

15.55 hrs.

[Mr. DEPUTY-SPEAKER in the Chair]

Shri D. C. Sharma (Gurdaspur): I congratulate the hon. Minister and the hon. Member who preceded me for making a very valuable suggestion. But while I listened to him, I asked myself one question, and this has been put not only by me to myself but by others also to themselves, and that is: Are we always to believe the experts?

President Kennedy lost Cuba—it is given in his biographies—in the first place, because he believed in experts, he took the advice of experts, and he was not able to win over Cuba. Next time, he turned a deaf ear to the advice of experts and he was able to do something. Therefore, I am always very careful about what experts say because I know that experts know less and less of more and more and they get lost in the jungles of details and they do not see the wood for the trees.

I was very happy to find that my hon. friend had taken some part in the last war that we fought against Pakistan and I was very happy that he gave us his first-hand experiences of that war. Sir, the Second World War was fought long long ago. I have not been a soldier but I have been very fond of soldiers, I have been very fond of reading books on strategy and tactics and I have been very fond of reading reminiscences of generals and soldiers and other persons. After going through all these, I can assure you one thing that no two persons have agreed about the reading of the situation then. Therefore, I submit, personal experiences are not always a very correct guide of national policy; personal experiences are not always the right kind of pointer to having a national policy in any field of national endeavour. But all the same we have a national defence policy. I ask myself one question: Don't we have a national policy?

An hon. Member: No.

Shri D. C. Sharma: You say, 'No'. The gentleman sitting there talked of a military coup; he talked of military officers; he talked of armed revolutions and all that. Therefore, you do not think in terms of national defence policy. I think in terms of national defence policy. I know what our defence policy is.

Here is this gentleman who is always capitalising on his being a *jat*. Why should he sit here? He must go to his seat. Otherwise, I will not speak. He must go to his seat.... (Interruption).

Mr. Deputy-Speaker: He is not coming in your way.

Shri D. C. Sharma: I ask you: Why should this man sit here?

Mr. Deputy-Speaker: Order, order. He is not blocking you in any way. Please continue your speech.

Shri D. C. Sharma: What does he know? I know *jats* are great people....

श्री रणधीर सिंह (रोहतक) : माननीय रदस्य अपने जापको क्या समझते हैं? मैं इनकी इज्जत करता हूँ लेकिन ये सिर पर ही चढ़ते आ रहे हैं।

Shri D. C. Sharma: I ask this man to go to his seat . . . (Interruption).

Shri Randhir Singh: I care a hang for him. Who is he to ask me to go? If he has no respect, I am not obliged to pay him respect.

Mr. Deputy-Speaker: I will request the hon. Member to resume his speech tomorrow. Whatever time he has taken now will be deducted.

16 hrs.

MOTION RE. STATEMENT ON
EMERGENCY

Mr. Deputy-Speaker: Now we take up the motion on the statement on

Emergency made by the Minister of Home Affairs on the 22nd June, 1967.

Mr. Hem Barua.

Before he starts, shall we decide on the time limit? We have got two hours.

श्री अटल बिहारी वाजपेयी (बलरामपुर) : इस विवाद के लिये दो घंटे का समय रखा गया है। दो घंटों में सभी पक्षों के विचार आना सम्भव नहीं है। आप चाहें तो सदन की राय लेकर इस विवाद का समय बढ़ा दें, अन्यथा इस विवाद के साथ न्याय नहीं हो सकेगा।

Mr. Deputy-Speaker: It was already extended by one hour.

Shri Surendranath Dwivedy (Kendrapara): We may extend it by one more hour. We can sit upto 7 p.m.

Mr. Deputy-Speaker: Let us see at 6 p.m. Not more than 15 minutes each.

Shri Surendranath Dwivedy: The Mover should have 30 minutes.

श्री मधु लिमये (मुंबई) : कांग्रेसियों को कम बुलाइये। दा तीन कांग्रेसी काफी हैं।

श्री द्वा० ना० तिवारी (गोपालगंज) : क्यों काफी हैं।

श्री मधु लिमये : आपको क्या जरूरत है ?

Shri D. N. Tiwary: What is this discrimination? It is always going on in this House. We are not going to accept this.

Whatever the time allotted, it will be divided half and half. आपकी भी ओपिनियन है, हमारा भी ओपिनियन है। This attitude is very bad.

श्री मधु लिमये : फिर समय बढ़वाइये।

श्री द्वा० ना० तिवारी : हम चप रह जाते हैं तो आप सिर पर चढ़ते जाते हैं।

श्री कंवर लाल गुप्त (दिल्ली सदर) : अभी एमरजेंसी के बारे में बहस होने जा रही है। लेकिन मिनिस्टर साहब ने कोई फैंक्चुअल डाटा हमारे सामने नहीं रखा है कि किस तरह से एमरजेंसी काम में लाई जा रही है। खास तौर से जो सेंसेटिव एरियाज हैं उन में अगर एमरजेंसी न हो तो क्या परिणाम होगा, अगर थोड़े हिस्से में ही तो क्या होगा और अगर बिल्कुल हटा ली जाए तो क्या होगा? जब तक कोई फैंक्चुअल डाटा सामने न हो तब तक हमारे लिये मुश्किल होगा कोई भी फैसला करना।

एक इन्होंने एंशयोरेंस भी दिया है। मैं जानना चाहता हूँ कि उसकी क्या गारंटी है? क्या आप क्वार्टरली रिपोर्ट देंगे या बतायेंगे कि किस तरह से यह एमरजेंसी काम में लाई जा रही है। डी० आई० एल० को आपने पिछले साल कुछ रिलेक्स किया था। उसका क्या नतीजा निकला? मैं प्रार्थना करता हूँ कि मंत्री महोदय फैंच सात मिनट में इन बातों को स्पष्ट कर दें तो अच्छा होगा। उनको बताना चाहिए कि स्थिति क्या है।

Mr. Deputy-Speaker: Does the Minister want to say something?

The Minister of Home Affairs (Shri Y. B. Chavan): No.

Mr. Deputy-Speaker: Mr. Hem Barua.

Shri Hem Barua (Mangaldai): I beg to move:

"That the statement on emergency made by the Minister of Home Affairs on the 22nd June, 1967, be taken into consideration."

I must congratulate the hon. Speaker for having allowed this discussion on Emergency. • This Indian

[Shri Hem Barua]

Parliament has, of late, specialised in wasting its time, energy and the taxpayers' money in discussing trifles. We know that the Indian Parliament has spent Rs. 1,26,500 on discussing Stalin's daughter, Madam Svetlana. (Interruptions).

श्री हेम बरुआ : मैं यह कह रहा हूँ कि आप जो स्वतंत्रता से बहुत नफरत हैं।

Shri Hem Barua: I have collected this figure straight from the horse's mouth. Therefore, you need not harbour any doubt about it.

I have gone through the statement of the hon. Home Minister made on the 22nd June, with utmost care and caution and I find that this is a very disappointing statement because it goes contrary to the expectations that were roused in this country by the statement made on the 18th March and in which indications were given that the Emergency would be lifted from this country. He has given certain reasons. I do not want to get into those reasons now. But then, I must submit that somehow or other, emergency has become normalcy in this country; emergency has become an occupational disease with our rulers.

Shri Surendranath Dwivedy: Like the cease-fire.

Shri Hem Barua: Emergency might be compatible or might not be incompatible with dictatorship. For instance, the people in China are condemned to unproclaimed emergency because there is a totalitarian regime in that country. But we have a democracy in our country and emergency in the context of democracy is an anachronism. The hon. Home Minister should realise that.

He has advanced certain arguments, and I must submit that these arguments are most unconvincing. These arguments show only lack of vision and a lack of a sense of reality on

the part of the Home Minister. I did not expect this from the Home Minister as I knew him. It is also a fact that when logic recedes, passions prevail and this is what has happened with the Home Minister and when passions prevail, political insight gets distorted.

May I submit that I could not compromise the statement made by the Home Minister on the 22nd June with the natural temperament with which Shri Y. B. Chavan is endowed? He has a sober approach to things and he has a just temperament. In spite of all these things, why has he come out with a statement that contradicts the basic qualities that the man possesses? Often I wonder whether it was the ghost of his distinguished predecessor who used to see bugbears in moonlight, that dominated over him; or else, it is difficult to justify this sudden somersault on the part of the Home Minister.

There is a tendency, unfortunately, on the part of the Home Minister, to blame the Opposition parties. He has blamed the Opposition parties and he has laid the blame at the door of the Opposition parties. But one need not be a genius to see through the psychology that has prompted the Home Minister to extend the emergency in an unspecified way to an unspecified time. If I say that he wants to extend the emergency, judging from the statement made by him on the 22nd June, from now to eternity, possibly I would not be wrong.

Shri Piloo Mody (Godhra): Why is the hon. Member wasting his time? The hon. Minister is not listening to him.

Shri Hem Barua: Shri Piloo Mody says that I should not waste my time because the Home Minister is not listening to me.

Shri Ranga (Srikakulam): The Home Minister is still in conference with his colleagues.

Shri Hem Barua: On a point of order...

The Minister of State in the Ministry of Home Affairs (Shri Vidya Charan Shukla): We were talking about the points that the hon. Member had made.

Shri Hem Barua: May I continue now, Sir?

Mr. Deputy-Speaker: Yes.

Shri Hem Barua: Is it not a fact that during the last elections, the Congress Party assured the people of India that the emergency would be lifted? I just want to know it from the hon. Minister.

16.09 hrs.

[MR. SPEAKER in the Chair.]

I want to know from my hon. friends opposite whether they are going or they are willing to seek a fresh mandate from the people on the question of the continuation of the emergency or not. Somehow or other, I find that this Government does not suffer from moral compunctions, and this Government would not fight shy of hitting you below the belt if it thinks that that is going to pay it dividends.

Now that has become a psychology, a mentality, with this Government, to cling on to power somehow even by dubious methods, if necessary. When originally on the 26th October, 1962, emergency was proclaimed in this country after the Chinese had committed aggression on us, there was not a single dissenting voice in the country or in Parliament. Why did the people of India and the Parliament of India vote for the proclamation of emergency in the country? Because the country thought, because Parliament thought that the Government would utilise the emergency powers to strengthen our defence apparatus and to convert it into an instrument of power against the ene-

mies who were threatening us with annihilation.

But somehow or other, what has happened today? Instead of strengthening our defence apparatus, the emergency powers are often used in a very malicious way against individuals. Now the Home Minister comes and says that this emergency would not apply to certain parts of the country, although it is there. Possibly he has States like Andhra Pradesh in mind. But suppose some over-zealous district officer or police officer in Andhra Pradesh under the shelter of these emergency powers tries to destroy a small shopkeeper, could you prevent him legally from doing it? You cannot. Therefore, the original purpose which inspired our people to support the declaration of the emergency by Government is now lost in a mad craze for power on the part of this Government.

What do they do? During these 20 years of freedom, this Government has perfected one machinery, one technique and one diplomacy only. They know full well to use this technique or diplomacy against the Opposition parties and that has come to light.

While trying to indulge in the extension of the emergency provisions for another unspecified period, the Home Minister mentions the threat of external aggression and external danger. The entire idea is related to anticipations. Government anticipate that one day China would commit aggression on us or that Pakistan would commit aggression on us. The Government should be able to anticipate. But mere anticipations cannot be real substitutes for action. Government have failed to assess the situation confronting us today in its correct perspective. If they had done that, they would not have pleaded for the continuance of this nefarious thing called emergency.

When the Chinese committed aggression on 26th October, 1962, was

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there emergency? It was declared six days after. And do you want to say that the absence of the emergency in this country was responsible for our debacle at the hands of China in NEFA and elsewhere? What was actually responsible for it was the lack of will on the part of Government to defend the frontiers of this country. We must not forget that.

What happens? There are some people who would say that on the 26th October, 1962 there was no emergency and that was why we could not give a good account of ourselves when we were attacked. To suggest like that would be sheer madness, madness to the nth degree, without even a method. People always say that there is a method in madness. But this would be madness without any method. For five years since 1962 we are in a state of emergency. The Chinese aggression lasted only for five days. (Interruptions)—for a few days—and the emergency has lasted for five years.

Whatever that might be, the Chinese aggression lasted only for a few days, but somehow or other the emergency has become a permanent feature in the life of this nation. During the last five years we have been under a state of emergency, the people of India have been under a state of emergency, during the last five years, the fundamental rights that were guaranteed to the people of India under the Constitution have been put in cold storage.

We are as a nation in a state of constitutional anarchy. High Court after High Court have given their verdict against the continuance of the emergency provisions because the emergency provisions deprive the people of their fundamental rights, and the legal luminaries of this country have also come out with criticism against these emergency provisions.

Can you tell me of any nation in the world in whose life emergency

has become a permanent feature, except India? In the U.K. or any other mature democracy, when external aggression takes place, when there is occasion for emergency, emergency is imposed, and as soon as the external danger or external aggression is liquidated, the emergency is also withdrawn. In this country, emergency has been made a permanent feature of our national life with a purpose. The purpose is to perpetuate power for some people who rule this country.

The Home Minister might say that the purpose of continuing or perpetuating the emergency is to create a sense of urgency in this country. Where is that sense of urgency in this country? It pains me to say that even at the time when the Chinese aggression took place there was not that sense of emergency which we all want for this country, for our people; there was no sense of urgency from the Central Secretariat down to Connaught Place. There was no sense of urgency in the country.

The main purpose for which you want emergency powers is to strengthen our defence apparatus, to create a sense of urgency in this country. You are defeated in your purpose. Why do you want to perpetuate a legislation or perpetuate a declaration or perpetuate the emergency for which you do not have the powers, even if you have the power, you do not have the will, even if you are exercising power you are exercising in the wrong way. Shri Nath Pai was very right when he said, while speaking on the emergency, that the nation wanted emergency to be used as a sword in its interests, but in the palsied and paralysed hands of this Government it has become a javu, a broomstick.

The Home Minister might say that the emergency paid us dividends during the Pak aggression. What dividends I do not know. In spite of

the fact that the emergency was there, 5,000 Pakistani nationals with arms in their hands came as far as Srinagar in Kashmir, and they built up ammunition dumps. You had the emergency powers, could you stop them from coming into your country? When they came and they were discovered, you went on telling the Powers of the world to ask Pakistan to withdraw these illegal entrants. Like an old woman you started weeping. I could not understand that. You have your own laws, the emergency powers, in this country. Whenever a foreigner enters into our country, you have the right to push him out. You could not push out 5,000 illegal entrants from Pakistan. On the other hand you went on complaining at the doors of the different world Powers for help, but the help did not come.

That is about Kashmir, and that is about Pakistani infiltration, but what about China? There is another argument about China also. True it is that China poses a threat, true it is that China has developed her thermonuclear power. It is true, I concede, that China has ceased to be a paper tiger. I also concede that the nuclear teeth of the Chinese tiger have now become long enough to reach the Indian cow, or rather the Indian calf. Whatever that might be, these are all facts. But at the same time what happens about China? In order to meet the Chinese threat you do not need the emergency provisions; but you have to build up your military and economic strength. Have you done so to face the aggression or challenge from China or Pakistan? When China or Pakistan commits aggression on this country you can again impose emergency. Why should you anticipate an attack coming from the side of Pakistan or from the side of China and perpetuate an emergency the way that you are seeking to perpetuate it? At the same time I would say that the threat of nuclear war or thermonuclear war can be met only by, we, ourselves developing the

thermonuclear power. We have not thought of that.

Mr. Speaker: At this stage you are discussing emergency—not defence.

Shri Hem Barua: The hon. Minister spoke of collusion of the Naga and the Mizo hostiles with China and therefore he wants to perpetuate the emergency. Could you forget that the collusion that came to light on the floor of this House, the fact that the collusion started as early as 1963? That was the time when our Government was empowered to the teeth with all sorts of powers including the emergency powers. Why do you forget that? You could not do anything to destroy that collusion in 1963. Now you say that you want to deter that collusion by extending the emergency provisions. Nobody would believe you. Since the rebellion started in the Mizo hills fifteen months back, the Mizo hostiles are in constant communion and collusion not only with China but also with Pakistan. I raised the question in this House that during the last year when Mr. Chen Yi the Chinese Foreign Minister visited Dacca the capital of East Pakistan, two delegations, one of Naga hostiles and another of Mizo hostiles, paid a visit to Dacca and met Mr. Chen Yi there. When I raised that issue here, somehow or the other this Government pleaded complete ignorance about that. Why did you forget that you had diplomatic mission in Dacca. The Foreign Minister of that time came and wanted to know from me the channel through which I came to know of it and I said: I am not going to give the channel; you must go and try to contact your people and the embassy in Dacca. Here is a Government that fails on all the scores; here is a Government which by its ineptitude and inertness had encouraged both the Naga and the Mizo hostiles to rebel against the Government. Yet they come and tell Parliament that they want to extend these emergency provisions because they want to disrupt the collusion of the Naga and the Mizo hostiles with

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China. Why do you forget that the Mizo hostiles go to East Pakistan from where they are airlifted to Peking for training in guerilla warfare and for collection of arms. Have you been able to stop this collusion of the Mizos with China during all these 15 months since the rebellion started? You have no; you cannot because you are busy in the stinking squabble for power inside your own party; you cannot mobilise the will to destroy all these connections with foreign powers. At long last I appeal to the hon. Home Minister who is a shrewd man and a good man....

Shri Pilloo Medy: That is the only sentence he heard.

Shri Hem Barua: I hope and trust that the hon. Home Minister, a man who has vision and foresight, will spring up in his seat and declare to this House and through this House to the nation, that from this day, the emergency is ended in this country. Sir, when the aggression actually takes place, we will be too glad to invest him with all the powers that he needs to break the bone of China and Pakistan who had committed aggression on us. We will be there to help you. So, please stand up and say that from this day the emergency is ended in this country.

Mr. Speaker: Motion moved:

"That the statement on emergency made by the Minister of Home Affairs on the 22nd June, 1967, be taken into consideration."

Now, I will call one by one to move their motions. Shri Yashpal Singh—not here. Shri N. C. Chatterjee—not here.

