्चा होती होती है। परन्तु इसका स्थायी रास्ता अभी तक इस सरकार ने नहीं सोचा है और न पिछली सरकार ने इस तरफ कोई ध्यान दिया। मैं आशा करता हूँ कि यह सरकार इसकी तरफ पूरा ध्यान देगी।

बाढ़ में जो पानी आता है, उसको रोकने की कोई उचित व्यवस्था नहीं है। बहुत से पहाड़ी क्षेत्र ऐसे हैं जहाँ कच्ची मिट्टी होती है और वह पानी के साथ बह जाती है जिससे पेड़ खिसक कर नीचे गिर जाते हैं और मिट्टी ऊपर आ जाती है, इस कारण कई जगह नदी अपने स्थान से ऊपर उठ जाती है और उसका पानी इधर-उधर देहातो में फैल जाता है और घास-पास के क्षेत्रों को नुकसान पहुँचाता है। इसकी तरफ सरकार को कोई ध्यान देना चाहिए।

अभी दिल्ली, जयपुर, अहमदाबाद के बीच में रेल यातायात पूरी तरह ठप्प हो गया है। इसके अलावा राजस्थान, हरियाणा, उड़ीसा, बिहार वगैरह में काफी लोग मरे हैं। 4,5 हजार परिवार आज बाढ़ के पानी में घिरे हुए हैं और बरबाद हो रहे हैं। मैं सरकार से प्रार्थना करूँगा कि उन लोगों को राहत पहुँचाने के लिए, पशुओं को घास, चारा देने और लोगों को राशन पहुँचाने के लिए युद्ध-स्तर पर काम करना चाहिए।

हम यह जानते हैं कि हर बार बाढ़ से बहुत हानि उठानी पड़ती है, मैं सरकार से माँग करूँगा कि वह एक ऐसा कमीशन या कमेटी बनाये जो इसका अध्ययन करे और इसका उपाय करे जिससे भारत की जनता को हर साल बाढ़ से होने वाली हानि से छुटकारा मिल सके। अगर सरकार इस समस्या को जल्दी से जल्दी हल कर सकेगी तो काफी लोगों को इससे राहत मिलेगी।

माननीय अध्यक्ष महोदय, ध्यान जानते हैं कि पिछली बार पटना में और उसके साल भर पहले बयाना में इस तरह से हर साल भारत के किसी न किसी कोने पर बाढ़ आती है और विनाशकारी बाढ़ लोगों को तबाह करती है। इससे बचने के लिए मैं नई सरकार से प्रार्थना करूँगा कि कोई कमीशन जरूर गीघ्र ही बनाये जिससे इस समस्या का समाधान पूरी तरह से हो सके।

23 04 hrs

MOTION RE CONDUCT OF
THE HOME MINISTER—Contd

THE PRIME MINISTER (SHRI MORARJI DESAI) Mr Speaker, Sir, I rise to speak on the censure motion moved by my hon friend, Shri C M Stephen on two counts against my colleague the Home Minister May I ask, in the first instance, whether the opposition thinks that now there is no collective responsibility of Government? If collective responsibility is there and is considered necessary and vital for any democratic Government, then the censure motion should have been brought against the Government or against me, if necessary. But, to bring it against my colleague only is not in my opinion a proper step. But they have chosen it fit to do so and I have raised any objection to it because I do not want any such questions to go on being discussed outside. So that there is an end to this kind of talk being carried on. It is better therefore that this motion is discussed here. I have no objection and I welcome it. That is why I requested my friends who were inclined to raise points of order against the motion, not to do so.

Two counts have been mentioned. I will take the second first, where it is said

"that he, misusing his official position meddled with the affairs of independent constitutional bodies as evidenced among others, by his conduct in with drawing from the files of the Election Commission a letter dated the 5th May, 1977, he had written in his capacity as the leader of the B L D"

Here, one sees how a wild exaggeration is being made. It is said that he while misusing his official position, is meddling or has meddled with the affairs of independent constitutional bodies. This is a question of one letter which was obtained from the Election Commission. Where do other Constitutional bodies come in—

I do not understand. They say that he is in the habit of meddling with all constitutional bodies. Is this a fair statement to make? That is all I would like them to consider.

And even in this case, what is the meddling done? After all there was no question of making the Commission do anything that it did not want to do. The Home Minister, in his capacity as the leader of the B.L.D. as he was before the Janata Party was finally formed on 1st of May, had written a letter to the Election Commissioner in that capacity to assign the symbol of the B.L.D. to the Janata Party constituents and to the Janata Party. Then he requested the Election Commissioner to send that letter to him if no action had been taken on it, because he wanted to see that letter. As he told me, he had written it in a hurry and was not quite sure of what was written in it. . . (Interruptions). Well, what can people do except laugh at themselves when they find themselves in a wrong position? They have to make the best of it by laughing. What else can they do? But what ought to be considered is that if this was not the correct position, then why should that letter have been returned? Moreover, the Election Commissioner sent it with an accompanying letter. It was not done in a clandestine manner. The Election Commissioner did not raise any objection because he did not feel that anything wrong was done by the Home Minister but he felt that what was done was in his capacity as leader of the B.L.D. Therefore the Election Commissioner sent it to him and the Home Minister sent it back without any modification or without any comments. Now, what crime has been committed in this—I do not understand. If there had been any modification made in it or any change had been introduced in it, it would have amounted to meddling. But this is not what was done. I believe that he wanted to see it and it was returned as it was. Nothing else was done. Therefore that was an end of the matter. The Leader of the Opposition had written a letter to me. (Interruptions). People cannot change their habits of interrupting in the middle and it is the privilege of the opposition. I hope however that my friends on this side will keep their patience. It is their duty to keep patience. But those habits acquired while in the opposition do not die quickly. That is my misfortune. So the second count cited here has absolutely no substance or worth in it, if I may say so. I do not see why it was brought in here at all, unless it was with a view to shower abuses on the Home Minister. There again it was alleged that he had arranged to have special favours shown to his son-in-law. Here the facts are quite different. I have gone through the file this morning and there is no warrant for any such inference being drawn by anybody.

It was therefore that the Home Minister had offered that if they can prove that he had anything to do with what is alleged against him or he had shown any favour or he had tried to show any favour, he would resign. And, if that proof is not produced, then the hon. Member who makes such imputation ought to resign. I do not expect the hon. Member to resign. I would however request him not to level such charges against anybody in future.

