

MR. SPEAKER : Strikers are taking place in all corners of the country.

SHRI S.M. BANERJEE : The strike is about the implementation of the Khadilkar formula. Let the Minister make a statement.

12.41 Hrs

ARMED FORCES (ASSAM AND MANIPUR) SPECIAL POWERS (AMENDMENT) BILL

THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI K.C. PANT) : I beg to move :

"That the Bill to amend the Armed Forces (Assam and Manipur) Special Powers Act, 1958, as passed by Rajya Sabha, be taken into consideration."

This is a simple Bill and I need explain its provisions only briefly. The Armed Forces (Assam and Manipur) Special Powers Act, 1958, which had application in the erstwhile State of Assam and the Union Territory of Manipur empowered the Governor of Assam and the Administrator of Manipur to declare certain areas as disturbed. In such areas the Armed Forces have certain special powers such as to destroy arms dumps and shelters of hostiles, to make searches of premises for the recovery of unauthorised arms and ammunition, to check by the use of force the unlawful and violent activities of rebels, etc. The Act had also been applied to the erstwhile Union Territory of Tripura. Another law containing analogous provisions namely, the Armed Forces (Special Powers) Regulation, 1958 is in force in Nagaland but will cease to be in force on the 5th April, 1972. Subsequent to the reorganisation in the north-eastern region, the Armed Forces (Assam and Manipur) Special Powers Act, 1958 now has application in the States of Assam, Meghalaya, Manipur and Tripura and the Union Territories of Arunachal Pradesh and Mizoram. But, the power of the Governor of Assam to declare certain areas as disturbed has not hereby become available to the Administrators of the Union Territories of Mizoram and Arunachal Pradesh. The object of the present Bill is three fold. Firstly, it is proposed that the Armed Forces (Assam and Manipur) Special

Powers Act, 1968, may have uniform application in all the five States and the Union Territories in the north-eastern region. Secondly, it is sought to state clearly that the Governor of these States and the Administrators of the two Union Territories will have the power to declare areas as disturbed. Thirdly, it is proposed to take that power also for the Central Government.

SHRI ATAL BIHARI VAJPAYEE (Gwalior): Why for the Central Government ?

SHRI K.C. PANT : You will understand it, if you will hear me. It is hardly necessary to explain in any detail the need for these proposals. In the north-eastern region the situation is no doubt more peaceful generally than it was in the past. However, in view of the continuing activities of the Naga underground and the Mizo hostiles the need for vigilance in this area continues to be paramount. If any untoward situation were to develop in any part of this region, enabling powers should be available under the law so that the Armed Forces are in a position to act quickly to nip the trouble in the bud.

It is also necessary that under the law the Central Government should be empowered to declare areas as disturbed. In view of the foreign links which some of the tribal groups had developed over the past few years, it is of the utmost importance to check their trans-border movements. To ensure that the security forces have the requisite powers to deal with the activities of such groups it is necessary that the Central Government should be enabled to declare certain areas as disturbed.

I am sure that the legislative proposals before the House will have its whole-hearted approval.

MR. SPEAKER : Motion moved :

"That the Bill to amend the Armed Forces (Assam and Manipur) Special Powers Act 1958, as passed by Rajya Sabha, be taken into consideration."

SHRI S. M. BANERJEE (Kanpur) : How much time has been allotted for this ?

MR. SPEAKER : No time has been allotted.

SHRI S. M. BANERJEE: Let us have two hours atleast, because it is an important issue.

MR. SPEAKER : Unfortunately, the Business Advisory Committee could not fix any time for this. We cannot bargain, like the Business Advisory Committee, in the whole House. Any way, I shall try to accommodate hon. Members.

SHRI S.M. BANERJEE: I am requesting you that it should be two hours.

SHRI BIREN DUTTA (Tripura West) : Mr. Speaker, Sir, I rise to oppose this Bill with all the emphasis at my command. It is not so simple as has been stated by Shri Pant. It shows the mentality of the British raj inherited by the Congress rulers.

You know, Sir, in the old British days the people of the eastern region were always kept under harsh rules and regulations and were treated as a separate class. Even after freedom these people of the north-eastern region were kept out of the pale of democracy. They began a fight to achieve democratic rights for themselves. This was a fair struggle for a long period.

The Government came with the original Act in 1958 to empower the Government of Assam to use the armed forces against the struggling people who were fighting for achieving their democratic rights. But I am happy to say that the people of that region were not cowed down by these sorts of pressures. They continued the struggle and, after a long period, now unwillingly the Congress rulers have been forced to concede their demand and the North-Eastern Region Areas Act and States have come. But they have not accepted the desire of the people of those areas. That is why now they have come up with this Bill in an extended form.

There is no trouble in those areas now. The people have gone through the ordeal. They are preparing themselves to exercise the hard-earned democratic right to develop their areas. Now when the East Pakistan

Government is gone and there has come up a friendly Bangla Desh, at this stage, when these people are peacefully developing, the Government has come up with this Bill to empower not only the Lieutenant-Governor and Governor but also to take powers for the Central Government to declare an area or the whole of the State as "disturbed area" and to suppress the people who are trying to establish the democratic tradition after a long struggle for achieving statehood. This is very unfortunate.

The people of these areas are eager to have more and more powers but the Congress rulers are very much reluctant to part with that power. They have given no reason why now they have brought this Bill before us. They have only said that there are some links of the hostile Tribals with foreign countries.

My State, Tripura has been included in this Bill. It has got a friendly neighbour now. It has nothing to worry the Government of India. Yet, they have come up with this Bill. If you go through the whole record, you will find that, because of the misdeeds of the Congress Party against these people, the weaker section of the people of India and of the eastern region were seething with hatred against Congress policies and rule. This is the main reason why they do not want to part with their powers. They want to snatch away whatever has been achieved by the people thereafter great struggle. If you go through the old records, you will find that the voters of those areas have rejected the plea that Congress rulers are representing the progressive forces of India. That is the reason why they have now come forward with this Bill to negate the achievements of the people there.

I doubt whether the taking over of the powers by the Central Government to declare an area or a State as a disturbed area will not be conflicting with the administration of a State or a Union Territory. If they were sincere, they might have taken the concurrence of the newly formed Legislative Assemblies in those States before coming to this House to get the Bill passed in a hurry. What was the objection in having the concurrence of the Legislative Assemblies there before coming to this House? But they have got the Bill passed

in the other House and now they have come before this House to get it passed in a hurry.

I oppose this Bill because it is directed against the democratic people of the whole of north eastern region. It is intended to bring the people of those areas back under the fold of Congress rule. If the Congress rulers fail to achieve their ends by the process of elections, even by fraudulent means of mal-practices, they come with this type of a measure to suppress the people and bring them back under their fold. We have seen how the police-C. R. P. *raj* has acted against the people of those areas. My State has suffered much. The police-C.R.P. *raj* still continues there. After a long struggle, we achieved the Statehood. We have gone through the process of elections and we have shown how the people there are trying to resist the policies of the Central Government and that these policies are hostile to the aspirations of the people of this region. That is why the Central Government has now come forward with this Bill.

I think, if this Bill is allowed to pass, then gradually they will declare not only the State of Tripura or Manipur or Meghalaya or Assam as a disturbed area but they will begin to suppress all the States by coming up with similar legislation. That will bring the doomsday for democracy in India. I call upon all the Members of this House to think seriously whether, at this time, this Bill should be allowed to be passed in this House. If it is not opposed, if it is not resisted, I think, the days of democracy in India will come nearer its end.

With these words, I oppose the Bill strongly.

SHRI S.M. BANERJEE (Kanpur) :
Mr. Speaker, Sir, I oppose the Bill. I find that the powers existing even today are enough to control any situation in those areas. The Bill extends to the whole of the States of Assam, Manipur, Meghalaya, Nagaland, Tripura and Union Territories of Arunachal and Mizoram.

Sir, after the elections, the Governments have been formed there with the help of elected representatives there. I feel, if the Centre intervenes in the matter and interferes too much in the name of controlling or suppressing or liquidating the elements which in their opinion are foreign links and do not

have faith in the State Governments, I am afraid, it will seriously affect the autonomy of the State Governments.

We do not believe that any State should suffer at the hands of the Centre in the matter of autonomy and, therefore, I have a feeling that such more powers should not be given in the hands of either the Governor or the Central Government. Clause 4 of this Bill says :

“If in relation to any State or Union Territory to which this Act extends, the Governor of that State or the Administrator of that Union territory or the Central Government, in either case, is of the opinion that the whole or any part of such State or Union territory, as the case may be, is in such disturbed or dangerous condition that the use of armed forces in aid of the civil power is necessary, the Governor of that State or the Administrator of that Union territory or the Central Government, as the case may be, may, by notification in the Official Gazette, declare the whole or such part of such State or Union territory to be a disturbed area.”