Shri Frank Anthony (Nominated—Anglo-Indians): I move:

That for the original motion, the following be substituted, namely:—

"This House, having considered the statement on the emergency

made by the Minister of Home Affairs on the 22nd June, 1967, is of the opinion that the immediate steps be taken for the deletion or appropriate amendment of article 358 of the Constitution so that there is no, as at present, the blanket suspension throughout the country of the fundamental rights under article 19 of the Constitution." (2)

श्री मधु लिवधे: अध्यक्ष महोदय, मैं एक बात कहना चाहता हूँ। मेरे प्रस्ताव में "टरमिनेटेड" के बाद जो शब्द "फॉर दिव" है, उस को मैं हटा देना चाहता हूँ। यह प्राबिरी लाइन का प्राबिरी शब्द है।

I move:

That for the original motion, the following be substituted, namely:—

"This House, having considered the statement on emergency made by the Minister of Home Affairs on the 22nd June, 1967, recommends to the Government of India:

that, since the proclamation of a state of emergency is justified only when there is a clear and present threat of external aggression or internal disturbance, gravely jeopardising the nation's security; and

further, since the normal laws of the land clothe the Government with enough powers to enable it to deal with any situation that might arise,

the state of emergency be terminated." (4)

Shri Surendranath Dwivedy: Sir, is my substitute motion. I will drop the last sentence. Otherwise, it will give a wrong impression.

Mr. Speaker: Which portion do you want to cut out?

Shri Surendranath Dwivedy: The last part of the motion, beginning with the words, "and may bring forward". I move:

That for the original motion, the following be substituted, namely:—

"This House, having considered the statement on emergency made by the Minister of Home Affairs on the 22nd June, 1967, is of opinion that the Government should take immediate steps to lift the emergency from the 1st of July, 1967". (5)

Shri Humayun Kabir (Basirhat): I move:

That for the original motion, the following be substituted, namely:—

"This House, having considered the statement on emergency made by the Minister of Home Affairs on the 22nd June, 1967, is of the opinion that there is no justification for the continuation of the emergency and it should be terminated forthwith." (6)

Shri Banga: Mr. Speaker, Sir, if there is to be any direct, clear and unequivocal confession of failure on the part of the Government, here is that confession. They said that there was an emergency. The whole country recognised it and the whole House recognised it, and we appreciated the timely action taken by the President in declaring the emergency and taking all the necessary actions flowing therefrom. The House as a whole rose as one man and supported the Government on that occasion, when the Chinese invaded our country. But thereafter, the Chinese had the alacrity to declare a cease-fire, and withdraw, but our Government did not have the self-confidence to withdraw the emergency and then say, "Now that the Chinese had gone back, the country is no longer in need of any such emergency powers and it can carry on its administration in the usual manner, with all the constitu-

tional rights being enjoyed by the people." Instead of that, they had carried on this emergency for such a long time and misused it in such a shameless manner, and the very word "emergency" has come to be the butt of ridicule and later on, the Government had had to say this; "Yes; the real emergency has arisen in regard to this matter." They themselves came to realise that there was no real emergency and there was no need for this emergency and emergency powers, and then, what did they do? They found this instrument, this weapon so very convenient with them, that they began to misuse it and in an unconscionable manner. Even then, after such a lot of protest from various sections of this House, and from various sections of the people in the country also, who said that they had been misusing it, they tried to palm off, not that honour, but that dishonour to as many State Governments as possible by saying—the predecessor of the present Home Minister said—that many of the State Governments had misused it. They gave the assurance that it would be applied only to those strategic areas which were under great stress from attacks and invasions and revolts from certain sections of the people and the rest of the country would be free from its mischief, and they would give definite instructions to the State Governments not to misuse it in the manner they have been doing.

We have said repeatedly that Government have sufficient powers to deal with various lawless elements, but they would not listen to us. Now the West Bengal Government has shown clearly by the use it is making of the Preventive Detention Act that those powers are enough to deal with the unconstitutional acts of various sections of the people. Those very sections of the people to whom the Preventive Detention Act is now being applied by the West Bengal Government were

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dealt with by the emergency powers. That is how hundreds of tradesmen, merchants and some industrialists also were taken to task under those powers. That is how it came not only into ridicule, but into contempt also. That was why Government had to say that they were not going to use it against those people.

Government held a conference with the opposition leaders in the hope that they would agree to the proposed amendment which Government wanted to introduce. But they were disappointed because there was no agreement. Now they say they would not withdraw the emergency powers from 1st July, which they should have done, which all of us demand. But they do not want to withdraw those powers at all. They want to keep it with themselves. It is like a baby learning to walk with a crutch, but even when it no longer needs it, it must hang on to it. That is how Government wants to carry on. With the baby there is some excuse, because he is supposed to be not so much adolescent. But this Government does not seem to raise above those few stages. It wants to hang on to the crutch. Is it only because of its foolishness? No. There is some evil-mindedness behind it. I do not want to blame any particular individual—the Home Minister or Defence Minister. I blame the system in which Government functions. This Government wants to hang on to so many powers. Is it capable of using them? Has it shown by practice in the past that it is capable of using the powers it had in its possession to protect this country from various unlawful and anti-social elements? I have said so the other day and I repeat it. It has failed not on one occasion, but repeatedly to protect the interests of the country whenever it was needed, with the powers it had, even apart from the emergency powers. I do not want to go into further details about it.

Against whom does it want to use these powers. It says, there is trouble in Nagaland. Did the Nagaland people ever care for the liberties and fundamental rights that we have given to ourselves? Would they bother now if these emergency powers are taken? It is not they. It is not even the Mizo Hills people or the Kashmiri people, who are all mentioned here. It is we in the rest of the country who care for the Constitution and who value these fundamental rights, who are hurt and who are angry at the very mention of this term "Emergency" when there is no emergency at all. It is for our benefit or for our trouble that these emergency powers are to be continued. Why should the Government be so angry with the people at large that they want to continue these emergency powers? When the Nagas declared themselves independent and some of them had established an independent Government, did we need this emergency law? When the Mizos were thinking of it, did we need it at all? Did we not find it possible to send our army in order to deal with the Nagas in the manner or to the extent in which we were able to deal with them? We did not need the emergency powers there. Did we need the emergency powers when we sent away the Patnas and other people who came at the instance of Pakistan into Kashmir? Did we not send our army to send them away or drive them away? Were we not able to liberate three-fourth of Kashmir without these powers? Therefore, these powers are not necessary for these purposes. If, however, at any time, as Shri Hem Barua put it, China were to invade our country or Pakistan were to invade our country once again as they did foolishly, unwisely, criminally, in the past, Parliament would not lag behind the Defence Minister or anyone else, or the Home Minister in this country, and in coming forward and asking for these emergency powers. We would be the first to ask for these emergency powers and giving those powers to the Government quite willingly whatever

Government there may be at that time.

Who is to implement these emergency powers? Let us see. It is the State Governments. Even when they were having their own Congress governments in all the States they were not able to prevent those State Governments from misusing these powers. Today, in all the major States, Congress, fortunately for us and for the country, is no longer able to form the government. It is non-Congress governments that are there. It is those non-Congress governments that have got to implement these powers. Supposing they misuse these powers tomorrow against my hon. friends themselves, would there be any redress? Nothing at all. Would the Government of India be able to go and tell them that they should not do it? Supposing they fail to use these powers when a real emergency comes, would they be able to tell them that they are not doing their duty? All that they can do is to dismiss the governments that are there. That is the power that they want to have. In order to dismiss State governments also these powers are not needed. When they dismissed the Communist Government in Kerala, did they need these powers? But it would certainly come in handy if they were to dismiss them, because it is a very convenient weapon. Otherwise, have they been able to come and tell us that they have assured themselves of the willing co-operation of the State Governments in the proper implementation and proper use of these powers? They have not given us that information. Have those State Governments themselves asked for these powers to be given to them, have they asked the Central Government not to keep these powers in their hands and to give it to them so that they may properly implement it? We have not been given that information. Without their cooperation, without their asking for these powers, why is it that this Government want to arm themselves with these powers? There can be only one imaginable reason, and

that is that the Government wants to make use of them some day to get rid of these non-Congress governments.

Do they want to do it? We do not know what they are going to do. How can we believe this Government? I say this for this reason, that then the Communists were there in Kerala, at the time of the last general elections—not this one but the previous one—and the Government thought that the Communists were likely to capture power there, here is my hon. friend, Shri A. K. Gopalan, who is a standing example of what you did to those people there. You put them all in jail hoping thereby to get a majority for yourself, to manufacture a majority for yourself. But, fortunately for the country and democracy, the people of Kerala refused to be cowed down by this Government and they elected these people, Shri Gopalan and all the rest of them. I do not agree with their policy and programme. I am opposed to the Communist Party. But, at the same time, the people there wanted the Communists to be elected and they elected them in spite of the misuse they made of the powers in their hands. In the face of this failure of the Government, in the face of this dishonourable use of powers by this Government in Kerala, how is it possible for me to accept my hon. friend, Shri Chavans personal assurance—it can only be personal and nothing more—that these powers are not going to be misused?

All that I can say is this. We do not need these powers now. I would be the first one to support the Home Minister, whoever may be the Home Minister of the day, and the Government, whatever may be the political colour of that Government, the moment he convinces me, my party and the people in this country that a real emergency has arisen. Let China be foolish enough to invade us once again. She may be armed with Hydrogen bomb and all the rest of it, it would be still foolish for her to invade us if she were to do it. Let

[Shri Ranga]

Pakistan with all the intrigues that she is carrying on with China and other powers try to commit such a foolish mistake, then they will be able to see that we would be by the side of the Government, the whole country would be with the Government and the Parliament also would rise, as we had risen last time, as one man in order not only to give emergency powers but also to give all the rest of the powers that the Government would need and we would also place ourselves at the disposal of the defence forces in order to protect the territorial integrity, the Constitutional Strength and Stamina of our people and of our democracy.

श्री डा० ना० तिवारी: अध्यक्ष महोदय, इस प्रस्ताव के मूवर ने, अफसोस है कि वह इस वक्त नहीं हैं, अपने भाषण में जो कुछ कहा यदि उनके इन्वैटिडन्स की, और सरकार के खिलाफ जो गालियां उन्होंने दीं, उन्हें उनकी भनालिसिस हम लोग करेंगे तो मालूम होगा कि शायद उनमें कोई तनक ही नहीं है। अपनी स्पीच को चुक करते हुए उन्होंने कहा था कि इस हाउस में एक परिपाटी बनती चली आ रही है कि हम लोग ब्यर्थ की बातों पर बहुत बह विवाद करते हैं, जिससे न तो देश का कोई फायदा होता है न इस पार्लियामेंट की ही प्रेस्टिज बढ़ती है। उन्होंने कुछ उदाहरण भी दिये स्वेतमाना भाषि के। मैं भी उनसे सहमत हूँ कि अक्सर हम लोग बेसी बातें करते हैं जिनसे देश का धन तो खर्च होता है लेकिन जिनसे न देश का फायदा होता है और न पार्लियामेंट की प्रेस्टिज बढ़ती है।

अस्तावक महोदय ने तीन बातें कहीं। उन्होंने पहली बात यह कही कि हमें प्रतिरिक्त इमर्जेंसी पावर देना ठीक नहीं है। वह ब्यर्थ है। दूसरी बात उन्होंने कही कि हम को कान्ट्रोलिंग प्रोविदेन्स के खिलाफ

इस्तेमाल किया जाता है और तीसरी बात यह कही कि गवर्नमेंट जब चाहे तब किंग इमरजेंसी पावर लागू कर सकती है। मैं दूसरी बात को ले रहा हूँ कि यह विरोधी पार्टी के लोगों के खिलाफ लागू की जाती है। उन्होंने इसका कोई उदाहरण नहीं दिया कि उसकी पार्टी के किस पुरुष के खिलाफ इसको इस्तेमाल किया गया है।

एक माननीय सदस्य: मेरे खिलाफ यह लागू किया गया।

श्री डा० ना० तिवारी: मैं कह रहा था कि श्री ब आ की पार्टी के किस आदमी पर यह लागू किया गया है यह उन्होंने नहीं बताया। उन्होंने कांट उदाहरण नहीं दिया कि प्रमुख प्रमुख व्यक्ति के खिलाफ विरोधी विचार रखने की वजह से इसका इस्तेमाल किया गया। अगर कोई बसूर करे और उस पर यह लागू हो, उस पर यह कह दिया जाये कि यह विरोधी विचारधारा की वजह से किया गया है, तो इसका कोई जवाब नहीं हो सकता है।

अध्यक्ष महोदय, भाप यह जानते हैं कि जो आफिसर्स इसका इस्तेमाल करने वाले हैं वह भाबिर मनुष्य हैं। कहीं कहीं जंप्लेच हो जाती होंगी, यह मैं मान सकता हूँ और उनको सुधारने का गवर्नमेंट प्रयत्न भी करती है, लेकिन जो भी रिवाज हमारे बार्बर पर है उसको देखते हुए यह नहीं कहा जा सकता कि वहाँ इसकी कोई आवश्यकता नहीं है। हमारे हीन मिनिस्टर ने जो कांफ्रेंस विरोधी बलों के नेताओं की बुलाई थी उस में कटीब कटीब बनी ने यह कबूल किया था कि बार्बर एरिवा पर साक्षर कर पूर्व दिशा की ओर, इस बात की वजह है कि वहाँ पर इमर्जेंसी पावर रहे।

An hon. Member: Question.

श्री D. N. Tiwary: I was in the meeting; there was no question of that.

श्री S. A. Dange (Bombay Central South): Our Party had not agreed.

श्री D. N. Tiwary: That there is need for Emergency was agreed to.

उध वक्त हमारे होम मिनिस्टर यह चाहते थे कि देश के घोर भागों में इमर्जेंसी लायी जाय और केवल वॉर्डर एरिया पर रखी जाये। इसके लिये आवश्यक था कि कांस्टिट्यूशन में संशोधन हो। लेकिन विरोधी दल वाले इस बात को मानने के लिये तैयार नहीं थे। वह चाहते थे कि या तो मनुष्य देश पर लागू रहे या कहीं न लागू रहे। इसमें अब लोगों की एक ही चाल थी कि इसमें बयर्नमेंट की बदनामी हो। जहां प्राथमिकता नहीं दे वहां इमर्जेंसी को लागू करने में बयर्नमेंट बदनाम होगी और जहां जरूरत है अगर वहां लागू नहीं होगी तो वॉर्डर एरियाज पर इमर्जेंसी दिक्कत में पड़ेगी। इसके अलावा और कोई उद्देश्य मेरी समझ में नहीं आया। वस्तुस्थिति यह है कि अगर वह चाहते थे कि सिर्फ वॉर्डर एरियाज पर लागू रहे तो वह इसके लिये तरीका सोचते कि कैसे इसको किया जाये और देश के बाकी हिस्से से इसको पूरी तरह से हटा लिया जाये। अभी मैंने उस बयर्नमेंट को देखा जिसे श्री नि० च० चटर्जी ने मूव किया है। उसमें कहा गया है कि स्टेट्स लिये जायें जिसमें कांस्टिट्यूशन को अमेंड किया जा सके और यह सिर्फ वॉर्डर एरियाज पर लागू हो सके। अगर प्राचीनान वाले राजी हो जायें कि कांस्टिट्यूशन अमेंड हो जाये और वॉर्डर एरियाज पर ही यह लागू हो सके, तो मैं भी होम मिनिस्टर साहब से यः अनुरोध करूंगा कि वह इस बात को मान लें और इस पर इन्सिस्ट न करें कि वह इमर्जेंसी पावरस बयर्नमेंट से रकवें। मैं जानता हूँ कि वह इनको रखना चाहते भी नहीं हैं। लेकिन आज वॉर्डर एरियाज की जो वक्ता है, और प्रायः लोगों ने खुब कहा है कि पीबो

धीर नागालैण्ड के लोग भी कभी पाकिस्तान चले जाते हैं कभी बंदा चले जाते हैं और आज के वेपर्स में भी है कि वे धार्वस वहां से लेकर आ रहे हैं, तो इस स्थिति में यह पावर कैसे न रक्खा जाये? साधारण स्थिति में इसको नहीं रक्खा जाना चाहिये, लेकिन आज भी इस देश में मोरजाफर और जयचन्द खत्म नहीं हुए हैं। वह यहां पर बराबर रहे हैं और आज भी हैं। यह नहीं कहा जा सकता कि आज इन प्रतिभान जैसे लोग हैं जो कि दुश्मनों से मिले हुए नहीं हैं। हम ने देखा है, आज से नहीं बहुत पुराने जमाने से, कि जयचन्द और मोरजाफर इस देश में रहे हैं। आखिर उनको कैसे रोका जाये? देश की सिविलीटी को कैसे बरकरार रक्खा जाये? इस लिये जरूरत है कि इमर्जेंसी उस भान में तो रहे जहां इसकी जरूरत है बाकी भाग में न रहे।

एक माननीय सदस्य : क्या कांसेंस कार्यालय में भी रहेगी ?

श्री डा० ना० तिशारी : हमारे कार्यालय में है या नहीं यह अनुभव दिखना सकेगा। मैं कह रहा था कि यदि विरोधी दलों के नेता लोग देश की भलाई के लिये बैठ कर विचार कर लें होम मिनिस्टर से और ऐसा इंटेंशन जाहिर कर दें कि वह चाहते हैं कि वह वॉर्डर एरियाज के प्रतिरिक्त और जगहों से इसको लिफ्ट करना चाहिये और वॉर्डर एरियाज से नहीं लिफ्ट करना चाहिये तो इस समस्या का हल निकाला जा सकता है। अगर वह ऐसा नहीं करें तो वॉर्डर एरियाज पर रखने के लिये इसको सारे देश पर रखना होगा। इस लिये अगर श्री रंगा साहब चाहते हैं यह जल्दी से जल्दी खत्म हो, तो यह उनके हाथ में है। वह सरकार के हाथ में नहीं हैं। अगर हम लोग कांस्टिट्यूशन को प्रायः अमेंड करना चाहें तो हम नहीं कर सकते। एनेक्टोर्ट ने हमारी संख्या को कम कर दिया है। इसलिये मैं उनसे चाहूंगा कि वह इसमें सहमतता दें कि देश की रक्षा के लिये कांस्टिट्यूशन की

[श्री डा० ना० तिवारी]

अब वह किस चाहे और देखें पावर एमर्जेंस को ही चाहे जिसमें यह बार्बर एरियस पर लागू हो, और वही लागू न रहे।

एक बात यहां पर कही गई कि गवर्नमेंट के हाथ में बड़ी शक्ति है। अगर वह चाहे तो किन कोई कानून बनाये हुए ही किनने बाहर और जबरन ही उन से डील कर सकती है। मैं इस बात को नहीं मानता। जहां बैरी परिस्थिति होती है वहां बैरी बचा भी जाती है। अगर साधारण बीमारी हो तो आहारण बचा भी जाती है। अगर बीमारी गम्भीर हो और उसकी दवा साधारण की चाहे तो रोगी मर जायेगा। उसी तरह से बिना इस तरह से संविधान को संशोधित किये हुए देश की रक्षा नहीं हो सकेगी। आज कहीं कहीं प्रसाधारण स्थिति है, आज कहीं रेलें लूटी जा रही हैं और लोग मारे जा रहे हैं, तो इसके विरुद्ध साधारण कानून का सहारा लेकर हम देश की रक्षा नहीं कर सकते। अगर हमें आवश्यकता है कि नई शक्ति मिले तो वह आपको देनी चाहिये, वह शक्ति सरकार प्राप्त करे ताकि देश की रक्षा हो सके।

Mr. Speaker: I will be able to call a larger number of members to speak on this today, if members take only 20 minutes each.