SHRI VASANT SATHE (Akola): What are the facts?

SHRI MORARJI DESAI: The facts are what I have already stated.

SHRI VASANT SATHE: About that case?

SHRI MORARJI DESAI: If there is something else I would have certainly said about that too. I do not want to take the time of the honourable House. If the hon. Member sees me separately I will certainly give him the facts.

SHRI VASANT SATHE: Let the House decide.

SHRI MORARJI DESAI: Yes, let the House decide. I know my hon. friend does not want to listen to reason; let him not do so. I cannot satisfy him any further.

Coming to the first charge now, it is stated—

'that he has been misusing the floor of the House to make baseless and irresponsible statements as instanced, among others, by this allegation on the 13th July, 1977 while replying to the debate on demands for grants for the Home Ministry that there was a preparation and thinking ("Vichar") on the part of the previous government to shoot the political leaders in detention.'

Now, Sir, where is the question of 'statements' in the plural? Only one instance was cited, no other instance was given in the course of the debate. Nobody should make a generalisation here that the Home Minister is in the habit of making such statements. Why should they say so? Is this the way to carry on debate and discussion in this House? I would beg of my friend in the opposition to consider this because when such things are said and if there is an uproar, can I or anybody pacify it? And yet, I am trying to do it. Will not my friend help in the matter? Here again, he said, it is his view.

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Is not a Member entitled to give his views in the House? Are we not having the benefit of the views of the hon. Members Opposite? All kinds of views are expressed here—even unfounded views—as I have said in one case and yet can I say that they are misusing their position in this House? If I say that, how will they feel it? They say such things to the Home Minister and then they try to give him a left-handed compliment by saying that they have great regard for him as a great administrator and able man and all that why then do they come down on him with a vehemence?—Is that a way of giving a compliment? I cannot understand. Either you condemn him or you compliment him. But, this kind of double standard is not natural to some friends there.

Then, it is said that if Art. 359 of the Constitution was amended, why do we not bring in here another amendment to repeal that amendment? I put a straight question. Will my hon. friends agree to support me if I bring it tomorrow? What will the leader of the Opposition say? I must say he is very clever. I have always respected him for his capacity. But his capacity in this direction is greater than any other capacity. He said that we will consider—when it comes,—I do not want to be at the mercy of anybody. (*Interruptions*) We will certainly discuss when we bring it in and we want to carry the Opposition.

SHRI YESHWANTRAO CHAVAN: (Sataraj) : Please see yesterday's proceedings. I did not say 'consider'. I said 'discuss'.

SHRI MORARJI DESAI: What is then to be discussed?

SHRI YESHWANTRAO CHAVAN: If the discussion is conceded, bring it immediately.

SHRI MORARJI DESAI: I will cite what the hon. Member has said in this very House. Therefore, I am quoting his own words.

SHRI YESHWANTRAO CHAVAN: What I said was "the discussion" and not "consideration". Please see the proceedings.

SHRI MORARJI DESAI: Discussion is itself even less than consideration. I believe you will all agree.

SHRI YESHWANTRAO CHAVAN: That is a democratic method.

SHRI MORARJI DESAI: I know what discussion means. There cannot be any consideration. That also I under-

stand. Please do not think that I do not understand this play on words. But during reply to the Motion of Thanks on the Address by Vice-President acting as President my hon. friends had said in this House. 'I would like to repeat that as far as the basic position is concerned, we do not accept the election result is the rejection of the Forty-Second Constitution Amendment Bill. This is very much part of our policy and we are not sorry that we passed it.'

Now, after I read that statement, have I not to be careful about it before I take it up with him? When they maintain that they stand by it, what am I to do? I have to be careful. That is why it is being delayed. But it is going to be brought in and we will discuss it as I discuss all such things with the Opposition. I do not want to do anything without discussion with them. But see how slow the progress is. I discussed the Defection Bill with them and we wanted to go a long way. Now, that is still under discussion. I do not yet get a clearance. I have also said that I will take the maximum agreement as the basis of the Bill. I do not want to have a controversy on it. Afterwards, when the Bill becomes an Act, we can certainly take measures to tighten it up. But, let it first come. But, that too I am not able to move in this session. And it is not possible to do so because there is no agreement. I do not blame them for the delay. We are all responsible for the delay to some extent. That happens. (*Interruptions*). That is not a very good story about themselves. If they want to recount them I will also recount them for some time if they want us. I have nothing to hide; it is they who will have something to hide and not I (*Interruptions*). That applies to Gujarat Government not their Gujarat Government. Now, take this question of the first count. When the Home Minister made a statement in this House he said what he said because he had come to that conclusion as Article 359 was amended. Why was not Article 359 amended earlier? That was done during the Emergency. It could not have been amended earlier. Emergency was proclaimed in order to amend this so that there is no effective opposition. That is the reason why Emergency was proclaimed, in my view. I may be wrong. There may be other reasons. I do not want to have controversy over it. I can only give my views. But what was the object and the meaning of that amendment? The right to life and liberty were suspended. What is the meaning of suspension of the right to life and liberty. The Attorney General—and the Attorney General was their nominee—says even now that he was stricken by terror. He was stricken by terror by whom? Not by the Opposition. He was stricken by terror

created by the methods used by the government and he told me that he was terribly afraid about the safety of his family and other people. Therefore, he could not do anything else. That is what he told me I did not want to go deeper into it. I asked him why he did not resign being the highest legal person in authority. As Attorney General, it was his duty to maintain the dignity of law and the rights of the courts. I asked him that he should have resigned when he was asked to defend that amendment. Then he said that he was stricken by terror. Then he added what had happened. Now, who was responsible for it? If that was the terror and the fear even in the mind of the Attorney General, what can be the condition of the minds of other people. That is why the Home Minister deduced that inference from this fact. How was he wrong? I do not know. You may say that was not the intention. That is possible. The question here is whether others are not entitled to draw the inference that has been drawn. That is the only question.