The State Government has got the power now; under the present law, they can always ask for the help of the Army, and this has been done in the case of Bihar. There was a strike in Jamshedpur where army was deployed. We raised the question here; we moved a call-attention and also an adjournment motion, and we were replied by the then Home Minister that, under the rules, under the various provisions of the law, the State Government could ask for the help of the Army. If that is true, why are special powers necessary for those areas? Are they not States? Does the hon. Home Minister, Shri K. C. Pant, not consider them to be States? If they are not considered separate States with autonomy, with powers and so on, then it is a different matter. But if they are considered to be States, then they can, under the present existing law, ask for the help of Army. Why are these special powers necessary?

I know some of those areas in Mizoram. Some of the Mizo rebels are also giving some

[Shri S. M. Banerjee]

trouble to Bangla Desh, according to some information. But are they so powerful that they cannot be controlled with the existing laws or with the existing army which is already there? Why do you want special powers for that? Some disturbances in Mizoram cannot be controlled by Mr. Jagjwan Ram as Defence Minister and he wants to liquidate them with more powers. Mizoram is a disturbed area, according to them, and they want more powers to be given to the Governor or the Administrator. Giving him unlimited powers will definitely reduce the autonomy of the State and will reduce it to a position where the Chief Minister will be constrained to say that they are still under the Central Government and that they do not enjoy full autonomy.

My hon. friend Mr. K. C. Pant, advocated Parliamentary democracy during the elections. We addressed some of the meetings together to liquidate Jan Sangh. Why are we against Jan Sangh, Sir? It is because they do not believe in Parliamentary democracy. That is why, we addressed meeting together. And I am sure he will bear with me that, in the larger interest of Parliamentary democracy and democracy in States, it is necessary that the Chief Minister is given at least the feeling that his State is autonomous; and that feeling can come only if these special powers are not increased. The causes of agitation should also be solved in those areas.

I know, when questions were raised in this House regarding Tripura, Manipur and the other Union territories, we were happy; we were very happy when some of them were given Statehood and some were considered to be Union Territories; everyone here welcomed it. The present national feeling was enough in evidence during the 14-days war with Pakistan. We should have faith in the people of those areas. Some people, it was said, were trying to disturb with the help of foreign agencies. What are the foreign agencies in those areas, Sir?.....

MR. SPEAKER : Is the hon. Member concluding ?

SHRI S.M. BANERJEE : I would like to have another five minutes.

MR. SPEAKER : Alright; he can finish.

13 Hrs.

SHRI S.M. BANERJEE : What about those organisations said to be peace corps, said to be cultural organisations headed by Americans? What are they doing? Are they not trying to sabotage the various plans of the country? Are they not sabotaging our politics with their money? What are they doing about them? We said in this House and in the other House too that PL 480 funds should be frozen in the interests of democracy and in the larger interests of the country's parliamentary democracy. There are foreign agents not only among the Mizos but elsewhere also. They may be handful. They should be controlled. They are the bitterest enemies of this country who sent their Seventh Fleet to the Bay of Bengal to defend the dictators of Pakistan. They are still there. They are existing in this country in the name of peace corps and other cultural and educational organisations.

I would request the hon. Minister to kindly give a second thought to this Bill. This is being opposed by all sections of the people, not on the ground that we want to help any anti-social or international elements—We are not for it—but a feeling is being created in those areas that their rights are being curbed.

With these words, I would request the hon. Minister to kindly call a meeting of the Opposition Members if he thinks that the situation is so serious. Let us be convinced before this Bill is passed. The Bill as it is, I am sorry, cannot be supported and I, on behalf of the Group of which I belong, oppose this and I request the hon. Minister to kindly give it a second thought and convene a meeting of all the Parties which gave him ample support during the fourteen-day war and who always supported all their righteous actions.....(Interruptions) If the Congress has won a majority in Delhi, that is not my fault. The question is whether anybody who brings this legislation and if we find that the legislation is wrong and not in the interests of the people, we will oppose it. We will support the Congress in certain issues, but we shall oppose it tooth and nail if we find that certain decisions of theirs are wrong and, according to us, are anti-people. This particular legislation, I am afraid, cannot be regarded in the interests of people.

That is why in the larger interests of the autonomy of the State and the people living there, I oppose it.

MR. SPEAKER : Mr. Somasundaram of DMK—you may continue after lunch.

13-03 Hrs.

The Lok Sabha adjourned for Lunch till Fourteen of the Clock.

The Lok Sabha re-assembled after Lunch at Five minutes past Fourteen of the Clock.

[MR. DEPUTY-SPEAKER in the Chair]

श्री शारदादे राय (घोसी) : गन 26 तारीख को जयपुरिया काटन मिल, मऊनाथ-भंजन (आजमगढ़, यू० पी०) में मजदूरों के ऊपर जबरदस्त लाठी चार्ज हुआ है, जिस में 28 मजदूर बुरी तरह घायल हो गए हैं और दो गम्भीर हालत में अस्पताल में पड़े हुए हैं। मैं आपके माध्यम से सरकार का ध्यान इस ओर आकर्षित करना चाहता हूँ

MR. DEPUTY SPEAKER : Where is this cotton mill ?

श्री शारदादे राय : आजमगढ़, यू० पी० में।

MR. DEPUTY SPEAKER : How do the Central Government come in ?

SHRI S.M. BANERJEE (Kanpur) : It is a textile mill.

MR. DEPUTY-SPEAKER : How the Central Government come in? It is a law and order question for the State Government. Let not the hon. Member make the House a forum for everything. This is not within the competence of the Centre.

SHRI S.M. BANERJEE : With your permission, I would like to point out how it is a purely Central matter. In the morning, the Hon. Speaker had kindly allowed me to say a word for half a minute about the workers' strike in Kanpur in two textile mills, namely the Swadeshi Cotton Mills

and the J & K Cotton Mills. I am trying to raise this issue only because of the Khadilkar formula; the 'non-acceptance of bonus' formula evolved by Shri Khadilkar has not been accepted by the Singhanias and the Jaipurias. Since the hon. Minister of Parliamentary Affairs, Shri Raj Bahadur is here with us.

MR. DEPUTY-SPEAKER : Now, the hon. Member should conclude. He has achieved his purpose.

SHRI S.M. BANERJEE : 13,000 workers are on strike. Shri Raj Bahadur is fortunately here with us, and he is sitting on this side just at this moment, and I would request him to ask Shri Khadilkar to make a statement.

THE MINISTER OF PARLIAMENTARY AFFAIRS AND SHIPPING AND TRANSPORT (SHRI RAJ BAHADUR) : I am always for good causes, but not for the one that the hon. Member has espoused.

13.5 Hrs.

ARMED FORCES (ASSAM AND MANIPUR) SPECIAL POWERS (AMENDMENT) BILL—(Contd.)

श्री अटल बिहारी वाजपेयी (ग्वालियर) : मेरा एक व्यवस्था का प्रश्न है। इसको आप सुन लें और निर्णय दे दें। इस विधेयक में अनुच्छेद 355 का हवाला दिया गया है। इस अनुच्छेद को मैं आपकी आज्ञा से उद्धृत करना चाहता हूँ।

"It shall be the duty of the Union to protect every State against external aggression and internal disturbance and to ensure that the government of every State is carried on in accordance with the provisions of this Constitutions."

मेरा निवेदन है कि इस विधेयक के अन्तर्गत केन्द्र को जो अधिकार दिए जा रहे हैं वे संविधान की धारा 355 को बढ़ा कर दिये जा रहे हैं। ईमानदारी का तकाजा यह था कि सरकार संविधान में संशोधन करने का विधेयक लाती। अगर वह किसी

[श्री अटल बिहारी वाजपेयी]

क्षेत्र में आंशिक आपत्कालीन स्थिति घोषित करना चाहती है तो एक विधेयक ला सकती थी। लेकिन आपको स्मरण होगा कि इस तरह का एक विधेयक सदन में लाया गया था लेकिन उसे वापिस कर दिया गया। मेरा आरोप है कि इस विधेयक के द्वारा केवल किसी क्षेत्र को डिस्टर्ब्ड घोषित करने का अधिकार केन्द्र नहीं ले रहा है, उस क्षेत्र के अन्तर्गत आर्डर्ड फोर्सिस को स्पेशल पावर्ज काम में लाने का भी अधिकार दिया जा रहा है। संविधान इसकी इजाजत नहीं देता है।

MR. DEPUTY SPEAKER : So what is to be done.