Shri A. B. Vajpayee: We can extend it by one hour.

Mr. Speaker: That means that we will have to sit upto 7 p.m. Even then, there are so many members in this list. I would request the hon. Members, on this side as well as on that side, to make short speeches giving only their points.

Mr. Vajpayee.

जो बहुत बिहारा, बाजपेयी : संविधान के अनुच्छेद 352 के अन्तर्गत संविधान के निर्माताओं ने व्यवस्था की है कि विदेशी आक्रमण की स्थिति में और देश में आन्तरिक

उपद्रव की दशा में संकटकाल की स्थिति घोषित की जाए। उस अनुच्छेद में यह भी कहा गया है कि यह संकटकाल की स्थिति दो महीने तक रहेगी यदि संसद् उसको बढ़ाने का निर्णय न करे। इससे संविधान के निर्माताओं की मंशा विशुद्ध स्पष्ट हो जाती है। उन्होंने "थ्रू एमरजेंसी" संसद् का उपयोक्त किया है, केवल संकट नहीं, गम्भीर संकट का। विदेशी आक्रमण का संकट और देश में व्यापक उपद्रव का संकट और संविधान के निर्माताओं ने दो महीने का समय भी दिया है।

यह कहा जा सकता है कि अभी जो संकटकाल की स्थिति लागू है उसे संसद् ने पुष्ट किया है। लेकिन क्या पांच वर्ष तक निरन्तर संकटकाल की स्थिति बनाये रखना संविधान के निर्माताओं की मंशा के अनुकूल है? इससे कोई इन्कार नहीं कर सकता कि देश के सामने संकट है। लेकिन हमें संकटों के साथ जीवित रहना सीखना होगा, हमें संघर्षों के साथ लोकतन्त्रीय अधिकारों का उपभोग करने का अवसर देना होगा।

संकटकाल की स्थिति की घोषणा करके हम संविधान द्वारा प्रदत्त मूलभूत अधिकारों को कुछ काल के लिए स्थगित कर देते हैं, कानून के सामने नागरिकों की बराबरी नहीं रहती, सम्पत्ति के अधिकार भी सीमित कर दिये जाते हैं, व्यक्तिगत स्वाधीनता संकुचित हो जाती है और बिना कारण बताये किसी नागरिक को नजरबन्द कर उसे किसी बोर्ड के सामने पेश करना यह भी संकटकाल की स्थिति में बन नहीं पाता।

जब-जब ने आक्रमण विना संकटकाल की स्थिति की घोषणा की गई। सभी विरोधी दलों ने, सारे देश ने उसका समर्थन किया। लेकिन आज विरोध क्यों हो रहा है? कुछ मन्त्री महााध्य को इस पर गम्भीरता से विचार करवा चाहिये। इसका एक ही कारण है कि

देश के सामने संकट तो है, लेकिन संकट की अनुभूति नहीं है, खतरा तो है, लेकिन खतरों की प्रतीति नहीं है। और यह अनुभूति न हासन में है, न प्रशासन में है, न सत्ताकाण्ड दल में है, न जनता में है। जब यह संकट है लेकिन संकट की अनुभूति नहीं है तो फिर कानून से संकट की स्थिति बनाये रखने का क्या लाभ होगा। देश का मनोबिज्ञान बदल गया है और इस मनोबिज्ञान को फिर से बदलने के लिए कदम उठाये बिना संकटकाल की स्थिति को जारी रखना ठीक नहीं होगा।

क्या सामान्य कानून इस स्थिति का सामना करने के लिए पर्याप्त नहीं है जिसकी ओर संकेत करते गृह मन्त्री महोदय अपने वचन से मुकर जाना चाहते हैं? मैं उन्हें वचन बंग का दोषी ठहराता हूँ। जिस दिन नई लोक सभा की बैठक आरम्भ हुई, पहले ही दिन पाकर उन्होंने घोषणा कर दी कि एक जुलाई से संकटकाल की स्थिति देश के केवल कुछ भागों तक सीमित रहेगी। कुछ सोच समझ कर उन्होंने घोषणा की थी। आज वह जिन संकटों को ओर इशारा कर रहे हैं वे संकट नए नहीं हैं। वे संकट उस समय भां पें। हों केवल एक ही नया संकट पैदा हो गया है। वह हमसते थे कि विरोधी दलों का समर्थन संविधान में संशोधन करने के लिए वह प्राप्त कर लेंगे और विरोधी दल उनको अनुगृहीत करने के लिए तैयार नहीं हैं। क्या यह जरूरी है हम सरकार की मदद करें ?

श्री: यशवन्तराव बख्ताब : एमरजेंसी के लिए।

श्री: अज्ञान बिहारी बाजपेयी : आपको हूँ समझाना होगा कि देश में वस्तुतः संकट है और आप उस संकट का निराकरण करने के लिए अधिकार चाहते हैं, और किसी बात के लिए नहीं। क्या भारत सरकार चीनी आक्रमण का प्रतिकार करने के लिए सन्नद्ध हो रही है? क्या हम 1962 में की गई उस पावन प्रतिज्ञा को कि हम तब तक चैन से नहीं बैठेंगे जब तक एक एक इंच भूमि को चीन के बंगुल से मुक्त नहीं कर लेंगे, पूरा करने जा रहे हैं ?

यदि सरकार उस भूमि को मुक्त कराने के लिए कदम बढ़ाये तो हम संकटकाल की स्थिति का समर्थन करने को तैयार हैं। यदि सरकार एक दिखाई जम्हू काश्मीर को मुक्त करने के लिए चागे बढ़े तो हम इस सरकार को असाधारण अधिकार देने के लिए तैयार हैं। लेकिन सरकार इस दिशा में कुछ करना नहीं चाहती देश के प्रति किए गए संकल्पों पर पानी फेंकना चाहती है और सरकार इसलिए अधिकार चाहती है कि एक आक्रांता है नया आक्रमण होने वाला है। क्या यह आक्रांता उस दिन नहीं थी जिस दिन सदन में घोषणा की गई थी कि एक जुलाई से संकटकाल की स्थिति को कुछ क्षेत्रों में सीमित कर दिया जाएगा? यदि उस दिन यह कल्पना नहीं थी तो मैं कहूंगा कि यह सरकार की भ्रूणवधिता है, यह सरकार अपनी नाक से चांगे देखने की क्षमता नहीं रखती है। चीन और पाकिस्तान के आक्रमण वा संकट उस समय भी था। वह संकट आज भी है। लेकिन किसी सम्भावित संकट की आशंका से हम अपने नागरिकों को अनन्तकाल तक मूलभूत अधिकारों से वंचित नहीं कर सकते हैं। जैसा अभी कहा गया यदि देश पर कोई आक्रमण होगा तो सरकार पुनः संकटकाल की स्थिति घोषित कर सकती है। संविधान ने उसे अधिकार दिया है और उसे देश का स्वेच्छा से सहयोग मिलेगा। अगर कुछ तत्व उस मार्ग में बाधक बनेंगे तो हम उनका साथ नहीं देंगे। राष्ट्र की सुरक्षा सर्वोपरि है। लेकिन आज हमें राष्ट्र की सुरक्षा को लोकतांत्रिक अधिकारों के साथ मिलाना होगा।

17 hrs.

गृह मन्त्री महोदय कहते हैं कि कुछ क्षेत्रों में संकटकाल की स्थिति रहेगी मूलभूत अधिकारों का स्थगन होगा और शेष भारत में पूरी छूट होगी। अध्यक्ष महोदय संकटकाल को कुछ क्षेत्रों तक सीमित रखने और शेष भारत को संकटकाल की स्थिति से निकालने के हम लोभ मूलभूत रूप से विरोधी हैं। यह संकट कौसा है जो देश के एक भाग में है लेकिन दूसरे भाग में जिसकी अनुभूति नहीं होती। यह

[श्री भटल बिहारी बाजपेयी]

संकट कैसा है जो सम्पूर्ण देश पर नहीं है? क्या जम्मू काश्मीर का संकट शेष भारत का संकट नहीं है? क्या असम पर चीन का प्रहार सारे देश की प्रभुसत्ता पर, देश की अखण्डता पर देश की स्वाधीनता पर प्रहार नहीं है? यदि हम एक राष्ट्रियता की कल्पना में विश्वास करते हैं और काश्मीर से लेकर कन्या कुमारी तक सम्पूर्ण राष्ट्र को कब्जे से कब्जा लगा कर खड़ा करना चाहते हैं तो संकट यान को कुछ क्षेत्रों में सीमित रखने की कल्पना भ्रामक है। यह कभी घातक सिद्ध हो सकती है। इसका त्याग करना देना चाहिए।

प्रथम महोदय, हमारी सरकारों के पास पर्याप्त अधिकार हैं। गृह मन्त्री महोदय, मायद सन्तान की स्थिति को जम्मू काश्मीर पंजाब, आन्ध्रप्रदेश, मेघालय और बंगाल तक सीमित रखना चाहते होंगे। चाहते होंगे का प्रयोग मैं जान-बूझकर कर रहा हूँ क्योंकि उन्होंने अभी तक अपना इरादा बताया नहीं है। चीन से सेंसिटिव एरिया है? अगर वह क्षेत्र नहीं है जिनका मैं उल्लेख कर रहा हूँ तो क्या यह सच नहीं है कि इन राज्यों की सरकारों के पास किसी भी स्थिति का सामना करने के लिए पहले से पर्याप्त अधिकार हैं? पब्लिक सेफ्टी और सेक्यूरिटी ऐक्ट है। क्या जम्मू काश्मीर में अधिकार नहीं हैं सरकार के पास? क्या बिहार में पब्लिक सेफ्टी अधिकार काम नहीं कर रहा है। क्या पश्चिमी बंगाल में पब्लिक सेफ्टी ऐक्ट नहीं है मेघालय के लिए और नागालैंड के लिए यह सरकार पहले से विशेषाधिकार ले चुकी है। लेकिन इन अधिकारों के बाद क्या हो रहा है 7 जून को जम्मू काश्मीर में क्या हुआ? श्रीनगर में क्या हुआ? मैं उन घटनाओं में जाना नहीं चाहता, देश में संकट की स्थिति है। शासन के पास अधिकार भी हैं। अगर श्रीनगर में 7 जून को निर्धारित असाधे गए। महिलाओं का अपमान किया गया। नेताज कामरेड्स की एक बीप को धमकाया गया। किसी के खिलाफ कार्यवाही नहीं की गई। आप अधिकारों और कार्यवाही न करें

तो अधिकार लेना व्यर्थ है और आप अधिकारों से और उनका दुरुपयोग करें तो अधिकार देना घातक है। दोनों दृष्टियों से देखिए इन असाधारण अधिकारों की आवश्यकता नहीं है।

क्या इस बात से इनकार किया जा सकता है कि भारत सुरक्षा अधिनियम का दुरुपयोग किया गया? जासूसों को पकड़ने की बात समझ में आ सकती है, मगर इसमें विशाखा पकड़े गए, सरकारी कर्मचारी गिरफ्तार किए गए व्यापारियों को बन्दी बनाया गया। महाराष्ट्र में एक प्रेम विवाह को रोकने के लिए डिफेंस आफ इंडिया क्लस का उपयोग हुआ था। गृह मन्त्री महोदय महाराष्ट्र के आते हैं इसलिए इस घटना को भूले नहीं होंगे। जिन को अधिकार दिया उन्होंने अधिकारों का दुरुपयोग किया। इसलिए अब वे अधिकार लेने के अधिकारी नहीं हैं। जिन सीमावर्ती क्षेत्रों में गृह मन्त्री महोदय आपतकाल की स्थिति सीमित करना चाहते हैं वहां पर्याप्त अधिकार है। सामान्य कानून स्थिति का सामना करने में समर्थ होने चाहिये, और अगर वे समर्थ नहीं हैं तो फिर जो उस कानून का उपयोग करते हैं उन में कोई दोष है या यदि कानून में स्वयं कोई दुर्बलता है तो उस को भी दूर किया जा सकता है। हम इस प्रकार के किसी भी प्रश्न पर विचार करने के लिए तैयार होंगे कि नागरिकों के मूलभूत अधिकारों का दमन या स्वयं किये बिना देश पर घाने की संकट का सामना किया जा सके। इस के लिए सरकार अधिकार चाहती है तो वह ठीक प्रस्ताव लेकर आये। उस के गुण व दोषों का विचार कर के हम निर्णय करेंगे। लेकिन हम सतर्क के अधिकार देने के लिए तैयार नहीं हैं जिन अधिकारों का दमन दुरुपयोग नहीं कर सका और जो अधिकार आप की स्थिति में आवश्यक भी नहीं दिखाई देते।

उपाध्यक्ष महोदय, एक बात और। मैं ने कहा कि देश में संकट है। अगर संकट की अनुभूति नहीं है। वह अनुभूति देश में

बैधा करनी होगी। नहीं तो प्राप जो भी कदम उठाएंगे वह कलत समझा जायगा। उसे राजनतिक दृष्टि से विकृत रूप कर के पेश किया जायगा। आखिर सरकार अधिकार लेकर राज्य सरकारों के द्वारा ही उस को घमल में लायेगी। नक्सलवादी का नाम बार बार लिया जाता है। आज एमर्जेसी है, विमोचक अधिकार भी हैं लेकिन पश्चिमी बंगाल की सरकार अगर उन विमोचक अधिकार का उपयोग करने के लिए तैयार नहीं है तो गृह मंत्री महोदय क्या करेंगे? आखिर अधिकार जो लिए जायेंगे उन का उपयोग राज्यों की सरकारों को करना होगा और राज्यों की सरकारें आज तैयार नहीं हैं। गृह मंत्री महोदय को अभी यह बताना बाकी है कि कितने मुख्य मंत्रियों में उन्होंने विचार विनिमय किया? कितने मुख्य मंत्री संकटकाल की स्थिति बनाये रखने के उन के प्रस्ताव से सहमत हैं। पहले मुख्य मंत्रियों के साथ चर्चा का बड़ा जवाबदार हवाला दिया जाता था। आजकल गृह मंत्री महोदय मुख्य मंत्रियों की चर्चा नहीं करते। क्यों नहीं करते? आखिर मुख्य मंत्री भी जिम्मेदार हैं। उन्हें भी मॉड का स्थिति की अनुमति होनी चाहिए। उस के अनुसार कार्य करने को उन की सिद्धना होनी चाहिए। अगर यह सिद्धना नहीं है तो नई दिल्ली में बैठकर आजाधारण अधिकारों का उपयोग समस्याओं को सुलझाने के बजाय और उतसायेगा। मैं गृह मंत्री महोदय से कहना चाहता हूँ कि वह फिर से विचार करें। अभी 1 जुलाई में कुछ दिन बाकी हैं। संकट काल की स्थिति खत्म कर दें और यदि फिर वास्तविक संकट काल पैदा होना है तो सारा देश उन का समर्थन करेगा। अन्यथा वास्तविक संकट काल में भी वह देश को जगा नहीं सकेंगे लोगों का समर्थन नहीं पा सकेंगे। अन्यथा।

Shri Seshyan (Kumbakanam): Sir, I support the motion brought forward by Mr. Hem Barua as amended by the 965 (A). LSD-8.

other Members of the House demanding that the emergency should be lifted from the 1st of July. The Home Minister made a solemn declaration on 18th March that the emergency would be lifted from 1st of July. That statement contained only three sentences. He has now produced a very long statement asking the House and the outside world that due to various reasons the emergency has to be continued. He has mentioned in the statement that the proposal to amend the constitution did not meet with the approval of the opposition parties and so he has decided not to introduce the amendment. I highly appreciate the democratic spirit of the Home Minister.

Shri Ranga: He is helpless.

Shri Seshyan: This high sense of democratic spirit has come to him not out of moral strength but out of the numerical strength. In the case of the passports Bill, the entire opposition parties opposed that Bill. If Government had the same democratic spirit, they should have dropped that Bill. But where they could push through a Bill, with their own majority, they do so. But where they require the opposition votes, they assume a different posture.

There are two points in the amendment proposed by the Government. First they want to limit the operation of the emergency to certain areas. Secondly, they want to indemnify the Government servants for acts done during the emergency. Once the emergency is lifted without doing this amendment, hundreds and thousands of damage suits will go to the court in respect of the past mistakes. They want to avoid that and that is why they want to continue the emergency. They perpetuated and perpetrated these acts and they should be prepared for the consequences. If their conscience is clear and if they think that they used the emergency powers with restraint and only in the interest of the country, they should not be afraid of the damage suits. Because their

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conscience is not so clear and they are afraid of their actions, they do not revoke the emergency. They say there is the threat of arrogant China and aggressive Pakistan and hence the emergency should be continued. I think that it was Prime Minister Nehru who said that the Chinese danger was going to be with us there for thousand years. Are you going to have this emergency also for thousand years to come?

An hon. Member: Thank God, Congress will not remain for thousand years.

Shri Seshyan: The Defence of India rules and the emergency powers—have become part and parcel of the daily life of India? These powers have been misused to a great extent. I want to apprise Members of the implications of the emergency. The combined effect of the proclamation of emergency issued by the President under articles 352 and the Presidential order under article 359(1) of the Constitution is that all rights under article 19(1) remain suspended and secondly, any citizen who had been affected by the suspension of article 19(1) is debarred from approaching any court for redress under articles 14, 21 and 22. Even if a person has been detained, he cannot file a petition for writ of habeas corpus before a court. Therefore, once you put a citizen behind the bars under the emergency powers, you not only deprive him of all the fundamental rights, but also deny him any right of approach to the court. These two things are very bad.