I will give you my own personal case. I was under detention. I was not treated badly. I have no complaint about the treatment. But I was kept all alone. For the first month I was in a small room. I was not allowed to go out of the room. I remained in that room for a month. I never complained about it. Why was it done? Only to see that my mind gets disrupted. What else can be the reasons? The fact is that on the contrary I got strengthened in my mind as a result of that and I, therefore, thank Mrs. Gandhi for it because I have benefited. Whatever may be the intention, why have I to bother about it? But afterwards when I was at Taoru, a statement was made in the Central Hall by the then Defence Minister, that if he were there I would not come out alive—Morarji Desai would not come out alive! That was said before 5 MPs. One of the M.P. went and told this to Mr. Asoka Mehta who had then been released and Mr. Asoka Mehta wrote a letter to Mrs. Gandhi as to what kind of things are being contemplated. Is this the way things are going to happen? What was the reply given? Mrs. Gandhi did not care to give a reply. Even the Home Minister was not asked to give the reply. It was the Minister of State, Shri Om Mehta, who happened to be the agent of the Prime Minister in everything that was done. He replied that the Defence Minister has denied this. Well, he is in the habit of denying many things. Who will believe him? He has lost all credibility. That is the verdict of the people. But if such things are done, how would people not believe. There have been other instances in which people have been pursued. Shri Asoka Mehta was released when it was found that it may be a fatal case. And what was done? He was not

sent back to his house. But the District authorities in Rohtak said that they must go there and bring him back in the middle of night. If this is the treatment given even to prominent people like him what is one to assume? Then there have been many cases of people who have suffered terribly in several jails. Of course, Mrs. Gandhi could have said and she said that she did not want all these things to happen. I can believe it. I do not say that I wish to attribute everything to her. But how can she disown the responsibility for all these things that have been done. Was any step taken to rectify all those things? And step was taken. It is therefore that one is entitled to draw inference from these facts and therefore if the Home Minister gave expression to that inference, how did he mislead the House? I cannot understand. I do not understand why all this passion was being worked up by my hon. friend Mr. Stephen but, of course, he is a very eloquent speaker and he must have a chance to show his eloquence. But it is a bad cause for which he has used it. My friend, Shri Unnikrishnan, is also a very able speaker, but I am only sorry that he used his ability in wrong causes. Then they get very angry when some people interrupt. He said "they are interrupting us, we are not interrupting them". They forget that they were interrupting all the while. Therefore, if you want to establish a proper atmosphere of dignity in this House, all of us have to make that effort. I would again beg of my friends in this House that we should hear everybody in silence whatever he may say, let him say, otherwise where is the liberty of Members to speak as they want? Replies can be given to them. Why has that facility not been taken instead of interrupting people. That has happened often and they are putting us in a very very difficult position. We will have enhanced the reputation of the highest forum in this land, if we hear what others have to say, even if we may not agree with them. I could have understood if any privilege motion was brought in but privilege against whom? That would have been the question.

SHRI VASANT SATHE: It was disallowed. (Interruption).

SHRI MORARJI DESAI: You will have a right to reply. Why are you impatient? The final reply is with you. But the final judgment is with the people, not with you. Therefore, all of us have to remember that, whether we are here, whether we are there. That is how democracy must function and if democracy does not function as it should, where will be the safety for this country? That is all that I wish to ask. Democracy was thrown to the winds. All my friends there are responsible for it. I would not say

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that the Prime Minister alone was responsible for it. If I were to go astray in that manner, all my friends here would be responsible. It is therefore that I beg of them all the while to pull me up if I go wrong. That is what we all have to do here and that is why I take this opportunity of the censure motion to appeal to my hon. friends to consider this matter very seriously. I would not have recounted the incident that happened to me. But I had to refer to it here. Otherwise people would run away with the idea that the Home Minister was exaggerating things. I am capable of telling the Home Minister that he was wrong if he was wrong. But how can I tell him when I know he has a view, it may be felt to be an extreme view, but it would be a different matter. He is entitled to take a view of the facts as they happened. They are not based on imagination. That is why, this censure motion, I am afraid, is completely misconceived. But it is for them to consider. I have absolutely nothing to say about it. It can come for a vote. Of course they know that it will not be passed. It is for them to consider what they should do. May I, for future purposes, say that such attempts should not be made which do not enhance the dignity of anybody.

SHRI C. M. STEPHEN (udukki)

I am truly beholden to the Prime Minister for the dignified, high level he assumed while replying my speech. There are three members from the opposition who spoke. Some points have been made and very briefly I shall have to answer them.

I shall begin with the Prime Minister's speech first. The first point he made is why did not you bring a motion against the ministry, against me that is the Prime Minister? Is there not collective responsibility? That is what he asked. There is collective responsibility as far as the policies of the government are concerned, as far as the actions of the government are concerned. There are two capacities for any member of the cabinet, there is the personal capacity, there is the capacity as part of the council of ministers. Where the policies of the government are involved, where the actions of the government are involved, there is collective responsibility and no confidence motion is possible. Even there are different precedents. The simple question I will put to the Prime Minister is this. Chaudhury Charan Singh Sahib in his capacity as BLD leader telephoned to the Election Commission withdrawing that letter and sending that letter back, or somebody else managed to get the letter back to the Election Commission. Does the Government come into the picture? Is the government involved in the picture? I had taken the view that this is the action

of Chaudhury Charan Singh Sahib, the Prime Minister is not involved in the matter, government is not involved in the matter. When this matter came up in Rajya Sabha, observations were made. "It is our proud privilege to get at the truth behind the story—both the Prime Minister and the Home Minister are involved." Then, the Prime Minister intervened to say I am not involved. That was his intervention in the Rajya Sabha. The Prime Minister in his Press statement said why should I say anything about it? It is not on my record. I have no knowledge about it. Therefore it is absolutely clear the Prime Minister is not in the picture. Apart from my individual respect for the Prime Minister, we have been in different parties, but believe me there are individuals to whom reverence cultivated through ages cannot abate. Having been in the Congress for such a long period, Morarji Bhai known my attitude, although it is not very intimate, my attitude has been one of extreme respect and reverence. I do not want to say that in such a sham deal Morarji Bhai was involved or the government was involved. Therefore my answer to that question is there is no question of collective responsibility. I have brought my motion against Chaudhury Charan Singh Sahib operating in his individual capacity but calling on the assistance of his place as Home Minister that is unconnected with government, no policy of the government is involved in this, collective responsibility does not arise and therefore no-confidence motion does not arise. I made it very clear, I said at the very start itself, that my purpose in bringing this motion is not the resignation of Chaudhury Charan Singh Sahib. There was a previous motion, if you will remember, which demanded the resignation as a precedent. No, we fought for a very important reason. I stated immediately after the election, after the people's mandate, the Government which is in power, the Government which is constituted like this should continue. I can realise the teething troubles of the different parties coming together, one should not magnify the differences that are arising there, because I have myself got personal experience about different constituents coming together and functioning in tension. I am aware of it. The nation deserves that the Government be allowed to function as long as it is possible. It is not our policy to split it at all. If it is a demand with respect to some other Minister, I need have no apprehension that it would end up in the crashing of the Government. Knowing as I do the position of Chaudhury Charan Singh Sahib in this Government, if this resolution is passed, then Morarji Bhai will be compelled to take action. I am absolutely sure that the Government will not survive that action. I have not,

therefore, made a demand for the resignation of Chaudhury Charan Singh Sahib. That is not the demand at all. That is the spirit behind this resolution. That is what I am saying.