श्री अटल बिहारी वाजपेयी : यह विधेयक संविधान के प्रतिकूल है। यह संविधान की धाराओं के विरुद्ध जाता है। इस विधेयक पर विचार स्थगित करके आप सरकार को निर्देश दें कि इस विधेयक को संविधान के अनुसार बनाए। अभी तक राज्यपालों को जो अधिकार प्राप्त थे वे कायम रह सकते हैं। उस में केन्द्रीय सरकार को बीच में लाने की जरूरत नहीं है। मेरा निवेदन है कि केन्द्र और राज्यों के प्रश्न से भी जुड़ा हुआ यह विधेयक है। एक बार हमने केन्द्र को अधिकार दे दिया किसी राज्य में किसी क्षेत्र को डिस्टर्ब्ड घोषित करने का तो अन्य राज्यों के बारे में भी यह स्थिति अपनाई जा सकती है और केन्द्र और राज्यों के सम्बन्ध बिगड़ सकते हैं। यह विधेयक संविधान के अनुसार नहीं है, उसकी धाराओं के विपरीत जाता है।

MR. DEPUTY-SPEAKER : I do not think that it is the duty of this House to pronounce a verdict on whether this Bill is *ultra vires* of the Constitution or not. That is for the Supreme Court. We are now only concerned with the question whether this House has the legislative competence to consider this measure and pass it. I think that on this point, the hon. Member can make his submissions during the consideration stage,

and he may say that it is not competent for the House to consider this Bill and so on, and then the House would decide on that matter.

SHRI ATAL BIHARI VAJPAYEE : Can the House amend the Constitution by back-door? If it is necessary to amend the Constitution, let them do it in a straightforward manner.

MR. DEPUTY-SPEAKER : Let not the hon. Member expect me to make any pronouncement on that. The hon. Member's main submission is that this Bill is *ultra vires* of the Constitution. I think that that is a point on which we cannot pronounce any verdict. The competent authority to decide whether the Bill or the Act when it is passed is *ultra vires* of the Constitution or not is the Supreme Court. So, I do not think that the point raised by the hon. Member comes in now.

SHRI S. D. SOMASUNDARAM (Thanjavur): I am opposing this Bill. The original Act was meant for giving special powers to the Armed Forces only in the States of Assam and Manipur. But in this Bill Government have sought to extend it to the States of Assam, Manipur, Meghalaya, Nagaland and other places. If it is only for the purpose of clarification and further explanation, then why should Government bring forward this kind of Bill? Why should they not bring forward a different Bill and change its title also? According to the original Bill, these special powers were to be given only in certain specific States and certain specific places. But in this Bill, Government have sought to provide that this may be extended to other States or other places. I do not understand what the intention of the Government is, and what the background for this proposal is. What is the guarantee that the Government cannot extend this Act to any other State? What is the guarantee that the Bill is intended only for the States mentioned therein? There is no such guarantee because the Bill is not specific in this regard.

Why should the Central Government have power which could be extended to any other State, say, even Tamil Nadu

and Kerala. The exercise of the power should be restricted to a specific area. It could not be all-pervasive.

Again, before bringing the Bill here, the Government must consult the concerned States and obtain their consent. When that has not been done, what is the provocation for bringing this Bill in this form at this stage ?

Then again, in the proposed section 3, it is said :

"The Governor of that State or the Administrator of that Union Territory or the Central Government."

What is the necessity for putting in the words 'the Central Government'. According to the Constitution, the President has the power to intervene in a disturbed State at any time. But it is not necessary to include the words 'Central Government' here. It is against the basic principle of the Constitution and also opposed to democratic norms and practices. Government can initiate legislation but we cannot pass a Bill which is against the Constitution. I would request Government first to delete the words 'the Central Government'. Then they must get the concurrence of the State Governments before bringing it here. Thirdly, the operation of the Bill must be restricted to specific places or States and not covering the whole country. Those conditions not being satisfied, on behalf of the DMK I oppose the Bill.

डा० लक्ष्मीनारायण पांडेय (मंदसौर) :
उपाध्यक्ष महोदय, मैं इस विधेयक का विरोध करने के लिए खड़ा हुआ हूँ। एक तरफ तो सरकार प्रजातांत्रिक आधार पर शासन चलाने की बात कहती है और दूसरी तरफ वह इस विधेयक के द्वारा प्रजातांत्रिक सिद्धान्तों के विपरीत सारे अधिकार, चाहे वे अधिकार सेना के इस्तेमाल के बारे में हों और चाहे प्रशासन चलाने के बारे में, अपने हाथ में ले लेना चाहती है। मंत्री महोदय ने कहा है कि यह बिल साधारण सा है और इस को पास करने में किसी

को कोई हिचक या कठिनाई नहीं होनी चाहिए। लेकिन यदि हम इस बिल की भावना को देखें, तो यह कोई साधारण बिल नहीं है, बल्कि बहुत महत्वपूर्ण बिल है, जिस के द्वारा केन्द्रीय सरकार अपने हाथ में बहुत व्यापक अधिकार लेना चाहती है।

1958 का विधान केवल आसाम और मणिपुर तक सीमित था, लेकिन इस विधेयक को मेघालय, नागालैंड, त्रिपुरा, अरुणाचल प्रदेश और मिजोरम में भी लागू किया जा रहा है, जहां पर इस की आवश्यकता महसूस नहीं होती है। हम जानते हैं कि बंगलादेश के निर्माण के बाद आसाम और उस क्षेत्र के अन्य राज्यों तथा यूनियन टेरिटरीज की स्थिति बहुत अच्छी हो गई है। वहां पर ऐसी कोई कठिनाई नहीं है, जिस के कारण सरकार को इस प्रकार का विधेयक लाने के लिए बाध्य होना पड़े। मैं नहीं समझता कि सरकार के पास इस विधेयक को लाने के लिए कोई उचित कारण हैं।

सरकार देश के कुछ हिस्सों में इमर्जेंसी लागू करने के विषय में एक विधेयक लाना चाहती थी, लेकिन सदन के विरोध के कारण वह विधेयक नहीं लाया जा सका। इस के परिणाम स्वरूप इमर्जेंसी सारे देश में लागू रही। मुझे ऐसा लगता है कि अब सरकार इस विधेयक के द्वारा कुछ क्षेत्रों को संकट-ग्रस्त क्षेत्र घोषित करके उन में इमर्जेंसी की स्थिति लागू करना चाहती है।

हम जानते हैं कि आन्तरिक शान्ति बनाये रखने का दायित्व राज्यों का है और राज्य सरकारें इस के लिए सक्षम हैं। उन के पास पुलिस और दूसरी फोर्सिज हैं। इसलिए केन्द्रीय सरकार द्वारा इस प्रकार राज्यों के अधिकार-क्षेत्र में हस्तक्षेप करना और अपने अधिकारों को बढ़ाना ठीक

[डा० लक्ष्मीनारायण पांडेय]
नहीं है। इस विधेयक का तात्पर्य यह है कि चाहे राज्य की इच्छा हो या न हो, अगर केन्द्रीय सरकार चाहती है, तो वह किसी राज्य या उस के किसी भाग, को संकटग्रस्त क्षेत्र घोषित कर सकती है और उस में सेना का उपयोग कर सकती है। ऐसा लगता है कि सरकार धीरे-धीरे लोकतांत्रिक प्रवृत्ति को छोड़ कर एकाधिकार की प्रवृत्ति की ओर जा रही है।

जैसा कि अभी माननीय सदस्य, श्री बाजपेयी, ने कहा है, सरकार संविधान के आर्टिकल 355 में कोई संशोधन ला कर अपने अधिकार बढ़ाती, तो समझ में आ सकता था। आर्टिकल 355 में कहा गया है कि हर एक राज्य की बाहरी आक्रमण और आन्तरिक अशान्ति से रक्षा करना और यह देखना कि हर एक राज्य का प्रशासन संविधान की व्यवस्थाओं के अनुसार चलाया जाये, केन्द्रीय सरकार का कर्तव्य है। आर्टिकल 356 के अनुसार राज्यपाल किसी राज्य में राष्ट्रपति शासन लागू करने की सिफारिश कर सकता है। वह स्थिति दूसरी है। लेकिन इस विधेयक के उद्देश्यों और कारणों के वक्तव्य में आर्टिकल 355 का हवाला दिया गया है। आर्टिकल 355 में कहा गया है कि अगर किसी राज्य में कोई गड़बड़ है, तो केन्द्रीय सरकार उस के बारे में उचित पग उठा सकती है। मैं समझता हूँ कि आर्टिकल 355 की मूल भावना के विपरीत जा कर इस बिल को लाया गया है। सरकार सीधे रास्ते के बजाये चोर दरवाजे से ये अधिकार अपने हाथ में लेने जा रही है। सरकार का यह कार्य संविधान की मूल भावना के विपरीत और आर्टिकल 355 का खुला उल्लंघन है। यह बिल राज्यों और केन्द्र के पारस्परिक सम्बन्धों और संविधान में दी गई विषय-सूची के विपरीत है।