Mr. Tiwary speaking on the other side, said that instead of talking in vague terms, we should give some concrete cases where these powers have been misused and abused. I can give hundreds of cases. There are eminent people here who have been affected by these powers. I can also quote many case-laws where it has been specifically said that the Government have misused the powers given to them under the emergency regulations.

Justice Bedi of the Punjab High Court, in delivering a judgment on 22nd November, 1965, said:

"If the police for one reason or the other could not get them convicted adequately under the law of the land, it did not mean that they should resort to the emergency powers."

This has been said by a high court judge in disposing of a case. Therefore, if you do not like Mr. Gopalan or anybody else, you simply apply the emergency powers and put him inside the jail. It is wrong, because you do not bring him before the proper forum under the law of the land.

Mr. M. C. Stealvad, an eminent jurist of this country, and who was also the Attorney-General had this to say:

"In substance, the executive has taken advantage of the Chinese aggression to constitute itself into what may be called a constitutional dictatorship."

This has come from the mouth of an eminent jurist.

I can quote still higher authorities. Mr. Justice Tarkunde of the Bombay High Court, while delivering a judgment and disposing of a case on 9th December, 1966, said:

"It would not, in our view, be an exaggeration to say, if ours was a police State, and we had never heard of democracy and rule of law, orders passed in such a case would not have been more arbitrary and oppressive than the orders with which we are dealing."

Therefore, all norms of democracy have been stifled through these powers. The Chief Justice of India, Mr. P. B. Gajendragadkar, while delivering a learned judgment on 18th February, 1966, said:

"We wish to add that when we come across orders of this kind by

which citizens are deprived of their fundamental right of liberty, without a trial on the ground that the Emergency proclaimed by the President in 1962 still continues and the powers conferred on the appropriate authorities by the Defence of India Rules justify the deprivation of such liberty,.... that even during Emergency, the freedom of Indian citizens cannot be taken away without the existence of the justifying necessity specified by the Rules themselves. The tendency to treat these matters in a somewhat casual and cavalier manner which may conceivably result from the continuous use of such unfettered powers, may ultimately pose a serious threat to the basic values on which the democratic way of life in this country is founded."

He went on to say:

"It is true that cases of this kind are rare: but even the presence of such rare cases constitutes a warning to which we think it is our duty to invite the attention of the appropriate authorities."

Therefore, high court judges, Supreme Court judges and many other eminent jurists of our country, have declared themselves against this abuse of powers vested under emergency. Even the Minister—the then Minister of Law, who was responsible for piloting the measure in this House in 1962—Mr. A. K. Sen. when he was no longer a Minister and became an ordinary Member like us, has said, in 1968:

"The emergency must be withdrawn because the purpose for which it was introduced did not exist any more."

I have quoted many jurists of eminence from inside the country. Shall I now proceed to quote from eminent jurists outside the country? The International Commission of Jurists, in

their last quarterly bulletin published on 1st March this year, have said as follows:

"... till now India has been regarded as a bastion of democracy and a champion of the rule of law in Asia. But emergency legislation permitting protective detention and depriving detainees of safeguards and legal remedies—introduction in 1962 because of threats from China—is still in force although the situation has returned to normal."

They have also stated:

"Continued suspension of fundamental constitutional rights in India has aroused growing anxiety throughout the free world about the country's future."

That is what the International Commission of jurists have stated in their last quarterly bulletin. How tarnished the image of India has become in the eyes of the international jurists.

I can meet the argument whether Government have got enough powers to deal with these things in their present structure of statutes. This has been analysed by the Home Ministry itself. In the *Hindustan Times* dated 2nd August, 1966, the Government's opinion has been expressed as follows:

"A study by the Home Ministry reveals that the provisions of many State Acts relating to public security or safety are so comprehensive that there is practically no contingency bearing on security which is under the Defence of India Rules and which is not under the Security Acts."

Mr. Nanda seems to have written a letter to all the Chief Ministers and

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that has been referred to in the paper:

"In a letter addressed to the Chief Ministers early this year, Union Home Minister G. L. Nanda said:

"I understand that with two or three exceptions, the States have public security laws, under different designations, which supplement the provisions of the IPC, Cr. P.C., etc. I believe that with the possible addition of some provisions, those laws would prove adequate for the maintenance of public order and public safety without involving denial or abridgment of the fundamental rights."

If the Home Ministry is satisfied that the States have enough powers under the existing Acts, why do they want to continue this emergency? As I said, misuses and abuses have been carried too far.

They require continuance of emergency not because there is threat of aggression from outside. To meet aggressions from outside, we are all prepared to the last man. But here is a calculated aggression by the ruling party on the fundamental rights of the countrymen. There is an emergency not so much due to any enemy across the border. But there is an emergency for themselves. There is emergency for their constitutional dictatorship; there is emergency for their police state, there is emergency for their regime—a regime with a black past and a bleak future. For that emergency, they want to continue this one. Therefore, I support the amendments moved here and demand that from 1st July the emergency should be lifted, for their own good and for the good of the country.

Shri Krishna Kumar Chatterji (Howrah): Sir, I rise to oppose the substitute motion before this House to lift the emergency. I feel amazed to see that some of my hon. friends on

the other side are living and breathing in an atmosphere of unreality and artificiality. Shri Hem Barua, a man of poetic disposition, has built a paradise of his own to live in. But we are men of the soil of India; and we know the reality of the situation and we cannot be complacent about it. It would be a present unto them if I present through you some news item appearing today in the *Times of India* . . . (Interruptions).

Mr. Speaker: That is not proper. The speeches of the opposition leaders were listened to in pin-drop silence. He has also a right to speak. You may not agree with him, but you cannot go on interrupting.

Shri Jyotirmoy Basu (Diamond Harbour): I have got one submission.

Mr. Speaker: I would only say I am very unhappy.

Shri Krishna Kumar Chatterji: A little while ago, an expert in military strategy on the other side has been convincing the House that we are in a state of war. Sir, I was almost convinced that a state of war had begun although we are living in peaceful conditions. From the same side now we are told that there is no necessity of an emergency. I will read out a news item to the House and then my hon. friends will perhaps realise what kind of a danger India is facing today. This news comes from Jammu where it is said:

"The Pakistani authorities are reported to have pushed about 10,000 persons towards the cease-fire line in the Poonch-Rajouri sector with a view to sending them clandestinely to the Indian side.

Most of them migrated to Pakistan-held areas during the 1965 conflict and had been camped at Khoratta, Samalla and other places.

A number of these persons are stated to have been given training in guerilla warfare."

There is another news item that has appeared in the same newspaper. It is a disturbing news item where it is said:

"The 'uneasy peace' prevalent now in disturbed Naxalbari, Kharabari and Phansidewa is considered to be a 'tricky' one by informed circles. . . . Extremist leaders are reported to be harping on the police firing of May 25 in which ten people, including women and children, were killed, to keep up the tempo of the agitation and rouse further the sentiments of their followers in preparation of 'the second phase of the struggle'.

Some leaders are reported to be engaged during this 'ull in arming themselves and perfecting their communication system. This system reportedly consists of couriers and sound signals and is being worked in the troubled areas from one end to the other. This means that in case of a police action in any part of the three areas, the 'comrades' all over will come to know of it immediately. The extremist leaders are reported to have already instructed their followers to resist police action."

There is one other news item that has appeared in the newspapers. It was propagated that the Chinese are being deported from Nepal. There was a demonstration by Chinese elements in that part of the country in spite of the Nepal Government's forbidding them to do so. Therefore, the danger is there. . . ."

Shri Jyotirmoy Basu: Sir, I rise to a point of order. I refer you to rule 356. Under this rule what the hon. Member is saying is not relevant here. What has something happening in Nepal got to do with our emergency here?

Mr. Speaker: There is no point of order.

Shri Krishna Kumar Chatterji: Sir, the Naga question, the Mizo problem and all those problems are there. A friend of mine had been to the Sikkim border recently. I am taking the House into confidence. He had been there on a personal mission. He found quite a large number of Chinese army men concentrated on the Sikkim border. Sir, we in West Bengal are living in a state of consternation and cannot afford to ask the Home Minister to lift the emergency. I am one of those who had been a security prisoner during the British regime. Then we were fighting for our independence and today we have to fight for preserving that independence. Therefore, I feel that the emergency should be there under the conditions prevailing now. We have to prevent external aggression and internal sabotaging. I must congratulate the hon. Home Minister for the commendable restraint that he has shown by limiting these emergency powers to certain areas only. A few minutes ago my hon. friend, Shri Hem Barua said that Indian Ministers are cubs. But Indian soldiers are not cubs. They can fight out our enemies. Our policemen and military men are not cubs. Even if the ministers are cubs, our policemen and military men can fight out aggression. That is why these emergency powers have to be there. If it is to be lifted the Minister must be satisfied that there is no danger to the security of our land. (*Interruptions*).

Shri Hem Barua: Sir, I did not say that the Indian ministers are cubs. I said that the nuclear teeth of the Chinese tiger have become long enough to reach the Indian calf.

Shri S. A. Dange: Mr. Speaker, Sir, I oppose the statement made by the Home Minister on continuation of Emergency and I support the motion which demands that Emergency be terminated. That is the general content of all the substitute motions that are before the House.

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Now, the case made by the Home Minister really does not seem to be a case for the continuation of Emergency. The real reason which he has in his mind perhaps for the continuation of Emergency is not revealed by him because if he takes his stand on that, he may perhaps lose all the moral support he can get by putting forward the reasons he has given.

What is continuation of Emergency? I think, we all agree on one point that Emergency suspends fundamental rights and as such converts a democratic Constitution into a Constitution of dictatorship—you may precede it by the word 'constitutional' or you may say, it is a dictatorship—and all the quotations given by my friend over there will prove that it has now become a police State. I do not know whether the Congress Party which still claims to adhere by democracy would like the description of that State which they are running, as a police State.

The reasons given here are something like these; that there is China there which once invaded us, that there is Pakistan there which invaded us, that their armies are there which might do something, that now China's hydrogen bomb has come and, along with hydrogen bomb, there is a red book of quotations of Mao Tse-tung and that the hydrogen bomb is hanging in the air over Tibet and somewhere else. It is said: Are these not sufficient reasons for continuing Emergency inside India? Does the Home Minister assure me that continuation of Emergency is an antidote to hydrogen bomb, that continuation of Emergency is an antidote to Chinese army, and that continuation of Emergency is the best weapon to fight Pakistani aggression? I wonder if Emergency is considered by him as a sort of military force of such a mighty power that the Indian army is proved useless and that his emergency and the policy of arresting innocent men and putting them in jail, is the most effective mea-

sure of fighting aggression from outside. But, I think, he does not take that ground perhaps and his real reason is different; one he has suggested and one he has not suggested.

His real reason is his continuing war against the tribals. The Mizo tribals are mentioned; the Naga tribals are mentioned; the Tripura tribals are mentioned; some tribes in Assam are mentioned. That means this police State has to continue war against the tribals within the framework of the Emergency and that means the Government of India has come to the conclusion that the tribal problem can never be resolved except by military means and even then that is a question mark. Is that the political standpoint of the Congress Party that the Naga problem will be resolved by Emergency or that the Mizo problem will be resolved by Emergency or that Assam tribes' problem will be suppressed by Emergency? If that is so, then we say, we are opposed to the continuation of Emergency on anyone of these. This war against the tribals must be stopped. Military operations against the tribals is not the solution of their problem. They accept his in words but not in deeds. They are not able to carry it out.

Then, about the powers of Emergency, a tribal delegation of Nagas whom they declare hostiles, is given all the wonderful facilities to go to London and come back and they, the underground Nagas, are allowed to meet the Prime Minister with immunity from Emergency. Is that a policy or a bankruptcy of policy? I do not mean that they should not be allowed to go to London. By all means, allow them to go to London; by all means, see them here in New Delhi. But, I say: they have created the problem of the Nagas and they have worsened it. They have allowed Michael Scott, a British agent, to strengthen Naga rebellion and now they blame China for their going to China. They have allowed Michael Scott to strengthen

their hostile acts against the Government of India and this country. They have permitted him to deal with the settlement of the Naga problem despite giving them an autonomous State. You give an autonomous State to Goa, to six lakhs of people, but you cannot give an autonomous State to six lakhs of tribals of Assam, Mizo tribals and others. Why can't you convert them into self-governed autonomous States under the Constitution and solve the problem? Instead of solving the problem in a most democratic way, satisfying the Nagas' demand, satisfying the tribals' demand, they want continuation of Emergency because 3½ Nagas went to China and brought back 2½ guns. That is not the way of solving the Naga problem. It should not be the ground on which you should come before this country and say that you cannot deal with about five million tribals and, therefore, 500 million Indian people must be deprived of their fundamental rights. A wonderful solution of the most democratically conceived Ministry that we are told it is, that 500 million people's democratic rights are suppressed because they cannot solve the problem of 5 lakhs or 5 million Nagas, which is a simple thing. That shows to what depth of degeneration the concept of democracy has come and to what height of police Statehood they have risen. Therefore, on such reasons, you, Congressmen, should feel ashamed to back this standpoint of the Home Minister, you sanction the Emergency against tribals, military preparations, though you can solve the problem in a simple way. You are letting loose the contractors, the forest contractors; bankers and money lenders who are ruining the tribal economy and then when there is a revolt, you say, "no, Emergency will be enforced" and when they go and see somebody there, then they say, "Emergency is not against you, but against the 500 million people of India. They must live under dictatorship because we cannot silence them. What a fantastic logic you, gentlemen, are observing, I do not know. This loyalty to your Government will lead you to ruin. I cannot

be sorry for it, but then the "ruin" should be properly organised at least.

Mr. Speaker: The hon. Member is expected to address the Chair.

Shri S. A. Dange: Not your ruin, Sir.

Mr. Speaker: The hon. Member was addressing the Congressmen.

Shri S. A. Dange: Now the real thing is this. The Congress leader there who just spoke has really done disservice to his Government and his Party. He has really revealed the real reason for the Emergency that is Naxalbari. That is why I was asking my friends to keep quiet and allow him to talk. In some ten sq. mile area, 200 Adivasis were deprived of their land, and they were thrown out by Jotedars and the Adivasis do not know the intricacies of the Supreme Court judgment or the pleadings in the High Court and so on. They simply say, "if you take my land, I will come back and take that land" and when they go back, your wonderful heroes shoot ten women down and then you come round and say, "since they are not suppressed by the murder of ten women and two children, we shall now proclaim Emergency due to Naxalbari". That is the justification given. I hope you will disown it perhaps; I do not know; you may not, but that is the real reason. They are creating havoc in the country as though one little spot in the Naxalbari area is out to overthrow the whole Indian empire and the whole Indian Government and, therefore, the Emergency should be continued. Actually the reason is well stated. Generalised, it means that the Congress Party is not now hopeful of continuing its misrule by ordinary methods and, therefore, they must suspend the fundamental rights and the fundamental rights and the Constitution and continue the Emergency by which alone they can live and rule.

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this country. That is the real meaning of his demand for continuing the Emergency. Therefore, they are conspiring first against that strong West Bengal Government, that popular Government, which they hate most because there foreign capitalists are concentrated, there the highest monopolies are concentrated, it is the seat of Birla empire that is being threatened, there the big jotedars are still intact, there the revolt being the acutest they want to suppress it by the continuation of the Emergency. They are not only doing it surreptitiously, but here it is said:

"The United Front circles here doubt the propriety of the speech of the West Bengal Governor, Mr. Dharma Vira, made to District Magistrates and Superintendents of Police."

What a logic. Under the framework of the Constitution, a Governor goes to a State. It is an accepted principle....

The Minister of State in the Departments of Parliamentary Affairs and Communications (Shri I. K. Gujral): The contradiction has come in the papers.

Mr. Speaker: He says that the contradiction has come.

Shri S. A. Dange: Then, please lay it on the Table.

Mr. Speaker: He says that it has come in papers.

Shri S. A. Dange: I am not going to accept his words. (Interruption).

Shri I. K. Gujral: The contradiction has come in the papers.

Shri S. A. Dange: We know that this is being done. I am speaking from personal knowledge that these Police Superintendents and District Magistrates are asked to defy the orders of the Ministers because the Governor is the supreme authority. But under the Constitution the Governor has to act within the framework of the advice of

the Ministry and cannot go over their heads. But if such advice as we have seen is being encouraged, it means that my hon. friends opposite are fomenting a revolt of the State Police, within the very Constitution with the which they are supposed to be governing, through directives of their Governor calling upon the superintendents of police to defy the Ministers. Therefore, a sort of contradiction is being deliberately developed in order to suppress this Ministry and the non-Congress progressive Ministries for carrying out their task in favour of of the people.

Not once has the emergency in five years been used against the black-marketeers. When about two hundred blackmarketeers were arrested once by Shri Nanda, they were released after 36 hours with an apology with folded hands and an astrologer to help. This was the fate of the emergency action against the blackmarketeers. Thousands of political workers are being put in prison; my hon. friend Shri A. K. Gopalan will confirm me when I say this. Even now, strikes are being suppressed. Even in a strategic plant like the Bhilai plant, today demands are being refused and security guards are beating up workers, and arrests are being made, and the union secretary and others are being put into jail in the name of emergency and all that. Whose aggression is it? Are they fighting an internal disturbance? Yes. They are fighting an internal disturbance in a collapsing economy, governed by the Birla empire and the monopolists; it is the aggression of the Birlas which they are supporting by continuing the emergency. Under the emergency 7000 licences have been given, under the emergency there has been vast accumulation of wealth; under the protection of the emergency garnering of foodstuffs etc. has been going on, but not once was the emergency used in order to denounce these black acts, and all the time only strikers, peasants and workers and political parties have been.

victimised. Is that the justification for continuing the emergency?

They are trotting out the names of China and Pakistan. But they are trotting out these names just to humbug the people. Their main desire is to perpetuate an undemocratic rule, to support the monopolists, to continue a police State and thereby preserve the class power of monopolists and landlords. May I request them to please reconsider their decision? This is not going to help. This is not going to help in solving the Naga problem; this is not going to help in solving the strikers' problem; this is not going to help in solving the problem of scarcity and the financial disaster that is in front of them. The emergency has also a clause called financial emergency. Therefore, I would request the Congress Party to be more careful. It is not a question of one party only. It is not a question of emergency against 500 million people and of suppressing their fundamental rights and raising a police State in the name of democracy of the Indian people.