Many things might have gone to debris; many things might have degenerated. What ever it be, should not we start afresh? Should not a new atmosphere prevail in this Parliament? Should not some understanding be arrived at here? Should not a Code of Conduct be developed? Should not what Morarji Bhai spoke to us come back again? Should not this House become a deliberative body? Should not there be proper respect to Institutions, Constitutional bodies and this House? Being so, when I personally felt satisfied that there were some tendencies which were showing the other way, not out of malice against Chaudhury Charan Singh Sahib, but in order to focus it, I just brought this censure motion.

Then Prime Minister asked me 'You have made baseless allegations'. 'You have brought out only one allegation'. Well, Sir, You have stated that I should confine myself to what was stated there. There are many allegations. I do not want to highlight all those.

I remember and I feel sorry that on one occasion when a question was asked as to whether files in the Government were burnt, Chaudhury Charan Singh Sahib said 'I have no evidence for it.' As a Home Minister, according to me, he should have been satisfied with that. But he volunteered with another statement that there are rumours to this effect that the files were burnt. It is my submission that in the Parliament of India, the floor of the House is not the place where the Home Minister of India can give expression to rumours, which are not substantiated.

You have barred reference to the Belch case. I am not going into that *sub judice* matter at all. I am only answering.

SHRI MORARJI DESAI : My friend, 3,000 files were burnt in the house in which I am living and I have evidence for it.

SHRI C. M. STEPHEN: Whoever might have done it let them be crucified. There is no plea for them. (*Interruptions*). I for one will not plead for anybody who, has done that crime. But my point is, Morarji Bhai has got the right to say that because he is not basing it on rumours but on special information. But Chaudhury Charan Singh Sahib said it, not on personal knowledge, not on evidence. He himself said that he has no evidence but there are rumours. My only

submission is that Parliament is not the place to ventilate rumours.

THE MINISTER OF HOME AFFAIRS (SHRI CHARAN SINGH): Can I be permitted to say a sentence or two in explanation of what I said, if Mr. Stephen agrees?

माननीय अध्यक्ष महोदय, मैंने उस रोज भी कहा था कि राइट टू लाइफ 359 में सस्पेंड कर दिया गया, 27 जून को प्रेजिडेंट ने जो आदेश जारी किया। अगर कोई आदमी किसी को शूट कर दे, अदालत ने अटार्नी जनरल साहब से पूछा कि अगर सब इस्पेक्टर शूट कर दे तो उसके खिलाफ कार्यवाही हो सकती है? उन्होंने कहा, नहीं हो सकती है, क्योंकि उसको एन्फोर्स करने का राइट खत्म कर दिया गया।

That is what is stated in the judgment of Mr. Khanna, Mr. Chandrachud and the Chief Justice himself.

मैंने जो उस रोज कहा था, उसको रिपीट कर रहा हूँ कि आप जिन्दगी के अधिकार को ले रहे हैं, तो वह किस लिये लिया जा रहा है? अटार्नी जनरल साहब आग्यूमेंट्स दे रहे हैं आपकी तरफ से। अगर इरादा राइट टू लाइफ लेने का नहीं था, तो अमैड कर देते, लेकिन नहीं। आखिर तक वह आर्डिनेन्स ज्यों का त्यों रहा।

MR. SPEAKER : The point was whether certain files were destroyed and you said they were only rumours.

SHRI C. M. STEPHEN: One more word about the Prime Minister's statement. In the Lok Sabha, Mr. Charan Singh said, "clash between hardened criminals". He was questioned about it in the Rajya Sabha and he stated in the Rajya Sabha, "My point is that the word: 'clash' used was wrong. That is true; I admit it. That is wrong." Once the minister is satisfied that that statement was wrong, he should clarify it before this House. He did not care to do it here. He went to Rajya Sabha and clarified it. These are baseless statements. There are certain parliamentary etiquettes to be followed. Suppose a minister is persuaded to make a wrong statement in this House and subsequent enquiries have convinced him that that statement was wrong, in justice to this House, before retracting it in the Rajya Sabha, he ought to have come to this House and

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retracted it here. He did not do it. This is the third instance. Any number of instances can be enumerated, but I do not want to enumerate further instances. In answer to Shri Morarji Desai's statement, I say, these are the instances. There are more.

Then he said, "Is not a member entitled to give his view? His view may be an extreme view." I am satisfied with it. I am only saying that there is a definition about *bona fide*. The definition is, whatever is stated without sufficient care and caution, it is done without *bona fide*. Therefore, if in the Parliament of India, a personal opinion, an inferential opinion, of an extreme character is stated, permit me to characterise it not as *mala fide* but I would rather say, it is not *bona fide*. This is not the way to treat Parliament.

Then, the Prime Minister asked about Amendment to Article 359. The Prime Minister is under a wrong impression, kindly permit me to say so. The Amendment to Article 359 was only with one respect. Article 359 as it then was, stated:

"If there is some emergency in some part of the country, Emergency will have to be declared for the whole country".

That was amended. Emergency can be declared with respect to particular parts of the country and Emergency can be withdrawn with respect to specific parts of the country.

THE MINISTER OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI SHANTI BHUSHAN): I will just interrupt for clarification. There was another amendment to Article 359 which was brought in force on the 1st August, 1975 by the 38th Amendment of the Constitution and the purport of that amendment was—prior to that it was only the enforcement of a Fundamental Right which could be suspended by a Notification under Article 359 except for Article 19 which was automatically suspended by Article 358. But by this amendment to Article 359 by which clause (i) (a) was added on the 1st August 1975 during the period of Emergency, what was done was that if any of the Fundamental Rights is enumerated in the Notification under Article 359, then the restriction on the State either in the matter of enactment of law or in the matter of executive action, any restriction imposed by the Fundamental Right, would not operate. The effect of this Amendment was that not merely the enforcement of the Fundamental Right, but the Fundamental Right itself stood suspended by this Amendment.