मैं चाहता हूँ कि सरकार उचित तथ्य और प्रमाण दे कर बताये कि वह किस कारण यह अधिकार अपने हाथ में ले रही है कि वह किसी राज्य या उस के किसी भाग को संकटग्रस्त घोषित कर के उस में सेना को उपयोग कर सकती है। मैं समझता हूँ कि इस विधेयक की कोई आवश्यकता नहीं थी और इस को ला कर सरकार ने अपनी एकाधिकारवादी मनोवृत्ति और धीरे-धीरे लोकतंत्र को समाप्त करने की प्रवृत्ति का परिचय दिया है।

इन शब्दों के साथ मैं इस विधेयक का विरोध करता हूँ।

SHRI A. KEVICHUSA (Nagaland):
Sir, I oppose the Bill, because, as far as Nagaland is concerned, this Bill has been introduced only to take the place of the Armed Forces (Special Powers) Regulation of 1958, a regulation which was promulgated specifically for Nagaland and which has been in force there for the last 14 years. There has been a lot of agitation in Nagaland, both in public and in Government circles, demanding revocation of this distasteful regulation. Because under cover of the regulation, the armed forces have perpetrated many acts of atrocity. A year ago, the Legislative Assembly of Nagaland unanimously passed a resolution recommending the revocation of the regulation, and in pursuance of that, the Chief Minister of Nagaland accompanied by members of his Cabinet waited on the Prime Minister to put across their point of view in this regard. But the Central Government paid no serious attention to this very grave matter.

The regulation which received in 1969 a new lease of life for three year is due to expire after a week, and this time, it is not going to be extended under the same name. But the ghost has come up again in the form of the present Bill, and this time, to remain not for three years but permanently in the Statute-Book. Is it in deference to the wishes of the people, and the Government of Nagaland that this Bill has been introduced ?

If an Armed Forces (Special Powers) Act has been in force in Nagaland's neighbouring States such as Assam and Manipur, it was perhaps because the State authorities felt the need for such an Act. But the position in Nagaland is different. True, there has been more bloodshed in Nagaland. But 12 years ago in the midst of bitter fighting, the late Pandit Jawaharlal Nehru realising that the problem in Nagaland was not a law and order problem but a political problem, gave his consent to the creation of the tiny State of Nagaland which then had a population of only 4 lakhs. To pave the way for finding a political solution public leaders in Nagaland have been crying hoarse for curtailing the wide powers given to the Armed Forces because they know that the basic problem in Nagaland is not going to be solved by force of arms.

The hon. Minister says that the Act will not be operative unless an area has been declared as "disturbed." The outgoing regulation was on paper as innocuous. Under it also the Armed Forces could not operate in an area unless it was notified as "disturbed." But in reality army operations have been going on in Nagaland in full force even though Nagaland was not declared as a disturbed area. The substitution of the Armed Forces (Special Powers) Regulation 1958 by the present Bill will be only a change in label; it is like substituting a brick for a stone when a child is crying for bread.

The need in Nagaland today is to bring about better understanding. People who constitute the Legislative Assembly of Nagaland are men of responsibility and they are sincere in their desire to bring about that better understanding. Throwing away their earnest appeal to the wind will not be conducive to the fostering of the spirit of good relationship.

THE MINISTER OF STATE IN THE
MINISTRY OF HOME AFFAIRS (SHRI
K. C. PANT): Sir, apparently there is some misunderstanding about the scope of this measure because many of the hon. friends who spoke did not quite understand; at least from what they spoke it seemed they had not quite understood the limited scope of this measure. My hon. friend Mr. Somasundaram from the DMK was afraid

that the powers given under this Bill may be extended to other States like Tamil Nadu or Kerala.

14.23 Hrs.

(SHRIMATI SHEILA KAUL IN THE CHAIR)

If he chose to even glance through the Bill, once, casually, he would see that those apprehensions are quite misplaced and quite unnecessary. This Bill relates only to the North-eastern region and to no other part of the country. Similarly, my hon. friend Shri Atal Bihari Vajpayee and later on, Shri Pandey were afraid that this was meant to bring in emergency in certain parts of the country by the back door. I do not know how this measure could be confused with the emergency powers. I am sure my hon. friends know very well what the powers under an emergency are. They also know the limited nature of the powers that are sought to be given to the Armed Forces to deal with a certain situation that may arise in the north-eastern area after a certain area has been declared as disturbed. This is the scope of the Bill.

One hon. friend, Mr. Somasundaram, asked me about the background of this measure. I had given the background of this measure, but I am prepared to recapitulate briefly. This is nothing new, this measure is not a new one, I would like to emphasize. The Armed Forces (Assam and Manipur) Special Powers Act, 1958, applied to the erstwhile State of Assam and the Union territory of Manipur. An hon. friend said that now it has been extended to various other States. He forgets that the erstwhile State of Assam has lost some areas and new States have been created. So, it is not as though new areas have been brought within the scope of the Bill, but the Bill already extended to these areas which today go by a different name. This needs to be understood.

My hon. friend from Tripura, Shri Dutt, also seemed to feel that this is the first time that it was being extended to Tripura. It is not so. It was already extended to Tripura, it already applied to Tripura. The only change is that now since it has become a State, instead of the Administrator, the

[Shri K. C. Pant]

Governor has to have the powers to declare it a disturbed area.

My hon. friend Shri Kevichusa referred to the Armed Forces Special Powers Regulation 1958, but again I would like to repeat that it is also in force in Nagaland. It is not now being brought for the first time. It is already in force, but it is going to expire on 5th April, 1972. And so, this measure will extend the Armed Forces (Assam and Manipur) Special Powers Act also to Nagaland.

He seemed to take object on to the fact that when the Regulation was promulgated, Nagaland was singled out. He said it was applied only to Nagaland. Now he should be satisfied that there is uniformity. This applies equally to all the States. There is no question of discrimination against Nagaland, no question of Nagaland feeling that this measure is especially directed towards it. It is in response to a given situation on the North-Eastern region of the country that this measure is brought forward, and it will apply equally to all the states and Union territories of the North-eastern region. And I think that my hon. friend from Nagaland, will agree, in fact he has already conceded that there has been much bloodshed in Nagaland, and the House also knows that whether it is Nagaland or Mizoram, we have seen the activities of anti-national elements, the activities of hostiles in this region. While the over-all situation has improved, I do not think that this House will agree that the situation has improved to an extent that one can afford to be complacent, or that one can afford to be less vigilant.

My hon. friend Shri Kevichusa also made the point that in Nagaland the need is to bring about better understanding. I entirely agree that the need is to bring about a better understanding. He knows that the Central Government has tried its level best to bring to bear as much understanding as it can to the problems of the north-eastern region, including Nagaland. Now with the emergence of an independent Bangla Desh, a new chapter has opened in that region. The bases within the erstwhile East Pakistan, which used to provide support and inspiration to certain anti-national elements of this region are no longer available to them. In

spite of that fact, Mr. Kevichusa knows that certain depredations continue. He knows that a certain number of young men had been kidnapped in the last few months in Nagaland. A certain number of forcible recruitments have taken place to the underground army. A certain amount of money has been collected by extortionist methods. He knows all these things, because he is in touch with the situation in Nagaland.

In the last few months, when the Bangla Desh war of liberation was going on, we had to withdraw a certain quantum of forces from Nagaland, and what Mr Kevichusa wants, viz., that the State Government should look after law and order, that in fact became possible because the armed forces had to be more or less withdrawn. How did the underground respond to the situation? Did they lessen their depredations or step up their activities? Did they use the opportunity to prove to the country that it is no longer necessary to have any extraordinary powers for Nagaland or to have special powers for the Governor? If that was their intention, the underground should have reduced their activities and created a better climate. If that climate had been created, I would have been much more receptive and open to Mr. Kevichusa's suggestion that it is not necessary to have these powers for Nagaland. But in the face of what has happened after a temporary withdrawal of the armed forces from that region, I do not think anybody who has national security at heart can afford to take the risk of not having these powers in that region. Therefore, this is the heart of the matter; this is the main reason why today in that whole region, we cannot afford to take any chances. The House knows that while in Mizoram also a new chapter has begun and the underground elements and hostiles there also are weaker than they were and they had to quit their bases in Bangla Desh, yet they have been trying to seek some new bases in neighbouring Burma or thereabout and some of them also in the hills in Bangla Desh. The House is aware of all these facts. Therefore, the House would agree I hope, in fact I am confident, that so long as these elements are there and so long as they have bad intentions towards the country, it is nothing extraordinary for the Government to have enabling powers of this nature, by which under certain conditions certain areas can be called as

being disturbed and certain powers can be given to the armed forces. This is the limited purpose and I hope the House will agree with this.