Mr. Speaker: At this rate, we may not be able to finish this debate even by 7 p.m. If 20 or 25 minutes are going to be taken by the leaders, then we do not know how long this could go on; after all, there must be some time-limit at least by 6.30 p.m. or some such time, we must agree to conclude the debate. Suppose only five or six Members get opportunities to speak and the other people do not get a chance to speak, that would not be proper. Shri Humayun Kabir has sent in his amendment and so also has Shri Frank Anthony and I would like to call both of them. Hon. Members may be very brief so that I could give some chance to the other Members also.

श्री मधु सिन्घे : 15 मिनट सीजिये ।
इस से अधिक समय मत दीजिये ।

अध्यक्ष महोदय : 15 मिनट देने से
जी काम नहीं चलेगा ।

If I were to call all the Members, then it may even be 9.30 p.m. I have got so many names in the list before me and it includes Congress Members also. I would request hon. Members to be very brief.

Shri S. M. Banerjee (Kanpur): Let us continue this debate tomorrow.

Mr. Speaker: Tomorrow, something else which is more important may come up. So, how could he say that this should be dragged on to tomorrow? Now, Shri Fernandes.

श्री जार्ज फर्नेन्डिस (बम्बई-दक्षिण) :
अध्यक्ष महोदय, जब यह प्रस्ताव यहां पर आने वाला था तब कॉन्स्टिट्यूट ड्रेसम्यली ने जो संविधान पास किया था और उस वक्त उन पर जो बहस हुई थी संविधान को मंजूर करते वक्त, उस को मैंने देखने की कोशिश की। संविधान बनाने वाले लोगों ने, सिर्फ कॉन्स्टिट्यूट ड्रेसम्यली के सदस्यों ने नहीं बल्कि डा० अम्बेदेकर जैसे लोगों और उन के अन्य साथियों ने, जिन के द्वारा काफी मेहनत इस संविधान को बनाने में की गई, इस संबंध में क्या कहा है उस को निगट करके भी मैंने देखा। एक महत्वपूर्ण शायद ही कॉन्स्टिट्यूट ड्रेसम्यली में कहने में आया था जबकि इस एमरजेंसी पावर के ऊपर बहुत से माननीय सदस्यों ने बहुत विरोध किया था वह यह था :

"This emergency provision is merely intended to meet one purpose, viz. that all our efforts all these years spent in constitution making may not go in vain and those people who wield power in future will be adequately empowered to save the Constitution".

आगे जाकर अध्यक्ष महोदय, यह कहा गया :

"I would ask the House to consider this chapter as a sort of safety valve which is intended to save the Constitution".

[श्री बाबू हरनेश्वर]

इससे यह विस्फुलक साफ हो जाता है कि संविधान के संरक्षण के लिए एमरजेंसी वाला कालम जोड़ने में धाया था। जब क्राफ्टिंग कमेटी ने संविधान को बनाया तब ऐसी योजना थी, तब ऐसा उसने लिखा था कि प्रोक्लेमेशन होने के बाद से छः महीने तक वह प्राक्लेमेशन जारी रहे, एमरजेंसी छः महीने तक के लिए जारी रहे। लेकिन जब संविधान को मंजूर करने का वक़्त आया तब संविधान बनाने वालों ने यह उचित समझा कि छः महीने तक ये विशेष अधिकार सरकार के हाथ में या राष्ट्रपति के हाथ में ही देना ठीक नहीं होगा। उन्होंने छः महीने के बजाय दो महीने करवा दिया। 310 प्रम्बोदक साहब का उस वक़्त का यह वाक्य था :

"The second change that is introduced in sub-cl. (c) of cl. 2 is that originally it was provided that the proclamation shall cease to operate at the expiration of six months. It is now proposed that it should cease to operate at the expiration of two months. Six months was felt to be too long a period".

इस सब को बतलाने का मेरा मंज़ा यह है कि आपका पता चल सके कि संविधान बनाने वाले लोगों के मन में क्या विचार था। उनका विचार यह था कि सरकार या राष्ट्रपति का ये विशेष अधिकार कम से कम कब तक के लिए दिये जायें और इसके में इस किस्म की संकटकाल की परिस्थिति कम से कम समय के लिए जारी रखी जाए। यह उनका उद्देश्य था।

राष्ट्रपति के हाथ में होनेवाला वह अधिकार रहता है और इस एमरजेंसी को धरत आज़ हम हटा देने का भी विचार करते हैं। तो कलकत्ता सर्वे यह नहीं है कि हमारे गृह-मंत्री

या हम राष्ट्रपति के अधिकार को हटा रहे हैं। [धरत संकटकालीन परिस्थिति इस संविधान के अन्तर् लिखी हुई परिस्थितियों के अनुसार कल को या परलों की या सात दिन में या साठ महीने में फिर से राष्ट्रपति जी को नजर आती है तो राष्ट्रपति जी के हाथ में फिर भी अधिकार कायम रहता है कि संकटकालीन स्थिति को वह फिर घोषित कर दें।

अध्यक्ष महोदय, गृह मंत्री जी ने जो कुछ भी इस एमरजेंसी को जारी रखने के पक्ष में कहा है, जो कुछ भी दलील दी है, उन में मैं कोई बचक नहीं पाता हूँ और मैं उचित नहीं समझता हूँ कि इस संकटकालीन परिस्थिति को जारी रखा जाए। गृह-मंत्री जी यह कहते रहे हैं कि जूनार्द महीने में इस संकटकालीन परिस्थिति को समाप्त कर देंगे। जब उन्होंने यह घोषणा की थी उस वक़्त जो राष्ट्रीय और अन्तर्राष्ट्रीय परिस्थिति की वह गवर्नमेंट के सामने थी और आज की जो राष्ट्रीय और अन्तर्राष्ट्रीय परिस्थिति है वह भी उस के सामने है। मुझे तो इन दोनों में कोई खास फर्क दिखाई नहीं देता है। अखबारों में हम पढ़ रहे हैं कि नवम्बर दिसम्बर तक अब यह नई परिस्थिति चलने वाली है। हो सकता है कि गृह-मंत्री जी यह कहें कि मैं ने यह बात नहीं कही है कि दिसम्बर में या नवम्बर में फिर से इस पर विचार होगा। लेकिन हमारा यह अनुभव है कि जो भी बीच गृह-मंत्री जी इस सच में कहना चाहते हैं उसको यहाँ पर न कह कर या न कह पाने की स्थिति में हूँ कर पहले वह अखबारों में किसी न किसी ढंग से उस को छपवा देते हैं। यह उन की एक आदत हो सकती है। हो सकता है कि उनको यह आदत बहुत पसन्द भी हो। वह आज अखबारों में छपी हो, ऐसी बात नहीं है। कई दिनों से यह था रहा है कि नवम्बर-दिसम्बर तक वह परिस्थिति जारी रहेगी

धीर फिर इस पर विचार होने का मौका आया। अगर आज से चार महीने पहले गृह-मंत्री जी यह कह सकते हैं कि लुनाई में इस पर पुनः विचार किया जाएगा और जब लुनाई नजदीक आती है तब अपने-उस कमान से चलन हट कर वह हमारे सामने आते हैं और कहते हैं कि कुछ महीनों के लिये हम इस को धीर बनाये रखना चाहते हैं या हमें इस को धीर बनाये रखना पड़ना तो स्पष्ट हो जाता है कि उन का ही यह विचार हो कि नवम्बर दिसम्बर से इस पर पुनः विचार होगा। मैं जानना चाहता हूँ कि ऐसी कौन सी परिस्थिति है जिस को वह आज से चार या छः महीने के बाद देख पा रहे हैं। चीन के मामले में या पाकिस्तान के मामले में या मित्रों या नागा लोगों के मामले में या राष्ट्रीय और अन्तर्राष्ट्रीय मामलों में या धीर भी किसी मामले में क्या आज कोई भी हिम्मत के साथ यह बात कह सकता है, हमारे गृह-मंत्री जी कह सकते हैं कि नवम्बर दिसम्बर में जो परिस्थिति आज है इस में कोई अन्तर पड़ने वाला है ?

मुझे गृह-मंत्री जी के ऊपर कोई व्यक्तिगत आरोप नहीं करना है लेकिन जो कुछ वह कहते रहे हैं उस को जब हम पढ़ते हैं, उन के द्वारा पहले कही गई बातों को देखते हैं तो ऐसा भाजूम पड़ता है कि एक तरह से हम को इसमें फँसाने की वह कोशिश कर रहे हैं या सरकार कोशिश कर रही है। संकटकालीन परिस्थिति सिर्फ हिन्दुस्तान को ही देखने को नहीं मिली है, और भी दुनिया के मुल्क हैं जिन को देखने को ज़िन्दा है, इस का सामना दुनिया के धीर मुल्कों को भी करना पड़ा है। इस मामले के ऊपर दुनिया के कई मुल्कों की प्रदायतों में बहस हो चुकी है। हेबियम कारपस के अधिकार को अमरीका जैसे मुल्क में कब हटाया जाए, इस के ऊपर वहाँ की सुप्रीम कोर्ट का फैसला है और वह फैसला साफ कहता है

When there is a clear and present danger.

साफ और सख्त कोई खतरा हो तो फिर संकटकालीन स्थिति की घोषणा हो सकती है, हेबियम कारपस के अधिकार को हटाया जा सकता है ; क्या हमारे गृह-मंत्री जी इस बात को कह सकते हैं कि आज ऐसी परिस्थिति हमारे मुल्क में है, क्या म्लीयर एंड प्रबैट डेंजर इस वक्त हमारे देश के सामने है। हम इस देश में प्रजातंत्र धीर लोक शाही की बहुत बातें करते हैं और अमरीका, इंग्लैंड, फ्रांस, जर्मनी आदि के उदाहरण तक दिये जाते हैं लेकिन आप देखें कि इस वक्त अमरीका वियतनाम में लड़ाई लड़ रहा है और उन के सैनिकों नहीं हजारों नौजवानों वहाँ इस वक्त मर रहे हैं। स्वयं अमरीका के अन्दर नीगरों लोगों ने अपने अधिकारों के वास्ते बहुत ही बड़ी एक जंग छेड़ रखी है। लेकिन यह सब कुछ होते हुए भी अमरीका में हेबियम कारपस के अधिकार को नहीं हटाया गया है, वहाँ संकटकालीन स्थितिकी घोषणा नहीं की गई है; जो भी अधिकार वियतनाम की लड़ाई के पहले या नीगरों लोगों का आन्दोलन शुरू होने के पहले वहाँ थे, वे तमाम अधिकार इस वक्त भी अमरीका के अन्दर मौजूद हैं। जब आसको मुविधा होती है तब आप अमरीका का उदाहरण दे देते हैं, तब आप इंगलिस्तान का उदाहरण दे देते हैं लेकिन जब आप को अनुविधाजनक प्रतीत होता है तो आप अपने आचरण में जो वहाँ व्यक्ति स्वातंत्र्य के लिए मुविधायें दी जाती हैं, उन को देना नहीं चाहते हैं, उन के बारे में कभी भी विचार करना नहीं चाहते हैं।

मैं साफ कहना चाहता हूँ कि गृह-मंत्री जी की धीर से संकटकालीन परिस्थिति को हटाने की व्यवस्था होनी चाहिये। जहाँ तक पाकिस्तान धीर चीन का सम्बन्ध है, उन की धीर से खतरे का सम्बन्ध है, उस का खुलासा कई माननीय सदस्यों ने कर दिया है धीर में उस बात को कहना नहीं चाहता हूँ। मैं एक चीज गृह-मंत्री जी से कहना चाहता हूँ। कई कायदे धीर कानून आप के पास हैं। इबियम

पीनल कोड धाप के पास है। पुलिस कायदे धाप के पास हैं, बोर्डर सिक्योरिटी के बारे में कायदे धाप के पास हैं, हर प्रकार की परिस्थिति का मुकाबला करने के लिए धाप के पास कायदे हैं और सब से बड़ा लोक शाही और प्रजातन्त्र को खत्म करने वाला प्रिजेंटिव डिटेमन एक्ट भी धापके पास है। जब इनके कायदे धाप के पास हैं तो क्यों यह संकटकालीन परिस्थिति का जारी रखना और इन डिफेंस धाप इंडिया मन्त्र को जारी रखना धाप चाहते हैं। ये जो तमाम कायदे हैं, ये धाप के हाथ में हैं और धाप इन का इस्तेमाल कर सकते हैं।

नागालैंड का धाप उदाहरण देते हैं। मैं गृह मंत्री जी को याद दिलाना चाहता हूँ कि नागाओं का मसला संकटकालीन परिस्थिति की घोषणा होने के पहले से चला आ रहा है। जहाँ तक मिजो लोगों के मामले का सम्बन्ध है हमेशा ही गृह मंत्री जी ने यहाँ बयान दिया है कि वह इस मसले को बहुत अच्छे ढंग से ठीक करने के काम में लगे हुए हैं। नागाओं से बातचीत चलती रहती है। इंग्लिस्तान जाने की भी उन को अनुमति दी जाती है। प्रधान मंत्री जी कहती हैं कि

We are negotiating with the friendly hostile Nagas.

ऐसी परिस्थिति में नागाओं का मुकाबला करने के लिये अगर धाप संकटकाल बनाये रखने की बात करोगे और इतने कायदे धाप के हाथ में होते हुए यह बान करोगे, तो मैं कहूँगा कि व्यक्ति स्वातंत्र्य पर होने वाले इस हल्के को हम लोगों को रोकना पड़ेगा। अनुभव हमारा इतना ही कहता है अध्यक्ष महोदय कि आज तक यह जो संकटकालीन परिस्थिति का इस्तेमाल हुआ वह इस्तेमाल इस मुक्त के अन्दर जो भी जन आन्दोलन रहे, जो भी मजदूर आन्दोलन रहे, उन्हीं को खत्म करने के वास्ते हुआ। हड़तालों को खत्म करने में

इस का इस्तेमाल हुआ। मैंने मुद्द का अनुभव है अध्यक्ष महोदय, 1963 में चीनी आक्रमण के बन्द दिनों के बाद चीनी तो वापस चले गए, लेकिन फिर भारत सुरक्षा कानून का इस्तेमाल मुक्त पर हो गया और नौ महीने के लिये मुझे बन्द कर दिया गया। मैंने प्रश्न पूछा, केन्द्र के गृह मंत्री से प्रश्न पूछा, राज्य के गृह मंत्री से पूछा, विसी ने जवाब नहीं दिया, मैंने कहा कि अदासत में ले जाओ, क्या आरोप हैं बतलाओ। जवाब में एक ही मिला कि डिफेंस धाप इंडिया एक्ट के अनुसार कोई भी बात धाप से करने की आवश्यकता नहीं है इसलिए हम धाप से नहीं कहते कि क्यों गिरफ्तार किया गया है और यही बात प्राचीन तक चली। बजह नहीं बताया गया। अगर यह कहना है कि डिफेंस धाप इंडिया एक्ट को ले कर धाप जन आन्दोलन को खत्म करने के लिए उस का इस्तेमाल करना चाहते हैं तो मैं एक ही बात की याद दिलाना चाहता हूँ। जब चीनी आक्रमण हुआ और धापे बढ़कर जब पाकिस्तानी आक्रमण हुआ तो मैं मजदूर आन्दोलन में काम करने वाला आदमी था। कहाँ कहाँ उस वक्त हड़तालें चल रही थी? जिस दिन आक्रमण हुआ उस दिन हड़तालों को रोकने का काम हम लोगों ने किया। विसी ढंग से सरकार को अड़चन में डालने का काम हम लोगों से नहीं किया और जब हम लोगों की ओर से, मजदूर आन्दोलनों की ओर से, जन संगठनों की ओर से इस किसम का सहयोग मिला तो धाप की ओर से उस का जवाब क्या मिलता है कि फिर उस के बाद भारत सुरक्षा कानून का इस्तेमाल हम ही लोगों पर होता है। 1962 में चीनी आक्रमण के वक्त अध्यक्ष महोदय, जब एक राष्ट्रीय सुरक्षा कोष के लिए पैसा इकट्ठा करने का वक्त धाया तो हमारे जैसे लोगों को इस्तेमाल किया। मजदूरों के बीच में कांग्रेसी मंत्री तो जा नहीं सकते थे, हमें साथ ले कर गए। अगर जब वह काम खत्म हो गया तो हम को उठा कर डी०आई० आर० में बन्द कर दिया। (अध्यक्ष)

तो जब इनके हाथदे कानून प्राप के हाथ में हैं जब देश के अन्दर कोई भी संकटापीण परिस्थिति हो. उन का मुकाबिला करने के लिए प्राप के पास कई कायदे कानून हैं तो मेरा यह निवेदन है कि हम संकटापीण परिस्थिति को वापस लेने का काम सरकार की ओर से तत्काल होना चाहिए। एक बात और कहूं। आखिर को प्रेव एमर्जेन्सी को प्राप स्वीकार करते हैं। लेकिन क्या प्रेव एमर्जेन्सी को सरकार मानती है? सरकार का जो बर्ताव है उस बर्ताव में प्रेव एमर्जेन्सी कहीं दिखाई देती है? चन्द महीने पहले अगोका होटल के बारे में बहुत चर्चा की. करोड़ों रुपये खर्च कर के रिवास्विंग टावर वहाँ बनाते हो बम्बई शहर में लाखों रुपये खर्च कर के (अव्यवधान) एक मिनट, अध्यक्ष महोदय, मैं खत्म कर रहा हूँ। बम्बई शहर में प्राप चर्च कर रहे हैं, लाखों रुपये खर्च कर रोज मादियां होती हैं। यहां दिल्ली में अभी अभी प्रायद दिनेग सिंह की उन्नी की प्रादी हुई, कितने लाख रुपये खर्च कर के हुई? यह कोई संकटापीण परिस्थिति है? अगर संकटापीण परिस्थिति को मानते हो तो ऐसी ही बर्ताव करो जिस से लोग इस को मानें। लोगों में यह भावना आ जाय और जनता में भी हम किसकी बात निर्माण हो जाय कि जिस से उन को भी अनुभव हो जाय कि ऐसी कोई परिस्थिति है जिस का मुकाबिला करने के लिए सरकार को विवेक अधिकार की आवश्यकता है।

Mr. Speaker: Shri A. K. Gopalan.