SHRI C. M. STEPHEN: I was under the confused notion about Article 352. I am thankful to Shri Shanti Bhushan. I was under confusion between Articles 352 and 359. I stand corrected. I am indebted to you for the correction.

About this Article 359 amendment, the point I made was, if Article 359(1) is dangerous, then why don't you bring in an amendment? And in the course of that I said: "Forty-second Amendment there is. Don't bother about two-thirds majority". Then you remember what all things happened. The elicitation of opinion taken from the Leader of the Opposition was about the 42nd Amendment. What he has stated is there. My question is, if a Presidential Order under Article 359(1) has the dangerous consequences of complete shooting down of the people and the immunity for that action of the complete shooting down of the people, if that has got the constitutional consequence which, according to you, is the case and which, according to us, is not the case, why not come out with something to save this country so that it may not recur? This is the question. If that question remains unanswered, I do not want to labour further. This is all I have got to say.

I am also thankful to the Prime Minister for the appeal he has made to the Members on this side and Members on his side to raise the level of parliamentary proceedings in this House. Let this House become not a market place, but a deliberative area where the highest court is sitting and arguments are being heard, just decisions are being taken.

MR. SPEAKER: There I can also join you.

SHRI C. M. STEPHEN: That will be the biggest contribution you can make. After 25 years of running of the Republic, let that be the beginning of it and that will be the great contribution. I am indebted to the Prime Minister for the appeal he has made and I assure him as one of his followers that his appeal will be followed.

Coming to the arguments by Mr. Mishra, he argued about the withdrawal of the letter. Mr. Jethmalani dealt with the question of shooting down. His argument is like this. This is what he stated after he spelt out his argument:

"He was saying that this letter was a quasi-legal document and therefore this formed part of the papers, which belonged to the people as a whole"—I did not say that; I said it was a quasi-judicial document; he had no right to remove it. He concedes now that this sounds, on the face of it,

somewhat plausible. The plausibility is conceded. It is not as if cantankerousness is there. Here is something which is plausible at least. He says: "May I say that it will not bear scrutiny even for a moment. Is not a plaint filed before the court taken away and amended." My reply is that he can ask Mr. Shanti Bhushan. Will he allow the plaint to be taken away?

MR. SPEAKER: You are arguing like a lawyer.

SHRI C. M. STEPHEN: He says it is plausible. Then the only argument he puts against this, is that this is done elsewhere; and he argues: "Is not the plaint taken away? The plaint is taken away and corrected." But the position is that the plaint is never taken away. Everybody knows that under the GPC you cannot touch the plaint. You can put in a corrected plaint there. If the court permits, you can correct. You cannot touch it and you cannot take it away. Therefore, the basis of rebuttal goes away completely. Then again he said something about shooings. The Prime Minister's appeal is there.

He again said something about the Secretary writing the letter. He is completely under a misunderstanding. He says: "If the letter was written by the Secretary of the BLD, there is absolutely nothing objectionable about it. The President had to look into it whether the letter was perfect. Does my hon. friend suggest that if the letter to the Election Commission was suffering from certain defects and weaknesses, they should not have been removed?" And again, "If the act of the surrender of the symbol by the BLD was not clear and categorical and the act of surrender had to be made plain, then should it not have been the duty of the President of the BLD to have a look at that letter?"

He does not probably know the correct position.

Now about the letter written by the Election Commission. The letter written is this:

"Dear Chaudhuri Sahab:

As desired by you, I herewith return your letter dated the 5th May 1977, addressed to me in your capacity as the Chairman of the BLD regarding the merger of the BLD into the Janata Party. . . ."

He said that it was expected that the letter would be returned. That is what he says. That is not the case. The letter says:

"...I shall now await a communication from you before I proceed further in the matter."

The point Mr. Mishra made was that this was the letter written by the Secretary and that the President should see it; and so, the plaint was taken away on the understanding that that letter will be returned. But it is so clear from here, that the letter was written by the President himself. The letter was taken back by the President himself, and not on the understanding that it will be returned, but on the understanding that he will give another communication. That it was returned, is the result of subsequent developments, confabulations, discussions, compromises and arrangements—during which even it went to the extent of the three constituent parties considering the election of a new symbol for themselves. It created a mini-storm in the party; and it went to the extent of Mr. Chandra Shekhar calling it a black-mail and brinkmanship. This particular action was condemned by the Party president as an act of black-mail and brinkmanship. Therefore, this is not such a small matter. That is why I mentioned that there was the deviation from the normal practice of writing a letter and withdrawing it, correcting it and clarifying it—I am not going to stand by it—and that without following that normal practice, the action taken was telephoning for the letter and taking the letter away. That the Chief Election Commissioner kept a copy, has nothing to do with Chaudhuri Charan Singh. That is because in the light of his administrative experience, the Chief Election Commissioner had felt that he must keep something there. He kept something there. That letter was returned. It was not with a covering letter; kindly note it. There is no covering letter with that letter; nothing blank.

SHRI CHANDRA SHEKHAR (Ballia): I am sorry, I have to intervene for a minute. Normally, I would not have intervened in this debate. But my friend has read out some statement purported to be made by me. I never made any such statement. It is totally baseless and mistaken. I do not know what paper published it. I never said that Chaudhuri Charan Singh has blackmailed the party or did anything of that sort, I have no such complaints. All these baseless charges should not be levelled in my name at least. So, I contradict it. These charges are totally baseless that I made any statement against Chaudhuri Charan Singh or said that he was creating difficulty for the party.

SHRI C. M. STEPHEN: The contradiction has got to be accepted. I have

[Shri C.M. Stephen]

no comment on the contradiction. Regarding my *bona fides* I may say that I was reading from the Rajya Sabha proceedings, and it was reported in the paper also. So far no contradiction came. I checked up and found the press cutting. Now that he has come out with the contradiction, without a demur it must be accepted. That is over. That is all I have got to say about it.

Now I come to the arguments of Shri Jethmalani. He was a legal expert who appeared on behalf of Chaudhuri Saheb. Here is what he states:

"My friend, Mr. Stephen, is right."