My hon. friend from Tripura, Shri Biren Dutta, referred to the fact that the voters in Tripura have rejected the Congress Party. I do not know whether he referred to the 1971 poll or the 1972 poll. Obviously, he is referring to the 1971 poll. I would only say that he is a little out of date. He knows what has happened in Tripura in the 1972 poll. He knows we have got a majority. He knows who has formed the government there. For a dynamic party which is in tune with the times one year gap in thinking is a long time.

My hon. friend, Shri S.M. Banerjee referred to the powers of the Governor. It is not as though the powers are with the Governor except in the sense that they are formally with the Governor. In the case of Nagaland he has some special responsibility. But he acts on the aid and advice of the Council of Ministers. That is equally applicable here.

I think I have broadly covered the points that were raised and I think I have succeeded in satisfying the House that this measure is necessary.

MR. CHAIRMAN: The question is :

"That the Bill to amend the Armed Forces (Assam and Manipur) Special Powers Act, 1958 as passed by Rajya Sabha, be taken into consideration."

The Lok Sabha Divided :

Division No.—2

14.43 Hrs.

AYES

Ahirwar, Shri Nathu Ram
Arvind Netam, Shri
Banerji, Shrimati Mukul
Barman, Shri R.N.
Bhargava, Shri Basheshwar Nath
Chakleshwar Singh, Shri
Chanda, Shrimati Jyotana
Chandrakar, Shri Chandulal
Chaturvedi, Shri Rohan Lal
Chawla, Shri Amar Nath
Chellacheml, Shri A.M.

Chhotey Lal, Shri
Daga, Shri M.C.
Dalip Singh, Shri
Das, Shri Dharnidhar
Deo, Shri S.N. Singh
Dhamankar, Shri
Dharamgaj Singh, Shri
Dhusia, Shri Anant Prasad
Doda, Shri Hiralal
Dumanda, Shri L. K.
Gomango, Shri Giridhar
Gopal, Shri K.
Goswami, Shri Dinesh Chander
Hansda, Shri Subodh
Jamilurrahman, Shri Md.
Jeyalakshmi, Shrimati V.
Jitendra Prasad, Shri
Kailas, Dr.
Karan Singh, Dr.
Kinder Lal, Shri
Lakshmikanthamma, Shrimati T.
Mahishi, Dr. Sarojini
Mandal, Shri Yamuna Prasad
Mirdha, Shri Nathu Ram
Nahata, Shri Amrit
Negi, Shri Pratap Singh
Painuli, Shri Paripoornanand
Pandey, Shri Krishna Chandra
Pant, Shri K.C.
Paokai Haokip, Shri
Parashar, Prof. Narain Chand
Partap Singh, Shri
Paswan, Shri Ram Bhagat
Patil, Shri C.A.
Patil, Shri Krishnarao
Rai, Shrimati Sahodrabai
Rajdeo Singh, Shri
Ram Dhan, Shri
*Rao, Dr. K.L.
Roy, Shri Bishwanath
Rudra Pratap Singh, Shri
Sadhu Ram, Shri
Samanta, Shri S.C.
Sankata Prasad, Dr.
Sarkar, Shri Sakti Kumar
Shankaranand, Shri B.
Sharma, Shri Nawal Kishore
Shastri, Shri Biswanarayan
Shastri, Shri Sheopujan
Sher Singh, Shri
Shivanath Singh, Shri
Shukla, Shri B.R.
Stephen, Shri C.M.
Swaminathan, Shri R.V.
Tula Ram, Shri
Verma, Shri Sukhdeo Prasad

*He voted by mistake from a wrong seat and later informed the Speaker accordingly.

Virbhadra Singh, Shri
Zulfiquar Ali Khan, Shri

NOES

Bade, Shri R. V.
Banerjee, Shri, S.M.
Bhagirath Bhanwar, Shri
Bhattacharyya, Shri Dinen
Chandra Shekhar Singh, Shri
Dutta, Shri Biren
Guha, Shri Samar
Haldar, Shri Madhuryya
Hazra, Shri Manoranjan
Joarder, Shri Dinesh
Joshi, Shri Jagannathrao
Lakshmanan, Shri T.S.
Mody, Shri Piloo
Mukherjee, Shri Samar
Pandey, Shri Sarjoo
Pandeya, Dr. Laxminarain
Rao, Shri M. Satyanarayan
Saha, Shri Ajit Kumar
Saha, Shri Gadadhar
Shastri, Shri Ramavatar
Somasundaram, Shri S.D.
Subravelu, Shri
Vijay Pal Singh, Shri
Yadav, Shri G.P.

MR. CHAIRMAN : The result* of the division is : Ayes 68 plus one on account of Shri Giridhar Gomango; Noes 24.

The motion was adopted.

MR. CHAIRMAN : Since there are no amendments to the clauses, I will put all the clauses together to the vote of the House. The question is :

"That clauses 2 to 5, and 1, the Enacting Formula and the Title stand part of the Bill"

The motion was adopted.

Clauses 2 to 5 and 1 the Enacting Formula and the Title were added to the Bill.

SHRI K. C. PANT : I beg to move:
"That the Bill be passed"

MR. CHAIRMAN : Motion moved:
"That the Bill be passed"

SHRI SAMAR GUHA (Contai): Madam Chairman, I rise to oppose this Bill which

may be passed by brute majority. Just now the hon. Minister, Shri K. C. Pant, said that those who have national security at heart would not oppose this Bill. National security and national honour have assumed a different connotation for the party in power. We have seen how the national victory achieved during the Indo-Pak conflict was used for party purposes. That is the reason why I oppose this Bill. Even on merits this Bill appears to me to be not only irrelevant and unnecessary but it is suspicious too.

Madam, you will remember that this House rejected the attempt on the part of Government to introduce partial emergency by trying to amend the Constitution. The opposition totally opposed it and the Government had to make a retreat. But now I find that, under a different cloak, cleverly an attempt is being made to introduce that partial emergency Bill in a different form.

The Congress Party is in absolute power not only at the Centre but also in all the States and I do not want to strengthen their hands with more powers to administer the country or even to strengthen their civil administration.

The Naga, Mizo and other insurrectionary people from that area had their training centres in the erstwhile or former East Pakistan. They got all the help and assistance not only from the Government of Pakistan but, through the Government of Pakistan, from China also. But now, after the liberation of Bangla Desh, that possibility of help for the Nagas, the Mizos and other insurrectionary people from that part is completely eliminated.

Under the changed circumstances, when there is no possibility of undertaking any major insurrectionary move by the rebel group, if any exists now, why are they going to extend the Act for a further period? If there was a possibility of their going to subvert our sovereignty or of a really large scale insurrectionary move on the part of

*The following Members also recorded their votes for AYES:

Sarvashri Mani Ram Godara, Chirajib Jha, Tarkeshwar Pandey, D. Kamakshiah.

the Naga leaders, we could understand the necessity for such a Bill. But that stage has already passed. The Minister himself has also admitted it.

In this Bill the words "disturbed area" are used and in the statement of objects and reasons of this Bill the words "internal disturbance" were used. That is what our worry is. When our civil administration is already armed with so many laws, restrictions, protective measures, para military forces like the CRP, the Border Security Force, and the armed constabulary, what is the necessity for strengthening the civil administration by the armed forces at the time of dealing with an internal situation or disturbance? It is not for that kind of disturbance which really tried to subvert the sovereignty of the country but for some kind of a political or internal disturbance. That has been admitted in the statement of objects and reasons of this Bill. In that case, why should the necessity for the armed forces be there? It not the civil administration enough to deal with it? Are not the CRP, the armed constabulary, the Border Security Force, that are at the command of the civil administration, enough to deal with an internal situation or disturbance or uprising, even though it is an uprising in which some kind of small arms or even big arms are used? I do not understand why the Government should ask for extending this Act and say that, if there is necessity, they will have the help of the armed forces? That is the reason why I have said that the motive behind this Bill is rather suspicious, in the background of the totalitarian mentality that has developed in the ruling party.

That is why I oppose this Bill. This Bill has the potentiality of subverting the whole democratic set-up, not only in the eastern region but also in other parts of the country, if there is trouble, say, in Bengal, Punjab or Delhi. The DMK friends should be prepared for it because they (congress) are going to snatch the power from the DMK also. There may be some kind of an internal disturbance and trouble in some other States and on this or that plea this Act may be extended to that part also. An Act may be passed for dealing with internal trouble or disturbance in other areas also. That is why it makes the Opposition suspicious of the real intentions of this Bill.

Now, Manipur, Nagaland, Mizoram and Tripura have been given the status of a State. If they are given the status of a State, they will also have that power.

They can also take the help of C.R.P. They can take the help of Border Security Force. Why are you bringing forward this Bill to denigrate their democratic status, their democratic rights, that you have given to them? I must say, this Bill means almost a denial of democratic rights and privileges that you have given to the people of Manipur, to the people of Nagaland, to the people of Mizoram and to the people of Tripura. You are denying democratic rights to them by passing such a Bill and trying to strengthen the civil administration with military powers which, I should say, is suspicious. In a limited case, it might have some utility to check Naga and Mizo insurgents in former East Pakistan, but now there is no utility whatsoever under the changed circumstances.