श्री अ. सि. संव. (बिलासपुर) :
हम प्राप से प्रार्थना करना चाहते हैं कि हम लोगों को भी बचन दिया जाय।

Mr. Speaker: I do not mind calling all the Members if the hon. Minister is prepared to sit till 8 O' clock. I will call a dozen congressmen. I will finish this side and then this side. I am prepared.

श्री राजवीर सिंह (रो.तक) : तीस को इधर से हो गया। एक को इधर से भी मौका मिलना चाहिए।

श्री मणिभाई जे. पटेल (दमोह) :
अध्यक्ष महोदय, हम लोग पन्द्रह पन्द्रह बार खड़े होते हैं। हमें क्या एक प्राप के मामले हाथ जोड़ना पड़ेगा? ...

Mr. Speaker: Your name is not there.

श्री शिवनारायण (बनी) : हमें भी मौका मिलना चाहिए।

श्री मणिभाई जे. पटेल : अध्यक्ष महोदय, मैं रोज बजट पर इसी तरह बराबर खड़ा होता रहा और मुझे मौका नहीं मिलता था।

Mr. Speaker: Mr. Manibhai Patel is floating; he has gone there from here thinking that he can make more trouble. Your name is not in the list; even if I were to call the Congressmen you will not get a chance. Neither Mr. Sheo Narain nor Mr. Manibhai Patel. After giving chance to the leaders of parties, I will give a chance to the Congress Members in the list. It all depends on the Minister. I am prepared to give a chance to all. I will put somebody in the Chair and you can continue till 8 or 8.30; I have no objection; I will call all names given by the Congress Party. Therefore, let us hear first at least the leaders of all the parties. Then, other Members will get a chance. I have called Shri Gopalan.

Shri Manibhai J. Patel rose—

Mr. Speaker: Mr. Manibhai Patel, I am warning you. The moment I sit down, you are getting up. I have told you that your name is not there. You are not going to be called. If you want to go, please go.

An hon. Member: How long is this debate to last?

Mr. Speaker: I do not know. Up to 8 O' clock if you want.

Shri A. K. Gopalan (Kasergod): Mr Speaker, Sir, some of the points which I wanted to refer in this connection have already been made by the previous speakers. I was one of the victims of this emergency, and I was also affected by the DIR, along with some of my friends here. The first instalment was over and the continuation of the emergency means the beginning of the next instalment. I know that when the emergency continues, we may again be the victims of these emergency powers. I do not want to point how these emergency powers have been misused and abused. Some instances have already been given here. I have also so many instances where the emergency powers, in many cases, had been misused.

It is not only in the case of love marriages, but on other occasions also, some interesting things take place. When the clash with Pakistan took place, in the jail in which I was kept, some Muslims came, and one Muslim—an ordinary cart-puller—was also taken in because of some hatred between him and the police inspector. When that Muslim came to the jail, and when he was told that he was a Pakistani spy, he was asking everybody what this thing "Pakistan" was. He did not know whether it was some estate or anything like that. Therefore, such a man was also arrested as a Pakistani spy!

Mr. Speaker: Can an intelligent spy behave like that?

Shri A. K. Gopalan: I have no experience of a spy and so I cannot say! I also know how we had been treated inside the jails. On reasons of security of the country, our letters to the Speaker had not been forwarded to him. The papers given from here were not given to us and it was said that for the sake of security of the country, on grounds of national security, this cannot be done. A letter written to Mr. N. C. Chatterjee, as far as a case was concerned, was

not delivered to him for two months. I had to go to the High Court, Trivandrum, and it was the High Court which ordered that such things must not be done and they should be stopped.

I am pointing out these things to show that it is nothing but political vindictiveness. There is no question of national security or emergency or anything of that kind. Even under the DIR, one is prevented from acting in a manner which is prejudicial to the public safety. So, we would not be allowed to act inside the jail or outside in anyway against the public security or safety. Apart from that, even if it is a case of just writing or sending a letter, or receiving a letter, if it is against the public security and national interests, then I say I have had enough of it. The Home Minister says that the emergency powers have not been misused in any case. I say it is only political prejudice and vindictiveness. Even now, when the emergency continues, I do not know when I will be again one of the victims of it; I am not afraid of it. (Interruption). I would like to make one request of the Home Minister. There is a judgment of the Supreme Court which is to the effect that when the emergency is lifted, all those who were detained can go to the court and then ask, if they prove that they had been arrested illegally, that compensation must be given. I understand that when the emergency is to be lifted, a modification is to be made so that those who had used the emergency in an illegal way may escape. I know there is no chance of the emergency being lifted now. Now the slogan is emergency for ever. But if ever it is lifted, will the Home Minister see that the Supreme Court judgment is honoured and no bar will be put upon it? If that is done, certainly in many cases both the State Governments and the Central Government will have to pay compensation and when the country will know how people have been arrested without justification.

18 hrs.

The statement of the Home Ministry continuing the emergency is a death blow to the fundamental rights guaranteed by the Constitution. Already it has become a grave of all the political aspirations of the people and democracy has become a farce. In spite of other powers like the Preventive Detention Act and in spite of having used the emergency powers for the last 5 years if the Government is not able to function, that Government forfeits the confidence of the people and instead of continuing the emergency, that Government has to be thrown out.

The Supreme Court judgment clearly says what will happen if the emergency powers are used:

"The tendency to ignore the rule of law is contagious. If our Parliament which unwittingly made a void law not only allows it to remain on the statute-book but also permits it to be administered by the executive, the contagion may spread to the people and the habit of lawlessness like other habits dies hard."

The contagion has spread and if there are any internal disturbances, it is because of this attempt to continue the lawless law.

I know whenever the question of continuing the emergency comes, the Home Minister used to say, "we must consult the Chief Ministers". We used to say, "No; the Chief Ministers should not be consulted. It is the Parliament which should decide."

Shri Y. B. Chavan: We accepted your view.

Shri A. B. Vajpayee: Belatedly.

Shri A. K. Gopalan: But even then it was said that they must be consulted. I would like to know whether the Chief Ministers were consulted now and if so, how many agreed to

it and how many did not. If you force the Chief Ministers to implement certain things which they do not want, I do not know what difficulties will come.

It is said that there is a grave situation in the country and so emergency should continue. On the other hand, I understand that 6000 Emergency Commissioned Officers have been given notice and they have to go away in September. If this is done, what happens to the morale of the army? The commissioned officers who were fighting and suffering in 1962 are given notice and they are not promised that they will be absorbed in any other place. Now the Home Minister says, emergency must continue.

What I say is, really there is no emergency as far as the situation in the country is concerned, either externally or internally.

It is said that they want these powers to be used in some pockets, to be used here and there. As has already been explained, the concept of emergency is total and national, the concept of emergency is not that you can declare emergency here and not there. You cannot declare a state of emergency in Chandni Chowk and say that there is no emergency in the New Delhi area. How can there be emergency only in some pockets and not in the whole country? How can you say that there is emergency in the border areas only and not in the whole country? The state of emergency, if it is there, it is for the whole country. The people of the whole of India must know that emergency situations exist in the country. It must be felt by all the people of India and not only the people in some areas, some states or some parts of States. Therefore, to say that because the Opposition did not allow the Government to restrict the emergency to some areas they have now come forward with the proposal to continue the emergency is not correct. That

[Shri A. K. Gopalan]

means the purpose is not national emergency, the purpose is something else.

A point was made here about internal disturbances. Naxalbari, gheraos and all those things were mentioned. There had been emergency in the country for the last five years. The Preventive Detention Act was there, the DIR was there and all those powers were there with the Government. How is it, with all those powers these gheraos, Naxalbari trouble, the Naga problem, the Mizo problem and other problems could not be solved. Not only these problems have not been solved, they are increasing. Sir, the question of Naxalbari is not a problem of internal disorder. It is a question of land. What are gheraos? Because the awards are not properly implemented, because the tribunals' decisions are not carried out, the workers and peasants are desperate. When there is food shortage in the country, you are able to get any amount of rice in the black-market. When people do not get their rations for two or three days they go and loot the shops and other places. Therefore, if you want to continue emergency for this internal disorder, then you will have to continue emergency for ever, because as long as you do not find out the real causes of these troubles and try to remedy them, as long as the forces that are creating unemployment, hoarding, discontentment among the workers etc., are not checked, this sort of disorder will be there and you will have to continue the emergency for ever. Same is the case with regard to the question of China and Pakistan. China and Pakistan have been there all these five years. Unless we take some steps to solve the problem, we will have to continue the emergency till China and Pakistan do not exist. There is the question of Mizos. Today we read in the papers that the tribals of Tripura are also agitating. Their land has been taken away and that

is why they are agitating. These questions will have to be settled, otherwise the trouble will continue and politico-socio-economic tension will be there. We must find out what is the cause of this politico-socio-economic tension and take necessary steps to remove it. If that is not done, if the border question is not settled in some way or the other, if the workers and peasants are not kept satisfied, you will have to continue this emergency for ever.

I only want to make a request. Please lift the emergency. We have known it for the last five years. If at any time there is real danger, it can be revoked. Therefore, I request the Government to lift the emergency or they must get out. If there is an iota of shame, self-respect, prestige, love to the country, love to civil liberties and fundamental rights guaranteed by the Constitution, they must know that there is a limit up to which they can deprive the people of their rights. - If they want to deprive them of these rights for ever, the result will be that the Government will not be able to continue. As it has already been pointed out, using the Emergency powers and putting persons in jail will never help and that will not solve the problem.

Mr. Speaker: Shri Saleem.

There are another six names before me, Shri Randhir Singh, Shri Amar Singh Saigal, Shri Barua, Shri Frank Anthony, Shri Humayun Kabir and Shri Prakashvir Shastri. There are a number of other Members also who want to speak apart the list of names given to me. If you take two or three minutes each, I will be able to accommodate these six Members and others also. Shri Saleem.

Shri Shee Narayan: I want to move a closure motion. I have the right to move a closure motion.

Mr. Speaker: Before you move a closure motion, you must discuss it with your Chief Whip and others and find out if they are going to vote for you. Otherwise, what is the use of moving a motion like this?

श्री मू० मू० सजीव (नलगोंडा) :
जनाब स्पीकर साहब, एक कानून के तालिब-हल्म के लिये जिसने हमेशा शहरी छात्रादियों के लिए और फंडामेंटल राइट्स की हिफाजत के लिए बकानत की हो, इमरजेंसी के बख्तिर किये जाने की तद्दोष की मुद्दालफत करना बड़ा परेशानहुन ममला है। लेकिन जितने ज्ञानालात प्रपोजीशन के प्रानरेबुल मेम्बर्स ने जाहिर किये हैं अगर उनकी तह में पहुंच कर गौर किया जाय तो यह मालूम होगा कि किसी एक बकन ने भी यह बात इस ऐवान के सामने इस हाउस के सामने नहीं रखी है कि इमरजेंसी के डिक्लेयर किये जाने के जो असबाब थे वह अब बाकी नहीं रहे हैं। दस्तूर में इमरजेंसी के ऐलान किये जाने के जो प्राउड्स बयान किये गये हैं वह प्राउड्स अब बाकी नहीं है ऐसा किसी प्रानरेबुल मेम्बर ने इस हाउस के सामने बयान नहीं किया है।

मैं जनाब स्पीकर साहब प्रापकी तवज्जह धाटिकल 352 के पहले पैराग्राफ की तरफ मबजूल करांगे जिसमें कि यह कहा गया है

"If the President is satisfied that a grave emergency exists whereby the security of India or of any part of the territory thereof is threatened, whether by war or external aggression or internal disturbance, he may, by Proclamation, make a declaration to that effect."

जनाब स्पीकर साहब, जिन हालात के पैरेग्राफ 352 के प्रख्यारात प्रेसीडेंट साहब ने हस्तेमाक किये थे, आज उन हालात के बरकरार होने से किसी प्रपोजीशन के प्रानरेबुल मेम्बर ने इंकार नहीं किया है। मुल्क में डिस्टर्बेंस जारी है। चीन और

पाकिस्तान का खतरा बरकरार है और उसका अन्दाजा इस बात से होगा कि जब से यह बजट सेशन शुरू हुआ है अगर उन सवालात पर और उन सन्मीटरी सवालात पर जो पाकिस्तान और चीन की तैयारी के मुताल्लिक बकनत फवकन किये गये हैं, और किया जाये तो यह मालूम होगा कि मुस्लिम बच्चों पर बैठने वाले अरकान के दिन इस खौफ और डर से भरे हुए हैं कि चीन और पाकिस्तान हिन्दुस्तान के खिलाफ कारवाइयों में बराबर मसरूफ हैं और किसी दिन भी ऐसा बकत दरयेग या सकता है कि पाकिस्तान या चीन हिन्दुस्तान में ऐसी सुरत हाल पैदा कर दें कि हिन्दुस्तान ही हिफाजत और आजादी खतरे में पड़ जाय।

जनाब स्पीकर साहब, यह हालत जो बैरुनी हमलावरों की है। इस तरीके से मुल्क के मुस्तलिक हिस्सों में जिस तरिके से बदअमनिया फैलाई जा रही है जिस तरीके से कानून को हाथ में लेकर शहरियों की जिन्दगी को, शहरियों की जायदाद को, पबलिक प्रापरटी को खतरे में डाला जा रहा है उस के बाकयात रोजबरोज प्रक़ारों में आ रहे हैं। इसलिए यह नहीं कहा जा सकता कि 352 के जो असबाब हैं वह बाकी नहीं रहे। अब एक सवाल यह पैदा होता है कि यह जो इमरजेंसी डिक्लेयर की गई है उसके मुताल्लिक सिर्फ एक ऐतराब किया गया है जो तमाम प्रपोजीशन के मेम्बरान की तकरीरों में दर्ज है और वह यह है कि इस इमरजेंसी के बरकरार रखने में कांग्रेस हुकूमत की नीयत सही नहीं है यानी कि इमरजेंसी के बरकरार किये जाने की बुनियाद पर जो इत्तलाक़ किया जा रहा है उस का सबब यह है कि नीयत पर हमला किया जा रहा है।

18.17 hrs.

[Mr. DEPUTY-SPEAKER in the Chair.]

जनाब डिप्टी स्पीकर साहब, मैं आपसे यह प्रश्न करूंगा कि अगर मुस्लिम अरकान

[श्री यू० यू० सलीम]

के यह संदेश सही होते, यह झूठ और झूठरा जो जाहिर किया गया है उन में कुछ जान होती तो आज मुझालिक सरकार जिस क्रूर तादाव में बैठे हुए हैं वह इतनी तादाव में न बैठे होते। रेडियो न बजाना, बेहतरीन बन्द इस कुम्हत को, इन प्रवचनारात को इस्तेमाल करने का यह था जब कि मुक्त में डोग्रेजी को बुनियाद पर जनरल एलेक्संडर हो रहे थे। कोई एक मिसाल ऐसी सामने नहीं पाई है कि जिसमें यह बयान किया गया हो कि राम इन्क़ाबात के पीके पर, आम जनरल इन्क़ाबात के पीके पर किया गया सियासी जमात के कारकून को या किसी सियासी जमात के उम्मादवार को जिसकी कि मुझालिक का कांग्रेस को झूठरा हूँ, उसके जिनाक, इमरजेंसी पावले का इस्तेमाल किया गया हो। ऐसी कोई एक मिसाल भी पेश नहीं की गई है लिहाजा इस दलील में कोई कुम्हत नहीं है कि कांग्रेस कुम्हत इमरजेंसी का उम्ह को इतलिये बढ़ाना चाहती है कि वह पोलिटिकल कुम्हतों के, पोलिटिकल पार्टियों के जिनाक इसको इस्तेमाल करना चाहती है। इसमें कोई शक नहीं है कि जब से इमरजेंसी इत मुक्त में पाई है, जब से इस 4-5 वर्ष में बहुत से ऐसे बाकियात हुए हैं कि इमरजेंसी का इस्तेमाल धरर न किया जाता ता बेहतर था और ऐसी जिनाकमें भी पाई है कि गलत तौर पर इमरजेंसी का इस्तेमाल किया गया है और लोगों को गलत तौर पर जेल में डाल दिया गया। इस का ऐतराज कुम्हत ने भी किया है और कुम्हत ने उस उम्माक को भी कोशिश की है लेकिन इन मामूली झूठरा का मोजदगी में बास मोहवेदारान् ५५ सरकार के गलत तर्किये की बुनियाद पर या उनके जजमेंट को जलती या बुनियाद पर क्या इतना बड़ा झूठरा मोल लिया जा सकता है जब कि चीन और पाकिस्तान, मोजो और नागाओं का झूठरा हिन्दुस्तान में बरकरार है और हिन्दुस्तान की हिन्दुस्तान करने से पड़ी हुई है,

इमरजेंसी बरकरार कर दी जाय ?

Mr. Deputy-Speaker: The hon. Member may conclude now.

Shri M. Y. Saleem: 15 to 20 minutes were given to the other members. I should be given at least ten minutes. I have not spoken even for five minutes. I will take two or three minutes more.

Shri S. M. Banerjee: There is Emergency; he should finish it early.