This is about the shooting affair. I have already argued my case and I said the only ground on which Chaudhuri Saheb sought to base his contention after saying "I have no proof of any consultation, nothing in black and white, nobody consulted anybody" was that Shri Niren De made an argument and that was sufficient for him to come to that conclusion. Shri Jethmalani said :

"Mr. friend, Mr. Stephen, is right that a mere argument posed in a court by a law officer of the State is not enough to come to the conclusion that there was an intention on the part of the Government to kill people. What I am submitting to the House is that, normally speaking, from the mere fact that the attorney-General argues that during the period of Emergency there is no right to life and liberty it does not fully show that the Government of the day wanted to kill those who were in detention. I accept Mr. Stephen's first major premise of the argument."

I am only concerned with the stand Chaudhuri Saheb took. Other people are bringing in so many other things. Chaudhuri Saheb, when he was challenged to substantiate, took only one ground. This ground is not commented upon by Shyam Babu. This ground is commented on only by one speaker, and he concedes that this is no ground to come to the conclusion that people can be killed. Therefore, we are left with a complete vacuum. The Prime Minister said: may be it is an extreme opinion. But the extreme opinion as such cannot be dismissed.

I was very very careful to confine my arguments strictly on the legal basis. But my friends, particularly Shyam Babu. . .

SHRI CHARAN SINGH: I do not accept this argument advanced by my counsel on my behalf.

SHRI C. M. STEPHEN: That itself shows that any submission made by an advocate need not reflect the opinion of the party. Therefore, Niren De's opinion, does not reflect the opinion of the then Government.

24 hrs.

MR. SPEAKER: I suppose it does not apply to Mr. Stephen.

SHRI C. M. STEPHEN: It will never apply to me. I am always truthful in my profession.

Unnecessarily a lot of political matter was imported into it. It could have been avoided if only my friends took it in the spirit in which I move the motion. It was not done. I am game for any political controversy. I do not want to run into a political controversy.

It is a fundamental question that I am raising. My motion is against an individual Minister. It is not a no-confidence motion. Shyam Babu asked: "Where is the Leader of the Opposition? This comes within his domain." My submission that it does not come within his domain because this is not Opposition vs. Government, this is a Member of Parliament vs. another person with respect to his behaviour in Parliament. It is for the House to decide.

SHRI JYOTIRMOY BOSU (Diamond Harbour): Was the letter written from Parliament? What a cock and bull story?

SHRI C. M. STEPHEN: According to me this is a very fundamental question. When I am putting a charge against a particular Member who is present in this House on fair and substantial grounds, it is for that Member to give a reply to the charge I am making. It is not for him to ask for an advocate. It is not in the domain of the Prime Minister of India to come in.

SHRI MORARJI DESAI: I rise on a point of order. I did not want to interrupt, but I did not know that he was going to repeat it.

Shri Jethmalani spoke as much as a Member of this House and of his party as Mr. Stephen is speaking. If he is an advocate for somebody, Mr. Stephen is also an advocate for somebody else. There was no question of any advocate for anybody. The moment you try to raise such issues, you will bring repartees which will not be good for anybody!

SHRI C. M. STEPHEN: I did not mean that way. I said that when certain allegations are made and arguments

put forth against Chaudhuri Charan Singh, he should reply to them. He did not I leave it to others to draw their own inference.

SHRI MORARJI DESAI: I asked him not to reply and said that I would reply myself

SHRI C M STEPHEN: Therefore, it is not about an advocate or anybody like that I only jocularly said that Nobody is an advocate for anybody Although Chaudhuri Saheb said "Jethmalani, my advocate, does not represent me", that is not the capacity in which we are dealing with him

SHRI CHARAN SINGH: You yourself used the word "advocate" that is why I repeated it I had two advocates, the Prime Minister and Mr Jethmalani I accept the arguments of the Prime Minister

SHRI C M STEPHEN: A panel of advocates is possible

It is not proper that Chaudhuri Saheb did not reply I am leaving it at that

I do not want to give political overtones to all these things He asked me. "Why did you handpick Chaudhuri Saheb for an attack?" The obvious reason is the seriousness of his acts of commission and omission

(a) If anybody else does it, I will ignore it If some other Minister in the Ministry does it, I will ignore it because the assessment about that person in the country may be different from the assessment about Chaudhuri Sahib in the country Therefore, the acts of commission committed by the Prime Minister cannot be dealt with on the same level as somebody else Even so, an act of commission or omission committed by the Home Minister of India cannot be treated like that I must compliment Chaudhuri Sahib for the way he has managed He has, by persuading or arranging in a debate which is between him and the rest of the House and on a charge which has nothing to do with the Government, managed that the Prime Minister comes into the picture, Shyam Babu comes into the picture, everybody comes into the picture showing that 'I am what I am' I must compliment him for that

SHRI MORARJI DESAI: Now, the hon. Member is reverting to his old methods.

SHRI SHYAMNANDAN MISHRA (Begusarai): We are not like you We stand by our colleagues

SHRI C M STEPHEN: Unfortunately for me, my friends jumped up to the conclusion that this is an instrument to create a division among their ranks Well, Sir, all of us are political beings I have been long enough in this political game We know what can create division and we know what cannot create division None of us are political infants enough to think merely because a censure motion is moved, the Janata Party will start fighting among themselves or misunderstandings will arise Nobody will infer like that

SHRI SHYAMNANDAN MISHRA: You have seen the absurdity of your hoax

SHRI C M STEPHEN: Therefore, I am saying that the Janata Party has come into being as a result of certain developments in the country They have come to a political arrangement. We know that arrangement can never get split merely because somebody attacks somebody Impossible But that arrangement cannot remain if ideological differences creep up. Whether it will creep up or not, it is a different question Whether the Swatantra man will get himself converted into socialist philosophy or the socialist man will get himself converted into other thing or it may be possible as a result of long .
(Interruptions)

Therefore, we have no illusions at all Let me assure my friends, may I swear everything that I hold sacred, that the purpose of this motion is not a futile, pre-determined futile, pursuit of trying to create division in the Janata Party, for which more effective instruments are necessary I think, we have no illusion at all

SHRI MORARJI DESAI: How long will he take to reply?