With these words, I oppose the Bill on behalf of the Socialist Party.

SHRI PAOKAI HAOKIP (Outer Manipur):
Mr. Chairman, Sir, I am thankful to you for allowing me to say a word on this Bill.

The hon. Minister said that it is a very important Bill and that this measure was introduced not this time but many years ago. The introduction of this measure, I should say, has been very indispensable in dealing with a very difficult situation that prevailed in north eastern region, specially in Nagaland, Tripura and Manipur from which I come. I must point out here that the situation that prevailed all these years in this region was very serious. As the House knows it was caused by the movement started by Nagas and then followed by Mizos. Manipur has been the victim of it because of these activities.

As the House knows, during these activities, a number of precious lives were lost and the life of the people living in this region was almost brought, at times, to a stand-still and was paralysed. That is how the progress and the development of that region was to a great extent restricted,

[Shri Paokai Haokip]

Now, fortunately, since the last year, 1971, the situation has changed a bit and developmental activities have started afresh in north eastern region. This is because of the existence of army personnel who tried to tackle the situation there effectively. Their performance has been quite good. I would like to say for the attention of the hon. Home Minister, Sh. i Pantji, that in some parts of my State Manipur, there are certain spots, certain places, specially in border areas, where such security measures are very very important and are very much needed, and I would like the Ministry to provide security arrangements in these places so that the people living in those areas live peacefully and conduct their day-to-day activities peacefully.

So far as V.V.F. is concerned, the existence of this organisation is very very helpful towards bringing about normalcy. But, since this organisation does not come under any law or legislation, it is not functioning properly. Because of that, this organisation was not organized propely and was not looked after carefully, I must say here. This organisation which could have done things more effectively could not do so. This point has been raised on several occasions—to strengthen this organisation, to give this organisation a proper direction. This is almost extinct now; I mean to say that this is not functioning vey effectively. So, I would like to know from the hon. Minister, how long this V.V.F. organisation is to continue in this way and whether Government propose to do something about this organisation, whether this organisation would be absorbed in armed forces or police force or any other organisation or whether it is to be totally abolished now. I want to know this from the hon. Minister.

So far as this measure is concerned, my hon. friend, Mr. Samar Guha, pointed out that this was absolutey unnecessary. I do not agree with him here because this measure is not intended to create more trouble or to bring about military rule in our country; it is rather intended to deal effectively with the situation whenever an occasion of emergency arises. This measure is naturally in the interest of the people; it safeguards the inerests of the people

and one has to welcome this Bill very warmly.

On this Bill, nothing much is to be said except that it is very very important and the nation needs this at this moment. With these few words, I welcome and support the Bill.

15 Hrs.

श्री जगन्नाथ राव जोशी (शाजापुर) : यह जो विधेयक है, इसका विरोध करने के लिए मैं खड़ा हुआ हूँ। वास्तव में संविधान के अन्दर धारा 355 है—

श्री कृष्ण चन्द्र पन्त : दिल से कह रहे हैं कि आप इसका विरोध कर रहे हैं ?

श्री जगन्नाथ राव जोशी : बिल्कुल। जहाँ तक देश की सुरक्षा का सवाल है, राष्ट्रीय सुरक्षा का सवाल है या आन्तरिक शान्ति का सवाल है, संविधान में काफी धारारों मौजूद हैं और आपके पाम भी काफी अधिकार मौजूद हैं। हम यह जानना चाहते हैं कि ऐसी कौन सी नई स्थिति पैदा हुई है कि सरकार को ऐसा लगने लगा है कि उसको और ज्यादा अधिकार चाहियें। यह तो सारा क्षेत्र है इस सारे क्षेत्र में अशान्ति आज वास्तव में बहुत कम है। जो अशान्ति है भी उसको दूर करने के लिए मिलिटरी तरीके अपनाने के बजाय कोई और तरीके सरकार ने अपनाने थे और वहाँ की जनता की आशाओं और आकांक्षाओं की पूर्ति करने की कोशिश की थी।

जब से बंगला देश आजाद और स्वाधीन हुआ है तब से मिजो या नागाओं के लिए जो ट्रेनिंग घाउंड हुआ करता था और वहाँ से आ कर अशान्ति पैदा करने की स्थिति पैदा हो जाती थी वह भी अब समाप्त हो गया है। वहाँ की जनता की आशा आकांक्षाओं को ध्यान में रख कर जो अलग-अलग राज्य हमने बनाए हैं और उनको कुछ अधिकार दिए हैं, उसको देखते हुए हमें

प्रतीक्षा करनी चाहिए भी और देखना चाहिये था कि जो स्थिति है, उस पर काबू पाने की उन में क्षमता है या नहीं है। बिना इस चीज को देखते हुए सरकार ने और भी ज्यादा अधिकार अपने लिए लेने की सोची है। मैं जानना चाहता हूँ कि ऐसी कौन सी स्थिति पैदा हुई है कि आपको ये अधिकार लेने की जरूरत पड़ गई। जब ऐसा ही सवाल देश के सामने आया था पार्लियामेंट एमजेंसि का तो आपने 28वां एमेंडमेंट टू दी कांस्टीट्यूशन मूव किया था और वह एमजेंसी लागू किये जाने के बारे में था लेकिन उसको आपने वापिस ले लिया। मैं जानना चाहता हूँ कि अब कौन सी परिस्थितियाँ पैदा हो गई हैं कि आपको यह बिल पास करवाना पड़ रहा है। यदि बाहर से खतरा है तो सारे देश को खतरा है, किसी कोने को नहीं हो सकता है। बंगला देश तो स्वाधीन हो गया है और आपने छोटे-छोटे राज्यों का निर्माण करके वहाँ की जनता के हाथ में अधिकार दिये हैं। वहाँ की जनता परिस्थितियों को सामने रख कर, उनको काबू में रख कर अपने भविष्य को बना सके, इसका मौका आपको उसे देना चाहिये था। लेकिन अब हम बिल से उसके मन में शंका पैदा हो जाएगी कि सरकार एक हाथ से तो उसको अधिकार देती है और दूसरे हाथ से छीनना भी चाहती है। एक दम से आप इस विधेयक को वापस करवाना क्यों चाहते हैं, इसकी वजह क्या है? अब तो आपके साथ बहुत ज्यादा बहुमत है और अब आप यह भी कह सकते हैं कि पार्लियामेंट की भी कोई जरूरत नहीं है, चाहे जो करो। ऐमा भी आप कर सकते हैं।

श्री एस० एस० बनर्जी : ऐसा नहीं।

SHRI JAGANNATHRAO JOSHI: You wanted democracy in Parliament. Parliamentary democracy is all right but we want a democratic Parliament.

सवाल यह है कि ऐसी कौन सी परिस्थितियाँ पैदा हो गई हैं, यह मैं आप से जानना चाहता हूँ। जो अधिकार सरकार अपने हाथ में लेना चाहती है इसको लेने का कारण क्या है और वह क्यों लेना चाहती है। कौन सी विपत्ति आ पड़ी है, या कौन सी नई परिस्थिति पैदा हो गई है? हमारी दृष्टि में तो ऐसी स्थिति निर्माण हुई है जिस में प्रदेश के अन्दर शान्ति का वातावरण पैदा हुआ है। वहाँ लोगों को अधिकार मिले हैं और वे स्थिति को अपने काबू में रख सकते हैं। काबू में रख सकते हैं या नहीं, इसका मौका तो आपको उनको देना चाहिये था। उनको कुछ अनुभव तो प्राप्त करने का आपको मौका देना चाहिये था। अब तो वहाँ राज्य भी बन गए हैं और कुछ आटोनोमी भी आपने दी है और आपको देखना चाहिये कि वे कैसे वहाँ शान्ति की स्थापना करते हैं। जहाँ तक सुरक्षा का सवाल है, देश की सुरक्षा का सवाल है, हम आपके साथ हैं। उस पर आंच नहीं आनी चाहिये। हम नहीं चाहते हैं कि देश की सुरक्षा खतरे में पड़े। हम यह भी नहीं चाहते हैं कि देश के किसी भाग में अशान्ति पैदा हो। लेकिन उसके लिए भी आपके पास अधिकार काफी हैं। इतना होते हुए भी क्यों ये नए अधिकार आप लेना चाहते हैं। असम प्रदेश में आपने मेमोरियल नाम का एक सब स्टेट पैदा किया। आज वह पूरा राज्य आपने बना दिया है। कांस्टीट्यूशन में सब स्टेट के लिए कोई प्रावधान नहीं है। उस में स्टेट या सेंट्रल एडमिनिस्ट्रेशन एरिया का प्रावधान है यह नई चीज आपने पैदा की। जो भी आप करें, सोच समझ कर करें। पहले सब स्टेट, बाद में फुल स्टेट....