श्री यू० यू० सलीम : मैं जनाब डिप्टी स्पीकर साहब से धन्य कर रहा था कि जिस तरीके से इमरजेंसी के प्रवचनारात को इस्तेमाल किया गया उस में बयान यह किया गया है कि गलतियां हुई हैं लेकिन वह गलतियां किसी सियासी मुझालिक की बुनियाद पर हुई हैं या किसी सियासी रकाबत की बुनियाद पर हुई हैं, ऐसी कोई मिसाल एक धाघ के घलावा पेश नहीं की जा सकती है। इतिहास से धरर किसी एक शक्त के खिलाफ इस्तेमाल की गई हो जाहिर है कि वह किसी सियासी जमात का फंद होगा। मेरे इल्म में ऐसे बाकियात हैं कि इस इमरजेंसी के तहत ऐसे लोगों को भी गिरफ्तार किया गया है जो वर्षों से कांग्रेस के एक्टिव मेम्बर थे लेकिन इमरजेंसी की नीबत पर उन की एक्टिविटीज के खिलाफ शुबहात पैदा हुए इसलिए उन को नजरबन्द कर दिया गया। यह कहना बिलकुल गलत है कि किसी एक जमाघत के खिलाफ या किसी एक पोलिटिकल धार्गनाइजेसन के खिलाफ इमरजेंसी का इस्तेमाल किया गया है।

मैं एक धाखिरी बात कह कर अपनी तकरीर को खत्म करूँगा और यह यह है कि भारत में होम मिनिस्टर ने यहाँ इस ऐवान में यह ऐवान किश था कि इमरजेंसी को बुनाई के महीने तक खत्म कर दिया जावेगा और बहुत धन्डा होता धरर बुनाई के बुक होने से पहले इमरजेंसी खत्म होने का ऐवान

कर दिया जाता। लेकिन एक बात उस में यह रक्खी गई थी और उस वकत किसी वकत ने यह ऐतराज नहीं किया था कि इमरजेंसी को उन इलाकों में बाकी रक्खा जायेगा जहाँ डिस्टर्बेंस हो रहे हैं, जहाँ पर लाइफ और प्रापर्टी पर हमला होने का खतरा है। जहाँ पर मुल्क के अमनोप्रमान को तबाह होने का खदेला पैदा हो गया है जहाँ पर इमरजेंसी को बाकी रक्खा जायेगा। इस मकसद को हासिल करने के लिए आर्टिकल 368 के पेशनजर तरमीम करने के लिए होम मिनिस्टर साहब ने इस हाउस में यह बयान किया कि उन्होंने अपोबीशन के अरकान को बुलाकर उनसे इस मतले में इतिफाक चाहा। लेकिन उन्होंने इस तरमीम की लाने पर तभाबुन करने से, कोप्पापेट करने से इन्कार कर दिया। इस के माने क्या हैं? इस के माने यह हुए कि जिन मुकामात पर इमरजेंसी बरकरार रहने की जरूरत है उन पर इमरजेंसी की जरूरत को महसूस करने के बावजूद उन्होंने कांस्टिट्यूशन में तरमीम करने से इन्कार किया ताकि इमरजेंसी मजबूरन बरकरार रक्खी जाये और उन को इस ऐवान में बहस मुवाहसा कर के हुकूमत की बदनाम करने का मौका मिले ताकि हुकूमत की तरफ से लोगों में बदयुमानी पैदा हो। अपोबीशन के पास यह बहुत बड़ा हरबा है जो यह ट्रेजरी बेंच के खिलाफ इस्तेमाल करना चाहता है और ऐसी सूरते हासल पैदा करना चाहता है कि मजबूरन हुकूमत को इस पर अमल करना पड़े और उसको अयाम के सामने इस रूप में पेश करने का मौका उन्हें मिले कि हुकूमत उन को उन की आजादी से महकूम करना चाहती है, उन के फंडामेंटल राइट्स से महकूम करना चाहती है।

आखिरी बात यह है कि आर्टिकल 19 में जिन चीजों को बयान किया गया है उन में से सात या आठ ऐसी हैं जिन के मातहत प्रिवेंटिव डिस्टेंशन ऐक्ट और डी० आई० धार० को खीर वाफिन किये हुए किसी को गिरफ्तार

किया जा सकता है, उस के राइट आफ मुवमेंट को रेस्ट्रिक्ट किया जा सकता है। डी० आई० धार० की तहत किसी शख्स को जेल में रक्खा जा सकता है लेकिन आर्टिकल 19 में कई फंडामेंटल राइट्स हैं, जिन को कांस्टिट्यूशन ने इस मुल्क के गहरियों को दिया है और जिन का इस्तेमाल होने के बाद किसी इमरजेंसी की तहत कोई जरूरत पड़े तो उस के लिये न डी० आई० धार० काम दे सकता है और न प्रिवेंटिव डिस्टेंशन ऐक्ट काम दे सकता है। इस लिये इमरजेंसी का बरकरार रहना जरूरी है ताकि इस मुल्क में जो अमन व अमान को खतरा पैदा हो गया है उस का मुकाबला करने के लिये हुकूमत के हाथ मजबूत रहें।

Shri Frank Anthony: My substitute motion reads thus:

"This House, having considered the statement on the emergency made by the Minister of Home Affairs on the 22nd June, 1967, is of the opinion that immediate steps be taken for the deletion or appropriate amendment of article 358 of the Constitution so that there is not, as at present, the blanket suspension throughout the country of the fundamental rights under article 19 of the Constitution.

I am hoping that the hon. Home Minister will accept this substitute motion of mine. When he met some of us, I expressed the feeling that not a negligible number of Members from the Opposition would be prepared to accept the application of the emergency to certain selected sensitive areas on one condition namely that he would either delete article 358 or bring in a suitable amendment.

Shri Y. B. Chavan: The hon. Member may speak for himself, and not for all.

Shri Frank Anthony: Even the Jan Sangh supported me. Let me explain the implications.

It is generally accepted among jurists that an emergency should never continue for more than six months when a country is not actually at war. That is generally accepted by jurists, so far as the application of the emergency powers in any democracy is concerned. And I say this with great respect because I had something to do with the framing of the Constitution, that it was obviously also the intention of the framers of the Constitution. We were framing it in the context of procedures and practices in democratic countries. It was obviously their intention that an emergency involving the ouster of the jurisdiction of the courts, an emergency involving blanket suspension of fundamental rights, an emergency involving the conferring of absolute and extraordinary powers, should never be indefinitely continued when a country is not at war. That was clear the intention of the framers of the Constitution.

There is one matter that Government and the Home Minister have ignored. It is a crucial issue. I am glad that they want to make the emergency applicable only to certain selected sensitive areas.

Am hon. Member: That is it.

Shri Frank Anthony: That is it, but it is a complete *non sequitur*. Unless you delete article 358 or appropriately amend it, what would it mean? Assuming that we accept this, in the face of article 358, what follows? Under article 12 of the Constitution, there is the definition of 'State', and it includes even a municipality. Let us assume—I shall show later on that you can do it without any amendment—that we accepted the application of the emergency only to border areas. With 358 there, what would it mean? You would apply it presumably to the Mizos; you would apply it presumably to Nagaland; you would

apply it presumably to Kashmir. But in the face of art. 358, a municipality in Bangalore, at the instance perhaps of, say, Shri Poonacha, can take away the trade or occupation of any little man, which has no relevance at all to security or any other consideration implicit in the proclamation of an emergency.

Shri Y. B. Chavan: He is working his thesis on wrong premises. The idea of the amendment in the Bill that was circulated was that there would also be a suitable provision for the amendment of art. 358 which also explained that in that case the powers under 358 would be exercised only to the extent which could be connected demonstrably with the emergency position in those sensitive areas. He is trying to build his whole case on a basis which is completely misleading.

Shri Frank Anthony: All right. I am glad the Home Minister has said that because we had nothing positive before us.

I am accepting that your amendment would have involved a suitable amendment of 358. Art. 358 in its present form means this—let me state its application, 358 in its present form means: you declare a proclamation; even if you apply it to only certain selected areas, it means that a municipality in a far-away place can do what I had alluded to because it falls within the purview of the definition of 'State' in art. 12 and it can, therefore, take away any person's trade or occupation which has no relationship whatsoever to the security or emergency position contemplated in the proclamation.

Let me give you an example. I had argued the two cow-slaughter cases in the Supreme Court. I had conceded the cow. The other day the butchers of Madhya Pradesh came to me and said that by an executive fiat, the Government of Madhya Pradesh had put a blanket ban on their profession. They asked; 'What are we going to

10? Is our profession connected with the security of the State? I said: 'Go and ask the Government because under art. 358, you can by an *ipse dixit* of the executive, take away the profession of butchers, teachers, doctors or anybody else, and say 'You shall do nothing'. I cannot go to a court and invoke art. 19 because there is a blanket suspension of art. 19. That is the iniquity of it.

The Home Minister said he was prepared to modify or amend art. 358? Why don't you do it even now?

An Hon. Member: How?

Shri Frank Anthony: Because I say art. 358 is otiose—I am using a legal expression. It is unnecessary. You can act under 352 read with 359. You have already got a proclamation of emergency declared. All right. Let the proclamation go to this extent that it applies to the whole of India. Then you invoke art. 359. The President comes in. The President says, 'under art. 359, I suspend fundamental rights in respect of certain areas'.

You have got 352. You have got the proclamation. Do not withdraw it. You have got 359 under which the President says 'I am suspending fundamental rights only with regard to the border areas. You have everything in the Constitution today. You do not have to do anything else. You suspend the fundamental rights only vis-a-vis the sensitive areas.

Then you do not have this situation which I referred to. Only the other day I had argued and got out one Banta Singh on the ground that the action against him under the D.I.R. was mala fide. I had to go the circuitous way because of the D.I.R. When you suspend fundamental rights only under art. 359, selectively, I can immediately invoke art. 19 so that Banta Singh or somebody else placed in a similar situation can get relief, as the intention would be struck down. You have the power to do it and apply the proclamation selectively. I would

ask the Home Minister to do it. Look at art. 352 read with 359. You already have that power.

What I say is this: You have your proclamation of emergency. You have its application to certain selected areas. Now under art. 359 you suspend fundamental rights, if you like with regard specifically to those particular selected areas. And you achieve what you say you want to achieve. What outrages my conscience as a lawyer is this indefinite continuance of the emergency, this perpetuation. Three evils are precipitated. The first is you inure the executive to the exercise of extraordinary powers. I know several people in Delhi itself have been released, they had been wrongly mala fide arrested, I got them released, but with great difficulty, because the D.I.R. is open to so much abuse. There is this formation of the habit of the executive in not only exercising extraordinary powers, but in abusing those extraordinary powers. What is worse than that, several members on this side have made that point, is that you erase any sense of emergency from the minds of the people. After all, this is a vast country, it is not a country, it is a sub-continent, you are bound to have perennially some kind of trouble somewhere, but if you keep crying unnecessarily wolf the whole time, then when you have the wolf really at your throat, the people will not respond, and they will have become cynical.

Worst of all, I say to the Prime Minister: what kind of image are we projecting, by virtually perpetuating this emergency what kind of image are we projecting internationally? My friend is right, I am a member of this International Commission of Jurists. You are projecting the image internationally of a country that is unstable, of a country that is in a state of siege, of a country that is bedevilled by a permanent emergency. That is the image you are projecting. And therefore I say to the Home

[Shri Frank Anthony]

Minister: think of this. You say you want to apply it selectively, you can still under the provisions of the Constitution.

Mr. Deputy-Speaker: Shri Kabir. Just ten minutes.

Shri Humayun Kabir: I will not take more than that, and I will try only to place my points before the Home Minister and the House.

I think first we have to recognise that neither the Home Minister nor the Government have made a case for the continuance of the emergency. My hon. friend Mr. Yusuf Saleem said that the opposition have made no case. It is for the Government to make a case for continuing something which is abnormal.

I think there is positive and negative evidence before the country and the House that the emergency at present is not needed. The negative evidence is that at the time of the Kashmir events in 1953 when Sheikh Abdulla was arrested and for a long time after, there was trouble there. During the whole of that period no emergency was declared and the Government was in a position to deal with the matter under the normal laws of the land.

Similarly, the Naga affair continued from 1954, and the emergency was declared only in October, 1962, 8 years thereafter. The Government was able to function without resorting to emergency.

There is thus negative proof that the Government could function and the security of the land could be maintained without resort to an extraordinary law. I will not say extraordinary but a lawless law.

Similarly there is positive evidence that the emergency has not helped the Government in any way. It has not enabled Government to prevent trouble among Mizos. Many hon.

Members including Mr. Hem Barua have pointed out there is positive evidence that in August 1965 there was large scale infiltration into Kashmir, which later on led to the conflict with Pakistan. During that period the emergency was in force, all the special laws were there, but the Government was powerless to prevent infiltrators from coming to Kashmir. It has been estimated that the infiltrators who had come almost to Srinagar numbered several thousands. The figure is sometimes put even at 20,000, in any case it was several thousands.

Positively and negatively therefore there is evidence to show that the emergency has not in any way helped the Government.

Secondly, as Mr. Frank Anthony pointed out, prolonged emergency is bound to lead to abuse. I have no time, otherwise I could give a number of instances where innocent people were arrested and were later on released. I will give only one example. A person who later became the Congress candidate for elections in the last election of 1967 from the District of Murshidabad had been kept in jail under the emergency for a long time. Either his arrest was right or wrong. If it was right, why was he given the Congress ticket for contesting the election to the Assembly? If it was wrong, and most probably it was wrong, it was an unjust act, probably an act of vindictiveness or even personal vendetta; in either case it was a clear abuse of the emergency.

There are so many judgments, not merely one of the Supreme Court and the different High Courts condemning again and again the use of these emergency powers. They have actually eroded the sense of civil liberties in this country. Once the executive gets these absolute powers, they can never do without them. Even today the Government has sufficient powers in the Preventive Detention Act, in the Public Security Act, and in the

Naga area and in a major part of Assam the Armed Forces Special Powers Act. They have all the powers they need and therefore the continuation of the emergency is completely without justification.

If you read articles 352 and 359(2) together, in a sense even today the Government can declare an emergency in certain parts of the country, and not the entire country. Article 352 reads: "whereby the security of India or any part of the territory..." It is explicitly mentioned there. 359(2) explicitly mentions that the fundamental Rights can be suspended only in certain parts. The constitution makers had foreseen this eventuality. At the same time they made a very clear distinction between two different kinds of situations; one is where there is emergency and the other is where there is a breakdown of law and order in a particular area. When there is breakdown of law and order in a particular area, the President's rule can be imposed. By making a sharp distinction between the two, the constitution-makers wanted to make it clear to the people of India and the world outside that the emergency powers would be used only in extraordinary circumstances. You cannot have extraordinary circumstances for five years. Strichline is a very good tonic but if you give it all the time to a patient, the patient very soon dies. That is what the Government is doing by continuing emergency indefinitely and without justification. It is actually killing the sense of civil liberty in this country and undermining the very basis of democracy.

In a recent statement, reference was made to China and Pakistan. One hon. Member has already mentioned that these are long-term problems. As the late Prime Minister Pandit Nehru once said, we shall have to live with China for a thousand years. Are we going to have emergency for a thousand years? Pakistan also is there for the last twenty years and we have continually problems with Pakistan.

These arguments, e.g., the use of China or Pakistan should be discounted in normal circumstances. If this kind of lawless legislation continues in normal circumstances, it would be as Mr. Anthony said, like crying wolf all the time and thus dulling the sense of emergency in this country.

The Government have the necessary powers under the Security Act, the Preventive Detention Act and the Armed Forces Special Powers Act. Also under the Constitution, they can enforce certain restrictions in certain parts. Positive and negative evidence has during the last fourteen years proved that these powers are not necessary to deal with these situations. On the other hand, even when the emergency is there, Government cannot adequately deal with the situation. I have heard the other day the Home Minister using the words 'real emergency', what is the difference between real and unreal emergency? Have we had unreal emergency all these years? Perhaps real emergency was for 3 or 6 months or at the most a year; immediately after the Chinese attack, maybe there was real emergency for a shortwhile during the Indo-Pakistan conflict. For the rest of the period, it was unreal emergency and perhaps the hon. Home Minister wanted to admit it in this indirect way. When a real emergency dawns upon this country, we may be taken by surprise, for though the prolonged emergency we are creating a situation where the use of extra-ordinary powers will be completely useless.

The Government have, therefore, made out no case. On the other hand, they have made a commitment to this House on 18th March to revoke the emergency. It is no use blaming the Opposition. One hon. friend used a very ingenious argument. It is this: Because we have not agreed to certain amendments of the Constitution, we are forcing the Government to continue the emergency. This is a very strange kind of logic indeed. We do not recognise the necessity of

[Shri Humayun Kabir]

the emergency today. If hon. friends opposite will put their hands on their hearts and ask their conscience, I think a majority of them will admit that there is no emergency in the country today; and there is no need for these emergency powers and these should be withdrawn as early as possible.