SHRI C M. STEPHEN: I am closing You know, Sir, I am not going at a tangent

Unfortunately, I must say, Mr. Shyamnandan Mishra brought in all sorts of insinuations, allegations, attacks and recriminations politically If I have to answer all these things, it will take such a long time He made an allegation with respect to Mr George Fernandes who was involved in the Baroda dynamite case He asked a question as to whether the case was not cooked up, whether everybody all over the world does not know that the case was cooked up. He asked us, whether we are not ashamed of it. My reply is here. Mr. C. G. K. Reddy who is a co-accused with

[Shri C. M. Stephen]

Mr. George Fernandes, who is a confidant and a close friend of Mr. George Fernandes, is now bringing out a paper, a book, and it is published. (Interruptions) I have to reply to that. It is not a cooked up matter. This is what is stated here by Mr. Reddy who is a co-accused with Mr. George Fernandes in the Baroda dynamite case and who is an adorer of Mr. George Fernandes. He says:

"And yet, Sharad was entrusted with information of the activities of George, even his movements. He was entrusted with the storage of a fairly large quantity of dynamite acquired from Bharat. This serious lapse was due to the anxiety of the Baroda group to get started." (Interruptions)

PROF. P. G. MAVALANKAR (Gandhinagar): On a point of order, Sir. (Interruptions) Kindly listen to me. I am not referring to the subject-matter of either the Prime Minister's speech or Mr. Stephen's speech. I am on a point of order about the right conduct of proceedings of this House.

SHRI C. M. STEPHEN: I am replying to a question raised by Mr. Shyamnandan Mishra. He asked me, whether I am not ashamed of it, whether it was not a cooked up case.

PROF. P. G. MAVALANKAR: I am not here to prevent my hon. friend, Mr. Stephen, from replying to whatever other Members might have said in their speeches during this particular debate. But my point of order is, if a particular subject is not relevant to the motion under discussion.

SHRI K. P. UNNIKRISHNAN (Badagara): Mr. Shyamnandan Mishra raised it.

SHRI SHYAMNANDAN MISHRA : That was first raised by them. I had to reply to that.

PROF. P. G. MAVALANKAR: My point of order is addressed to you, Sir, Let my friends kindly listen to me. They may not agree with my contention.

My point of order is, if a particular matter or more than one matter have been raised in the debate earlier by hon. Members who participated in the debate, if they were irrelevant and if they were not at that point of time stopped from speaking by the Chair, how could that become relevant when a Member replies to that point which is not a part of the motion? It is completely outside the scope of the motion. If Mr. Shyamnandan Mishra had said something which was irrelevant, you would have stopped him. (Interruptions)

SHRI SHYAMNANDAN MISHRA: I have to make my point clear. I must correct you (Mr. Mavalankar) (Interruptions) May I correct my hon. friend that my statement did not come up of the blue. It was by way of a reaction to a statement made by my hon. friend on this side. It was not out of context. (Interruptions) You have been having a lot of patience and even driving this debate out of all proportions so that the opposition has got more time than we have got in this matter. (Interruptions) You have so much patience for them, but you have no patience for us. (Interruptions) Whatever happened during the course of the debate on 184, the Chair will have to be brief properly by us and also by this Secretariat whenever any debate takes place on 184. The defence has to be not less than the offence in this matter and you have given much more time to them than you have given to us, when the question about my hon. friend, Mr. George Fernandes arose. (Interruptions) So, there is no question of any irrelevancy on my part, be assured that S. N. Mishra would never be irrelevant in the debate as has been pointed out. (Interruptions).

PROF. P. G. MAVALANKAR: How long will you permit Mr. Stephen to reply to a large number of points which have no relevance whatsoever to the main subject of the motion. That is my point of order.

MR. SPEAKER: Most of the time is taken by points of orders which have absolutely no relevance at all. There was no relevance in the speakers on this side who referred to the dynamite case and there was no relevance in Mr. Mishra's point. (Interruptions) Both of them are not relevant. (Interruptions) Some of them are not relevant because they should not have raised it.

SHRI SHYAMNANDAN MISHRA: I had react to that. Do you put me on parity with them? You allowed them to raise this point and S. N. Mishra reacted to that point. I cannot understand this kind of parity. (Interruptions)

MR. SPEAKER: So far as the Speaker is concerned, yesterday, somebody said that he had not given up affiliation to the Janata Party. Today, they are coming to my support. I am not concerned with this party or that party. The question is of relevancy.

SHRI SHYAMNANDAN MISHRA: You are concerned with the Opposition and the Government. (Interruptions)

MR. SPEAKER: Please hear me. I am on my legs. I am concerned with the entire House. This is not a court of

law... A certain amount of irrelevancy comes in. If there is any benefit of doubt, I will give it to the Opposition and not to the Ruling Party.

SHRI SHYAMNANDAN MISHRA: What is the question of benefit of doubt?

SHRI CHANDRA SHEKHAR: Mr. Speaker, I have nothing to say about the validity of references made by Mr. Mishra or Mr. Stephen.

But I have to make only one submission. Here was a censure motion against one hon. Minister. By making speeches from this side or other side, do you want to bring another censure motion against another Minister in this House? As for as dynamite case of Mr. George Fernandes is concerned, may I request Mr. Stephen not to go in to that matter even if Mr. Mishra brought in that matter.

SHRI SHYAMNANDAN MISHRA: Mishra did not. (interruptions) This was my reply.

SHRI CHANDRA SHEKHAR: I do not know; I am sorry, Mr. Speaker, I did not hear it.

SHRI C. M. STEPHEN: I agree.

SHRI CHANDRA SHEKHAR: But I shall request Mr. Stephen not to raise another controversial matter.

SHRI C. M. STEPHEN: Having regard to the stature of Mr. Chandra Shekhar and the great respect I hold for him, I bow to his request; I stop it.

(interruptions)

My allegation is this. Unnecessarily, maliciously, political overtone was imported into this discussion, and you cannot expect a political being like me not to react to it. (Interruptions) One more sentence, and I will finish. I do not want to make any allegation. Unfortunately, reference was made to people getting into murderous mood and all that. I do not know whether I should reply to that. I shall stop it, Sir. I shall take it up on another occasion. When they put a question, "You fellows, you are now disowning Mrs. Indira Gandhi, you say you have nothing to do with her and all that." I have immediately said that there is no question of disowning anything; in my original, preliminary speech I have said that I accept the responsibility—all of us. I have only to ask: are there not people over there. (Interruptions)

MR. SPEAKER: Please conclude.