श्री एस० एस० बनर्जी : स्टेट का बच्चा था।

श्री जगन्नाथ राव जोशी : लेकिन बच्चे दो या तीन बस। यहाँ छः हो गए। जो

[श्री जगन्नाथ राव जोशी]

करना है सोच कर करें। पन्त जी से मैं कहना चाहता हूँ कि उस क्षेत्र में ऐसी कौन सी परिस्थिति का निर्माण हुआ जिस को काबू में रखने के लिए इस विशेषाधिकार को आप लेना चाहते हैं।

इन शब्दों के साथ मैं इस विधेयक का कड़ा विरोध करता हूँ।

SHRI DINESH CHANDRA GOSWAMI
(Gauhati): I take my stand here to support this Bill.

It appears that a lot of confusion has crept into the minds of the members of the Opposition regarding the scope and extent of the Bill. Some of the friends on the other side said that there is ample provision in the Constitution to take necessary steps in case of emergency, and so what is the necessity of the present Bill? But they have not been able to cite any provision of the Constitution which gives to the Government the power which is sought to be conferred by this Bill. Undoubtedly, the provisions of the Constitution confer on the Government the power to declare emergency under certain conditions but the Government's power is limited to the extent that if the declaration of emergency is to be made, the declaration can be made only throughout the whole country. The Government tried no doubt to bring legislation in this House for the power of declaration of emergency in part but the opposition stood as one man against that measure and Government did not proceed with it. The declaration of emergency either in part or in whole has nothing to do with this Bill, which has been brought before this House. Declaration of emergency is followed with a lot of consequential factors involved, because when emergency is declared a number of effects take place for example the Fundamental Right is abrogated and so on and so forth. But this Bill by itself does not take these effects. Even if the Bill is passed, if a part of the country is declared to be a disturbed area, all the rights conferred by the Constitution which would have been affected by the declaration of emergency, are not affected when action is resorted to under this Bill.

Therefore, there is a vital distinction between declaration of emergency and the power that has been conferred upon the Government by this Bill.

My hon. friend over there said about Meghalaya and the creation of the sub-State of Meghalaya; I cannot comprehend how that question has any relationship with this Bill that has been brought up here. Undoubtedly the emergence of Bangladesh has to a great extent lessened the possibility of external aggression in the eastern region, but we should not afford to forget the fact that there is threat from our other neighbours, particularly from China. Apart from it, the entire eastern region is a very sensitive region. With great regret I would say that many of us in this House do not have a clear idea about it. The Eastern region has its own peculiar problems. Even today a boundary dispute between the States of the Eastern Region is taking place and this dispute may lead to unfortunate happenings and undesirable consequences.

Secondly this Bill does not confer upon the Government any new powers, but these powers the Government already possesses, but the Bill had to be brought forward in a modified form because the entire eastern region had been reorganised and Statehood had been conferred to Manipur, and Tripura and a new status had been given to Mizoram.

The power of the Government to declare a certain area as a disturbed area should not be confined to the eastern region only. It may be necessary for exercise of this power in other regions also; a contingency may arise upon which the Government may have to take measures to do so. My hon. friends are not able to cite any instances when this Bill was misused or abused by the Government. When this Bill has not been abused or misused in the past I do not think there is any scope of the abuse or misuse of this Bill particularly when we have a massive majority in all the States and at the Centre. Because of the massive majority in the Parliament and the States the Government today is much more strengthened to take stern measures, but the Bill has been brought only to give additional power to the

Government when the police force available in case of normal law and order situation is not able to cope with the complicated nature of an emergent situation. Undue suspicions have been expressed by some Members of the Opposition, particularly by Shri Samar Guha. I only request him not to find the measure guilty only on suspicion, but at least, I ask him to give the benefit of doubt to this measure.

श्री रामाबतार शास्त्री (पटना) :
सभानेत्री महोदय, मैं इस विधेयक का.....

डा० कैलास (बम्बई दक्षिण) : सभापति महोदया कहिये ।

श्री रामाबतार शास्त्री : आप हिन्दी नहीं जानते । मैं जानता हूँ । मेहरबानी करके सुनिये । बाद में क्लाम लीजियेगा ।

मैं इस विधेयक का जोरदार विरोध करने के लिए खड़ा हुआ हूँ। कुछ माननीय सदस्यों ने ठीक ही कहा है कि अभी कोई आसमान फटा नहीं जा रहा था कि आपको इस तरह का विधेयक यहाँ लाना पड़ा। स्थिति भी पहले से आज बहुत बदली हुई है। हमारी सीमा पर एक हमारा बहुत बड़ा पड़ोसी राष्ट्र जिसके आजाद होने में यहाँ के जवानों ने और हिन्दुस्तान की पूरी जनता ने कुर्बानियाँ दी हैं, मदद दी है, का जन्म हो चुका है। उन्हीं की कुर्बानियों की वजह से साढ़े सात करोड़ जनता की आबादी वाला बंगला देश हमारी सीमा पर है। अगर वह न होता, तो इस का कोई औचित्य हो सकता था। लेकिन वह स्थिति नहीं है। सरकार ने अभी भी पूरे हिन्दुस्तान में इमर्जेन्सी लागू कर रखी है। मालूम नहीं कि वह उसको कब उठायेगी। जनता और विभिन्न दल मांग करते रहे हैं, लेकिन फिर भी सरकार ने इस तरफ ध्यान नहीं दिया है।

इस स्थिति में ऐसी कौन सी नई बात आ गई है कि सरकार ने यह विधेयक सदन के सामने उपस्थित किया है! इसकी कोई आवश्यकता नहीं है। आवश्यकता न होने पर भी जब सरकार इस बिल को ला रही है, तो जनता के मन में यह शंका पैदा होना स्वाभाविक है कि पता नहीं, सरकार आगे क्या करने वाली है। इस बारे में तरह-तरह के भ्रम पैदा होंगे।

आप जानते हैं कि उस क्षेत्र के लोग हिन्दुस्तान के अन्य लोगों की तरह महंगाई के खिलाफ आन्दोलन कर सकते हैं अपने दूसरे सवालों को लेकर आन्दोलन कर सकते हैं। तब सरकार कहेगी कि आन्तरिक सुरक्षा और राष्ट्रीय सुरक्षा खतरे में है और इस तरह वह उन आन्दोलनों को दबा मकेगी। पिछले दिनों, जब कि सत्तारूढ़ दल को मैमिब मैन्डेट, विशाल बहुमत, नहीं मिला था, तब भी यह सरकार जनता के आन्दोलनों को गलन तरीके से दबाती रही है। अब जबकि उस को विशाल बहुमत मिल गया है, लोगों के मन में सन्देह पैदा हो रहा है कि पता नहीं यह सरकार क्या करने वाली है।

मंत्री महोदय ने इस बिल के समर्थन में जो दलीलें दी हैं, उन से हिन्दुस्तान की जनता को सन्तोष नहीं होगा। इस समय हमारे देश में ऐसे बहुत से सवाल हैं, जिन के बारे में सदन में तत्क्षण बिल पेश करने की आवश्यकता है। लेकिन सरकार ने उस तरफ ध्यान नहीं दिया है। आप ने अखबारों में पढ़ा होगा कि इस सदन के सामने एक गैर-सरकारी बिल पेश किया गया है, जिस पर हम विचार करने वाले हैं। देश में साम्प्रदायिकता बढ़ रही है, साम्प्रदायिक तत्वों की गतिविधियाँ बढ़ रही हैं और उन पर अंकुश लगाने के लिए कानून बनाना नितान्त आवश्यक है।

[श्री रामावतार शास्त्री]

लेकिन सरकार का ध्यान उस तरफ नहीं जा रहा है। इस लिए शासक दल की एक सदस्या को सदन के सामने एक बिल पेश करना पड़ा है कि जमाअते इस्लामी और आर० एस० एस० को बैन किया जाये। देश के सामने यह एक बहुत बड़ा खतरा है, लेकिन फिर भी सरकार ने इस ओर ध्यान नहीं दिया है।

इसके विपरीत सरकार पूर्वांचल के राज्यों के गवर्नरों और केन्द्र शासित प्रदेशों के प्रशासकों को बड़े व्यापक अधिकार दे रही है—और स्वयं भी अपने हाथ में ऐसे अधिकार ले रही है—जिनका इस्तेमाल करके जनता के आन्दोलनों को दबाया जायेगा। सरकार बराबर यह ऐलान कर रही है कि हम जनतंत्र का विस्तार कर रहे हैं, प्रजातांत्रिक संस्थाओं को और भी मजबूत कर रहे हैं, लोगों को ज्यादा से ज्यादा अधिकार प्रदान कर रहे हैं। लेकिन जहां तक अमल का सम्बन्ध है, वह अपने हाथ में इस तरह के आप्रेसिव और दमनात्मक अधिकार ले रही है। ये दोनों बातें एक दूसरे के विपरीत हैं।