श्री प्रकाशचौर शास्त्री (होपुड) :
उपाध्यक्ष महोदय, इस में कोई सन्देह नहीं कि जब सीमावर्ती क्षेत्रों में संकटकालीन स्थिति को समाप्त करने की बात कही जाती है, तो एक बार मन वहां की स्थिति को देख कर हिलता है। सीमावर्ती क्षेत्रों में जो घराष्ट्रीय तत्व पनप गये हैं और समय समय पर जो भारतीय स्वाधिमान के लिये और देश के इतिहास के लिये एक चुनौती बन कर सामने आते रहे हैं, उन से यह लगता है कि हमारे देशवासियों को और प्रत्येक दल को बड़ी गम्भीरता से उन सारी समस्याओं पर विचार करना चाहिये। अभी कुछ दिन पहले की बात है, मोचो पहाड़ियों में जिस प्रकार की राष्ट्रीय घटनायें घटी, नागालैण्ड में नागा विद्रोहियों को जिस प्रकार मजसू ट्रेनिंग दी गई और उस के बाद जिस प्रकार की स्थिति नागालैण्ड में घटी, वे सारी समस्यायें अभी हमारे सामने हैं। काश्मीर में आज ही प्रातः काल समाचार पत्रों में वह समाचार प्रकाशित हुआ कि दम हजार के व्यक्ति जो पाकिस्तान संघर्ष के समय पाकिस्तान चले गये थे, फिर किस प्रकार उन को घक्का दे कर जम्मू काश्मीर की सीमा में डकेला जा रहा है। वहां उन के आने के बाद, जो पाकिस्तान से ट्रेनिंग ले कर आ रहे हैं, जम्मू काश्मीर की स्थिति क्या बनेगी—एक समस्या है जो देश की रक्षा करने वालों के सामने है। इसी प्रकार की स्थिति राजस्थान की सीमा पर बनी हुई है मन्सूनवादी वर्षाएँ में जो कुछ हो रहा है उस सब को देखते हुए, देश के प्रत्येक व्यक्ति के मन में चिन्ता

बनी हुई है। ऐसी स्थिति में सीमावर्ती क्षेत्रों में संकटकालीन स्थिति को समाप्त कर दिया जाय और इस प्रकार के अधिकार अपने हाथों से वापस कर दिये जायें, इस बात को कहते हुए मन कांपता जरूर है, लेकिन नीति में एक सिद्धान्त लिखा हुआ है—

यद्यपि मुञ्च लोकविरुद्धं नाचरणीयं नाचरणीयम् ।

बहुत सी बातें, इस में कोई सन्देह नहीं सत्य होती हैं, लेकिन अगर जनता की भावना उस के विपरीत हो, तो राजा का कर्तव्य यह हो जाता है कि एक बार उसमें हाथ रोक कर काम करे।

। जुलाई को संकटकालीन स्थिति की वापसी का प्रश्न उपस्थित है। अभी तो संसद का अधिवेशन 11 अगस्त तक है, ऐसी कोई स्थिति आती है तो संसद विद्यमान है, इस में कोई सन्देह नहीं कि संसद के जितने भी राष्ट्रवादी सदस्य हैं, वे इस विषय में सरकार के साथ रहेंगे। वह घटना चाहे विदेशी आक्रमण की स्थिति में हो या देशी बिगाड़ में। जहां यह सारा देश अब तक पहली दो परीक्षाओं में सफल हो चुका है, अपनी एकता का परिचय दे चुका है, न केवल विदेशी शत्रुओं का मुकाबला करने के लिये, बल्कि घर में बैठे हुए शत्रुओं का मुकाबला करने के लिये भी सारा देश एक हो कर खड़ा हो गया। ऐसी स्थिति यदि कब को फिर आती है तो यह सदन अपनी सरकार को इस प्रकार का अधिकार देने में किसी प्रकार की हिचकिचाहट नहीं करेगा। इसलिये सरकार को जनता की भावना का ध्यान करते हुए, जमतन्वीय परम्परा का पालन करते हुए इस संकटकालीन स्थिति को किलहास वापस ले लेना चाहिये।

दूसरी सब से बड़ी स्थिति यह है कि अभी कुछ दिन के बाद इस संसद में एक विवेकानन्द प्रस्तावक एस्टीमिटीय के संबंध में आने का

है। मैंने उस विधेयक को जहाँ तक ध्यान से देखा है, उसमें सरकार को इस प्रकार के अधिकार प्राप्त हो जाते हैं कि संकटकालीन स्थिति को अगर सरकार वापस ले लेगी तो भी इस प्रकार के अधिकार सरकार के हाथ में रहेंगे कि इस प्रकार के तत्त्वों के साथ भासानी से भ्रमता जा सके।

इसलिये मेरा यह निश्चित मत है कि जब सारे विरोधी दलों की एक सम्मति से यह राय है और सरकार यह देख भी चुकी है कि पिछले ढाई वर्षों में कुछ स्थानों को छोड़ कर इस संकटकालीन स्थिति के विशेष प्रयोग की स्थिति नहीं आई, तो सरकार आज इसे अपनी प्रतिष्ठा का प्रश्न बनाये, बल्कि इस को वापस ले कर देश के सामने एक जनतन्त्रीय परम्परा का प्रादुर्भाव उपस्थित करे।

The Minister of Commerce (Shri Dinesh Singh): Mr. Deputy-Speaker, Sir, during my absence, a little while ago, I believe the hon. Member Mr. Fernandes had made a charge that during the marriage of my daughter I spent two or three lakhs of rupees or something to that effect. Normally, I would not have taken the time of this House in giving any reply, because my friends had registered our protest, and it was quite obvious that it was a patent falsehood. But, nevertheless, I would like to say that if the hon. Member who made this charge did not have any clues with him now, he would search his heart and then tender a public apology to me.

श्री आर्चं करनेम्बीळ : उपाध्यक्ष महोदय, मैंने ऐसा नहीं कहा था कि श्री दिनेश सिंह ने दो-तीन लाख रुपये खर्च किया है, मैंने इतना कहा था

उपाध्यक्ष महोदय : लाखों रुपये खर्च हुआ है, ऐसा कहा था।

The Minister of State in the Ministry of Education (Shri Bhagwat Jha Azad): Either he should prove it on he should apologise.

श्री शशिभूषण बाजपेयी (बारगोन) : उपाध्यक्ष महोदय, आपने इस पर क्या निर्णय दिया, इन का झूठ बोलने की हमेंशा की प्रादत है, आपने इस पर क्या निर्णय दिया, कृपया बताइये ?

श्री रणबीर सिंह : भाफी धांये नहीं तं एषान लिया जाय।

Mr. Deputy-Speaker. After this explanation, as you cannot substantiate what you said, in fairness you should withdraw your statement.

श्री आर्चं करनेम्बीळ : उपाध्यक्ष महोदय, मैं ऐसा कहूंगा कि शादी में लाखों रुपये खर्च हुआ। दिनेश सिंह ने नहीं खर्च किया।

Mr. Deputy-Speaker: You made mention about his daughter's marriage. That is not fair. In fairness, you should withdraw it.

श्री आर्चं करनेम्बीळ : उपाध्यक्ष महोदय, शादी में लाखों रुपये खर्च हुआ—मैं इस में फर्क करना चाहता हूँ। मैं इस मामले में ऐसा फर्क करना चाहता हूँ कि किसी व्यक्ति ने खर्च किया था किसी शादी में खर्च हुआ—यह कहने में फर्क है। मैंने कहा है कि शादी में खर्च हुआ है. (ब्यवधान). . . इस में वापस करने की क्या बात है।

श्री दिनेश सिंह : उपाध्यक्ष महोदय, अब उन्होंने साफ कर दिया है, बाहिर है उस में कोई सच्चाई नहीं है। मैं आपकी इजाजत चाहता हूँ कि अब इस मामले को छोड़ दिया जाय।

Shri Y. B. Chavan: Sir, for nearly 3 hours, we have had a very interesting debate on the statement I have made about the continuance of the emergency. The whole story starts

[Shri Y. B. Chavan]

with a statement I made on 18th March, 1967. In order to remind the House what exact'y was the commitment made at that time, I would like to read a portion of it:

"The Proclamation of Emergency which was made in the wake of the Chinese aggression has been reviewed. In actual practice, the Government has already restricted the exercise of emergency powers to certain areas only.

Now comes the most operative part—

"It is their intention to seek constitutional authority to terminate with effect from 1st July, 1967 the state of emergency in all parts of the country except where abnormal conditions still persist."

Some hon. members have stressed that aspect and some opposition members have been divided on it. The scheme of emergency now incorporated in the Constitution is based on articles 352, 353, 358 and 359 of the Constitution. The concept of emergency is total and national in its scope, as Mr. Gopalan said. That is the present constitutional position. There is no doubt about that. But in the course of the last few years a criticism was made—it was voiced today by Dange also—is it necessary that for the sake of 5 million people, 500 million people should lose their fundamental rights? So, another idea was propagated in this country and in this House whether we cannot have some sort of partial emergency in parts of the country if the emergency exists in those parts. My statement of 18th March was based on the possibility of the House accepting this position, whether we can have a partial emergency in this country when emergency exists in certain parts of the country. When I went and approached the leaders of the Opposition I approached them

with this proposition that if they agreed instead of having total emergency—if there is total emergency there should be total emergency—there should be a provision in the Constitution that if the emergency exists only in parts of the country there should be also partial emergency and therefore we can amend the Constitution so as to vary the proclamation of emergency which is in existence now so that emergency can be applied only to certain parts of the country. This is the basic thing. On 18th March I did not say that we would completely revoke the proclamation of emergency. I said that our intention was to seek constitutional authority to apply the emergency to only certain parts of the country. Today the emergency is indivisible, total and national. Even this is a fact. It is not a question of merely sentiments. Certainly I endorse all their sentiments as far as fundamental rights are concerned, but I cannot share their conclusions.

I do not agree with their analysis of the present conditions in certain parts of the country. What is our assessment of the conditions that exist in those parts of the country? That is, really speaking, the basic point in this whole controversy. The constitutional aspects can be considered later. I will consider the suggestions given by my hon. friend, Shri Frank Anthony, a little later. But the whole thing now depends upon what is our assessment of the conditions that exist in certain parts of the country, especially in the eastern and western regions.

A charge was made, based on their own political theory, that this emergency is being continued only to continue the war we are waging with the tribals in the east. It was said, we are doing it because we want to have the emergency powers to deal with the internal conditions, because we want to intensify the police State that exists. This was the theory that

Emergency

Shri Dange put forward. I must say this is a completely wrong theory. The facts are that there is trouble in Nagaland, the Mizo Hills, in Kashmir (Interruption). But we are not seeking continuation of this emergency to deal with the internal problems. The character of the problem changes when external powers take interest, take a hand in these affairs and undertake operations of subversion with the help of these elements. Then the entire picture changes, the entire context changes. When in the Mizo Hills, in Nagaland, in NEFA, in parts of Assam and other parts of the country including Jammu and Kashmir, Pakistan and China, individually and jointly, take interest in subversive activities, a different picture emerges. I am told, before we started discussing this subject, the House was considering the Demands for Grants relating to the Ministry of Defence. At that time hon. Members must have put up another theory, that there is danger to the security of the country and all that. The collusion of Pakistan and China is something we cannot afford to ignore. That is a reality. When that collusion is making itself operative very effectively in these parts of the country—because in the last few months, whether they brought two rifles or fifteen people went over there, the point is that the Nagas and Chinese have established contact....

Shri Hem Barua: They did it in 1963.

Shri Y. B. Chavan: This is new evidence that we are getting, that the Naga hostiles crossed the northern Burmese territory and went into Chinese territory and established their contact there. Then there is the question of Chinese taking interest and training Mizo rebels in Pakistan. Then there is the linking of Mizos....

An Hon. Member: You can never prevent anybody from coming or going....

Shri Y. B. Chavan: That is a different thing altogether. You can hurl tons of abuses and we will take them. That is a separate matter. You can certainly criticise the Government for that. I am not arguing that point.

My major point today is that these few factors make the picture of Nagaland, Mizo land, Jammu and Kashmir, completely a different picture. It is not a question of merely internal trouble. We are, certainly, capable enough to face the internal trouble, not only in this part of the area but in the rest of the parts of the country. That is why I have given an assurance that Emergency powers will not be used in the rest of the country except in the border areas. That assurance stands. I know somebody will ask: How are you going to stand by those assurances? I cannot amend the Defence of India Act. But, certainly, the Defence of India rules can be amended.

Shri Frank Anthony: Fundamental rights will be suspended.

Shri Y. B. Chavan: I am coming to that. I cannot help it. I wanted to come to you for amendment of the Constitution for that purpose and I was not given that authority. What can I do? The constitutional scheme of Emergency today, as it stands today, is that once you proclaim Emergency, the suspension of article 19 is total. I hope the constitutional expert, Mr. Anthony, agrees on that.

Shri Frank Anthony: That is very clear.

Shri Y. B. Chavan: What is possible under article 350 is certainly a matter of consideration. I am prepared to consider it. Whether it can be made applicable to certain parts of the country or not is possible under article 350 and not under article 19.

Shri Frank Anthony: As long as article 350 is there, you cannot do it.

Shri Y. B. Chavan: I know that. That is the difficulty. That is why I say, I am prepared to have it considered again, in consultation with the constitutional experts, whether I can do anything by issuing a Presidential Order under article 359. I am prepared to consider this.

Our intention is not to encroach upon the fundamental rights of the people. I certainly endorse every word said about the sanctity of the fundamental rights. But, at the same time, we cannot be blind to certain dangers to the national security which exist. That is a reality. What is the answer for that?

Shri S. A. Dange: I ask you: Is Emergency an answer to that problem?

Shri Y. B. Chavan: Emergency in the sense, that, if these things really become difficult, you must have powers to deal with them. I can assure the hon. Members that it is not a very pleasant job for me to defend this. I can tell you, on my behalf and on behalf of every Member on this side of the House, we do not consider it a pleasant duty to defend any restriction on the fundamental rights of the people. But if it is in the national interest to do so, as our duty, we have to do it. I am doing it only as my duty. There is no other way of doing it.

The hon. Member, Mr. Dange, said that we are trying to carry on merely a war with tribals. That is not so. As I have said on many occasions on the floor of the House, we treat this question basically as a political question. We have to deal with these people there. But if an element of the people there, a section of the people there, want to rise in armed revolt, what is the answer for that? The answer, certainly to that extent will be armed answer, military answer, but, basically, it is a political question. Now, when the foreign powers want to put a hand into it and treat it as some sort of a people's liberation movement—it is how Chinese broad-

casts are referring to that—it takes quite a different political aspect. I would like to know what Mr. Dange or Mr. Gopalan thinks about this aspect of it. They have not said anything about it.

Shri S. A. Dange: Liberate the people.

Shri Y. B. Chavan: This is how it comes off.

Shri S. A. Dange: That means, you remove Emergency.

Shri Y. B. Chavan: They take peoples fighting for the cause of their sovereignty, for the separation from the Indian Constitution, as a liberation of the people.

An hon. Member: Not that.

Shri Y. B. Chavan: If that is not so I am glad....

Shri S. A. Dange: To begin with the Naga problem was not like that. You know it.

Shri Y. B. Chavan: In the case of Nagaland, your solution was to give them an autonomous State.

Shri S. A. Dange: Their first demand was Statehood. You denied it and, therefore, this problem worsened.

Shri Y. B. Chavan: The Nagaland State is granted; that very much exists. But even then the problem is not solved. You are forgetting one thing. You may criticise for that delay but now the fact stands that the Naga Statehood is accepted; the Nagaland State very much exists. Even then the problem is not solved. (Interruption). When points are made, they get somewhat agitated and start interrupting.

Shri S. A. Dange: I wanted clarification.

19 hrs.

Shri Y. B. Chavan: I have given him the clarification, the answer. That is the answer. That is being done and if still the problem is not solved, it is not because of the people of Nagaland but it is because somebody is trying to instigate them. It is the third hand that makes the whole thing very sinister and it is this sinister part of it that we have to fight and that is exactly why we want the emergency power. This is my case. I have repeated the same thing. There is nothing much to say. My basic case is based on the political aspect. But at the same time we do not say that we want this power indefinitely. As I have said, we are ourselves very conscious of this problem—the entire Government. The Prime Minister has been very conscious of this position for the last year and a half and whenever occasions came for discussing this matter, she has been very much sensitive about the question of Emergency. But when it is a question of academic like or dislike and a real danger to the national security, you have to take hard decisions, dutiful decisions and this is one of those decisions. I hope the House will accept it.

Shri Thirumala Rao (Kakinada): May I make a request....

Mr. Deputy-Speaker: No questions please. He has a right to reply. He may finish in three or four minutes.

Shri Hem Barua: The hon. Home Minister has advanced certain arguments in favour of perpetuating the Emergency in this country but he has not dealt with certain vital points. The vital points, I would say, relate to the suspension of fundamental rights guaranteed to us under the Constitution.

Now the existence of China and Pakistan is a historical fact and Pakistan and China might be inimical to us for years together. Since the existence of Pakistan and China is a historical fact and since they are going to be intransigent for a longer period, does he propose to continue the Emer-

gency till such time when they become friendly to us once again, which is not possible?

Shri Y. B. Chavan: I have already said that our idea is not to continue it indefinitely. We are going to review the whole position sometime in November or December.

Shri Thirumala Rao: I request you to give me just one minute. The responsible leaders of the opposition have levelled a charge against the Government that the Emergency is being continued by the Congress Party to perpetuate itself in power. The Congress Party depends on its democratic strength. I hope the Home Minister will reply to this argument of the opposition.

Shri Y. B. Chavan: I have already answered.

Shri Hem Barua: The suspension of the fundamental rights because of the imposition of the continuation of Emergency is a very disgusting matter. It is said that there is posture of hostility, poised by China against us. I agree in that but at the same time I say that this Emergency is not the answer to the posture of hostility posed by China. I have been saying times without number that we must build up our economic and military strength to face the challenge that is poised against us by China, as also by Pakistan. In this connection, I would say another thing. Let not this Government depend on the so-called umbrella to be assured either by the United States or the USSR. This, I say, because of our experience in the recent West Asian conflict. What happened in that conflict? President Nasser depended too much on the help of Soviet Russia, but that help ultimately did not come; even China assured him that China would be ready to help the U.A.R. provided Soviet Russia does not help her. But during the conflict, what happened. China tried to encourage President Nasser with Mao's thoughts. For all ailments, China has only one *mantram*, namely Mao's thoughts. President Nasser might or might not defend his socialism with

[Shri Hem Barua]

Mao's thoughts, but for us to defend our frontiers with Kossygin's thoughts or Johnson's thoughts would be difficult.

Whatever that might be, I again renew my appeal to the hon. Home Minister to see that this emergency which is a blot and which is a disgrace on the nation and a disgrace on the part of the Government, and at the same time also pulls down our international image, is withdrawn; and if he withdraws the emergency, I may tell him that he will have the blessings of the whole nation with him for further progress towards greater heights.

Mr. Deputy-Speaker: There are several substitute motions. We have admitted these motions under rule 342. So, I shall now put all the substitute motions together to vote. The main motion has already been debated upon and is not to be put to vote.

श्री जयु सिन्धु : उपाध्यक्ष महोदय, उस में दो बिन्दु के हैं। वेरा जो चीपा मोशन है उसको प्रलग से रखा जाय।

Mr. Deputy-Speaker: I shall first put substitute motion No. 2 by Shri Frank Anthony to vote.

The substitute motion No. 2 was put and negatived.

Mr. Deputy-Speaker: I shall now put substitute motion No. 4 by Shri Madhu Limaye to the vote of the House.

Shri Madhu Limaye: Please read it.

Mr. Deputy-Speaker: The question is:

That for the original motion, the following be substituted, namely:—

"This House, having considered the statement on emergency made by the Minister of Home Affairs on the 22nd June, 1967, recommends to the Government of India:

that, since the proclamation of a state of emergency is justified only when there is a clear and present threat of external aggression or internal disturbance, gravely jeopardising the nation's security; and

further, since the normal laws of the land clothe the Government with enough powers to enable it to deal with any situation that might arise, the state of emergency be terminated forthwith." (4)

The motion was negatived.

Mr. Deputy-Speaker: I shall now put substitute motion No. 5 by Shri Surendranath Dwivedy to vote.

The substitute motion No. 5 was put and negatived.

Mr. Deputy-Speaker: I shall now put Shri Humayun Kabir's substitute motion, namely substitute motion No. 6 to vote.

The substitute motion No. 6 was put and negatived.

19:08 hrs.

The Lok Sabha then adjourned till Eleven of the Clock on Tuesday June 27 1967/Asadha 6, 1889 (Saka).