SHRI C. M. STEPHEN: I am stopping it, Sir. I am bowing to you and I am

stopping it. All political arguments were raised, defamatory statements were made, incriminatory statements were made, baseless accusations were made, in spite of our protest; that is beside the point. . . .

MR. SPEAKER: You have taken 50 minutes. Please conclude.

SHRI C. M. STEPHEN: Only two minutes, and I am concluding.

These statements were made. Only out of deference to the dignity of the House, I refrain from replying to these, not because I cannot; I can, but because I would have to consult my own dignity also and I refrain from replying to these.

With regard to the motion, the motion remains. I charge the Home Minister with abetment of crime under section 408 of the Indian Penal Code, namely, committing breach of trust. I charge the Home Minister with making baseless and irresponsible allegations on the floor of the House. I charge the Home Minister with discourtesy, with the irregularity of not showing the proper courtesy, to the House in that, although convinced that the statement he made was wrong, rather than retracting it here on the floor of this House, he went to the other House and retracted it thereby throwing mud in the face of this House. I charge the Home Minister that the Home Minister of India is behaving in a manner which is not in accordance with the dignity or the position he occupies.

I only appeal to him: kindly take some note of these feelings, not in acrimony, not in anger, not in animosity, but in a spirit of starting cooperation, so that we in the Opposition and you there, together, may handle the problems of this country and the dignity of the House may be maintained before the millions of people who have sent us here.

With these words, Sir, I press my motion.

MR. SPEAKER: The question is:

"That having considered the acts of commission and omission on the part of the Home Minister with respect to the following matters, namely:—

- (a) that he has been misusing the floor of the House to make baseless and irresponsible statements as instanced, among others, by his allegation on the 13th July, 1977 while replying to the debate on demands for grants for the Home Ministry that there was a preparation and thinking ("Vichar") on the part of the previous government to shoot the political leaders in detention,

[Mr. Speaker]

(b) that he, misusing his official position, meddled with the affairs of independent Constitutional bodies as evidenced, among others, by his conduct in withdrawing from the files of the Election Commission a letter dated the 5th May, 1977, he had written in his capacity as the leader of the B.L.D.

This House hereby records its indignation against and disapproval of the conduct of the Home Minister."

The motion was negatived.

24 25 hours

[MR. DEPUTY SPEAKER in the Chair]

स्वास्थ्य और परिवार कल्याण मंत्री
(श्री राज नारायण) : उपाध्यक्ष महोदय, कल

इस सदन में यह आरोप लगाया गया मैंने घर मंत्री की राय से एक डाक्टर के साथ पक्षपात किया। मैं चाहता हूँ कि आप मुझे व्यक्तिगत स्पष्टीकरण के लिये मौका दें। मैं कोई ज्यादा बात नहीं कहना चाहता हूँ। मैं इतना ही कहना चाहता हूँ कि डा० जे० पी० सिंह के साथ पहले की मिनिस्ट्री ने ज्यादाती की थी, और 1976 में

SHRI VAYADAR RAVI (Chirajukul):
Sir, I am on a point of order. A Minister can make a statement only under Rule 372 and he should first write to the speaker. He cannot make a statement like this.

MR. DEPUTY-SPEAKER: He is making a personal explanation.

SHRI VAYALAR RAVI: Has he got your permission to do so? He should get prior permission.

उपाध्यक्ष महोदय : मंत्री महोदय अपना स्टैंटमेंट बाद में दें ।

14. 27 hours

MOTION RE : CONTINUING PRICE RISE

श्री कंवर लाल गुप्त (दिल्ली सदर) :
उपाध्यक्ष महोदय, मैं आप की आज्ञा से सदन के सामने अपना यह प्रस्ताव रखता हूँ :

"That this House expresses its great concern over the continuing price rise in the country and urges upon the Government take urgent steps to check the price rise".

आज से चार महीने पहले भारत की जनता ने जनता पार्टी पर अपना विश्वास प्रकट किया था। उस समय हम ने, जनता पार्टी के लोगों ने, दो वायदे किये थे : एक तो यह कि हम व्यक्तिगत स्वतंत्रता देंगे, और दूसरा यह कि व्यक्तिगत स्वतंत्रता के साथ साथ हम हर एक को खाने के लिए रोटी भी देंगे। हम ने इन चार महीनों में अपना पहला वायदा पूरी तरह से पूरा कर दिया है। आज हमारे देश में हर एक आदमी स्वतंत्र है, किसी प्रकार की कोई भी पाबन्दी नहीं है, प्रेस आजाद है, भदालतों पर कोई पाबन्दी नहीं है। मेरा ख्याल है कि हमारे उधर के साथी भी इस बात को स्वीकार करेंगे।

दूसरा वायदा अभी हमें पूरा करना है। उस के लिए सरकार कदम उठा रही है। उसे पूरा करने में सब से बड़ी बाधा अगरे कोई है, तो वह है कीमतों का बढ़ना, और अगर उसे न रोका गया, तो देश की अर्थ-व्यवस्था ठीक नहीं रह सकती है। अगरे देश की अर्थ-व्यवस्था को ठीक रखना है, तो स्टैबिलिटी आफ प्राइसिज बहुत जरूरी है। इस लिए यह प्रस्ताव बहुत महत्वपूर्ण है। अगरे हम ने प्राइस राइज को नहीं रोका, तो शायद हम अपने दूसरे वायदे को पूरा नहीं कर पायेंगे।

यह सही है कि चीजों के दाम पिछले कई सालों से बढ़ रहे हैं। ऐसा नहीं है कि जनता पार्टी की हुकूमत आने के बाद दाम बढ़े हैं। दाम पिछले साल भी बढ़े, उस से पहले साल भी बढ़े—कई सालों से दाम बढ़ रहे हैं। जो नीतियां पिछली सरकार ने अपनाईं, उन्हीं का यह फल है कि आज दाम बढ़ रहे हैं। यह पिछली सरकार की एक लेनेसी है। लेकिन इस के बावजूद हमें कीमतों को स्थिर रखना पड़ेगा और हम ने जनता के साथ जो वायदे किये हैं, उन्हें पूरा करना पड़ेगा।

अगरे दामों को बढ़ने/से रोकना है तो सब से जरूरी यह है कि हमें कुछ फिक्स्ड डिस्-प्लिग पैदा करना होगा। यानी कच्चाई बढ़ती