इन कारणों से जनता और इस सदन के बहुत से माननीय सदस्यों के दिलों से यह भ्रम हो गया है कि सरकार की मंशा कुछ और ही है। सरकार ने अभी तक इमर्जेन्सी को विदड़ा नहीं किया है। पहले वह उस को विदड़ा करे और फिर विचार होगा कि क्या इस तरह के विधेयक की आवश्यकता है या नहीं। सरकार इमर्जेन्सी के अधिकार भी रखना चाहती है और ये नये अधिकार भी प्राप्त करने जा रही है। वह इन सब अधिकारों का इस्तेमाल करके जन-आन्दोलनों को दबाना चाहती है।

इसलिए मैं इस विधेयक का जोरदार विरोध करता हूँ। अभी भी विलम्ब नहीं हुआ है। मैं उम्मीद करता हूँ कि मंत्री महोदय इस विधेयक को विदड़ा कर लेंगे।

वह पहले इमर्जेन्सी को विदड़ा करे अगर और फिर आवश्यकता हो, तो इस विधेयक को लायें। हम तो उस समय भी उस का विरोध करेंगे। लेकिन आज की स्थिति में इस की कोई आवश्यकता नहीं है।

SHRI K. C. PANT : The fact that what I said at the end of the first reading has been largely ignored creates as much suspicion in my statement as my statement did in the mind of Shri Samar Guha. I suppose he was not here when I spoke. So my suspicion is more legitimate than his.

I have already explained the history and genesis of this measure. I had explained why it is considered necessary at the present moment. There were certain things which I left unsaid perhaps deliberately; those have been said by Shri Haokip and Shri Goswami, my colleagues who spoke before me. I hope the House took particular note of what they said because they come from that area, and are aware of conditions there.

SHRI SAMARGUHA: They come from your party too.

SHRI K. C. PANT: They also come from my party.

In this matter of national security, I think one can expect every member to take a view of the matter above party. Shri Haokip referred to the disturbed conditions in the hill areas of Manipur. I am sure Shri Samar Guha is aware of them; I cannot say this of all the others. If Shri Haokip stands up and says, 'Please ensure security for my people; please see that they live in peace and are able to live their normal lives peacefully', how is the House to respond to the plea? Similarly, when Shri Goswami gets up and says that this is a sensitive area—and many hon. friends are not aware of the sensitiveness of the area and refers to certain dangers that still persist and these arguments are completely ignored and it is sought to be made out that nothing extraordinary is going on in the north-east, after Bangla Desh the whole situation has become normal and that this measure is unnecessary, what inferences are we to draw? I do not

wish to add to what these two friends have said in defence of the Bill.

SHRI JAGANNATH RAO JOSHI: Shri Goswami referred to border disputes between Manipur and Nagaland. Will the armed forces be used in those disputes?

SHRI K. C. PANT: There are various problems in that region, for instance, the Assam-Nagaland problem and others. All the more reason why we should be careful with certain elements which are out to create disturbance in those areas, out to create bloodshed, not with a view merely to create disturbances but ultimately to damage the sovereignty and integrity of the country which complicates matters further. How to deal with these elements? This question is not to be confused with how we deal with labour unions. This measure can be confused with the normal working of the State. Therefore, what my hon. friend said reinforces the arguments I have used; perhaps deliberately I did not use those arguments.

With regard to Tripura, for instance, I can tell the House that this has been on the statute book, but it has never been used in Tripura although in Tripura also there is a microscopic minority, which, I am sure many hon. members opposite are aware of this, wants to create trouble or wanted to create trouble. But we did not use those powers in Tripura because we did not think it necessary. We thought that the normal powers which are available are adequate to deal with the situation as indeed they were adequate, and we have dealt with the situation, but surely no one in the House can say, knowing the full facts of Nagaland and Mizoram, that such powers are not necessary in these two regions. Therefore, it is a question of applying this measure at a particular time when it is required, when this enabling measure is necessary; then, you can respond to the situation quickly. But if you do not have the measure on the State-Book, when the time comes, then you find yourselves in difficulties.

Madam, the confusion appears to be persisting that in some ways these powers

are analogous to the powers conferred by the emergency legislation by the Government. I just do not know how to dispel that completely erroneous impression, because a reading of this measure would be enough to dispel the impression if anyone would take the trouble to read this measure.

The consequences of the promulgation of an emergency and the consequences of this measure are very, very different. And, as the House knows, when an emergency is declared, then the consequences can extend to the abrogation of fundamental rights under article 19; they can extend to Parliament becoming a competent legislative authority in matters in the state list. What is the relationship of these powers to the powers conferred by this particular measure? What are these powers? Since so many hon. friends have dealt with them, if you will permit me, I would like to deal with this aspect.

The provisions of the Bill do not seek to confer any new powers on the armed forces. The armed forces ordinarily exercise certain limited powers under the Cr. P. C. when they are called in aid of the civil power. These ordinary powers relate only to dispersal of unlawful assemblies. In the disturbed areas of the north-eastern region, it was considered necessary that the armed forces should have, in addition, the power for arrest, search, seizure, destruction of arms dumps, etc. These powers are not available to the army ordinarily. The 1958 (Regulation) Act confers these powers specially because of a situation which has been prevailing in some parts in that region. It was necessary that these enabling powers still continue to be available to the armed forces, should their exercise become unavoidable in future. But it does not mean that the Bill seeks to confer any new powers. Only the powers available to it all these 14 years are sought to be continued.

I hope, Madam, that whatever confusion has existed before or whatever unwarranted suspicious have been evident, will disappear after my explanation.

The other question was, why should the Centre have these powers. As was mentioned by some hon. friends, the Centre

[Shri K.C. Pant]

does have a duty to protect all the States against external aggression and internal disturbance under article 355 to which reference was made. Now that I have clarified the difference between emergency powers and these powers, I must say that though these are not emergency powers, the obligation on the part of the Centre to protect the States against external aggression and internal disturbance cannot be denied, and this obligation exists. Now, it is for the Centre to take action. Would the House prefer that in each case where there is a danger of this kind of disturbance, immediately an emergency should be declared in the whole country, even if the disturbance is confined only to Mizoram or Nagaland or some other State? Is it the intention, or is it the intention that immediately, when such a situation arises, article 356 should be invoked and President's rule should be declared? Is that democracy? Or, would it not be more democratic and more proper to let the State function and to maintain law and order, take a limited action to deal with a limited situation?

SHRI SAMAR GUHA: What is the purpose of your security force, when the Cr. P.C., and the armed forces are there? Are they not enough to deal with civil disturbance? One can understand extraordinary aggression.

MR. CHAIRMAN : You had your say. Let him continue.

SHRI K. C. PANT : He has had his say and he again is confusing the national security question with the law and public order question. The questions of law and order and national security are different. These are national security questions in which the Centre is certainly directly interested and directly responsible. He referred to foreign links and also referred to the borders of the country. The Centre does have a lot of information directly about the situation prevailing along the borders and about foreign links of many of the elements operating along the borders. Occasions can arise when the Centre needs to take action and immediately respond to a given situation, then the Centre needs those powers. What is wrong with the

Centre having those powers? It is absolutely correct that in certain situations the Centre should be able to exercise those powers and not watch helplessly while the situation deteriorates. I am quite confident that the question of autonomy sought to be raised is completely misplaced because in matters relating to the security of the country it will be the endeavour of the Central Government—I am sure it will be the attitude of the State Governments also—to co-operate with the Centre so that we can together meet any challenge that might arise. There is no question of any curtailment of State autonomy or any such thing. Wherever national security is involved just as I appeal to the Members in the House, I am quite sure that the States and the Centre are all one in matters concerning national security.

There is really no other point left. I should like to end by quoting Mr. Haokip who said that this measure was in the interest of and in order to safeguard the people. This is the essence of the matter and there could be no better authority to make a statement in the House than the person who comes from that region which is unfortunately still being subject to the kind of disturbances against which this measure is a kind of shield.

MR. CHAIRMAN : The question is :

“That the Bill be passed”.

The motion was adopted.

14.28 Hrs.

AIRCRAFT (AMENDMENT) BILL

THE MINISTER OF TOURISM AND CIVIL AVIATION (DR. KARAN SINGH): I beg to move*.

“That the Bill further to amend the Aircraft Act, 1934 be taken into consideration.”

Since the last ten or 12 years when the Bill was last amended there have been a number of important developments in aviation technology and there has been a tremendous growth in the whole quantum and quality of planes that are operating and therefore it was necessary to bring this legislation up to date. There are three or

*Moved with the recommendation of the President.