

(b) whether it is also a fact that on report being made the police did not come to scene but arrived very very late; and

(c) if so, the action taken against them?

**The Deputy Minister in the Ministry of Home Affairs (Shri L. N. Mishra):** (a) There was exchange of hot words between some milk vendors and local price rise resisters on 1st November, 1964 at Kirti Nagar which led to an open fight between them.

(b) No sir, the police arrived within half an hour of the receipt of information.

(c) The cases against the two parties are under investigation.

#### **Consumer Goods to Government Employees**

**175. Shri Surendra Pal Singh:** Will the Minister of Home Affairs be pleased to state:

(a) whether Government have taken any decision to make consumer goods available to all Government employees in the Capital at a no-profit no-loss basis; and

(b) if so, how Government propose to deliver the goods to the employees?

**The Deputy Minister in the Ministry of Home Affairs (Shri L. N. Mishra):** (a) and (b). No, Sir. Government have, however, set up as a welfare measure the Central Government Employees Consumer Co-operative Society Ltd., New Delhi, to supply the Central Government employees working in Delhi|New Delhi essential commodities, consumer goods, textiles etc. at fair and reasonable prices.

#### **Sadachar Samiti**

Shri Vishwa Nath Pandey:  
**176. | Shri Ram Harkh Yadav:**

Shri Ram Sewak:  
Shri P. G. Sen:

Will the Minister of Home Affairs be pleased to state:

(a) whether the Central Government Departments have been asked to provide necessary co-operation and facilities to the Sadachar Samiti Workers in their Anti-Corruption Drive; and

(b) whether the Ministry of Home Affairs in a memorandum to various Ministries urged that suitable instructions should be issued to this effect?

**The Minister of Home Affairs (Shri Nanda):** (a) and (b). The Ministry of Home Affairs have requested all Ministries to issue suitable instructions to ensure that such co-operation and facilities are afforded to the workers of the Samiti as they may require for carrying out their activities. It has been explained that the objectives of the Samiti are to create a social and moral climate in the country to foster high ethical values and sustain the will and capacity of the people to fight corruption and to help launch and intensify a widespread campaign for this purpose.

12.05 hrs.

RE: MOTION FOR ADJOURNMENT  
AND CALLING ATTENTION  
NOTICE.

LAW AND ORDER SITUATION IN ORISSA

**Mr. Speaker:** I will now take up the adjournment motion given notice of by Shri Surendranath Dwivedy, Shri Kishen Pattnayak, Shri S. M. Banerjee, Shri Tridib Kumar Chaudhuri, Shri N. G. Ranga, Shri Narendrasing Mahida, Sardar Kapur Singh and Shri Himmatsinghji and the Calling Attention Notice of Shri H. C. Kachwal, Sardar Kapur Singh, Shri Surendranath Dwivedy, Shri Hem Barua, Shri Umanath, Shri Yashpal Singh, Shri P. Venkatasubbaiah and Shri D. C. Sharma. I have heard a

few hon. Members on this already. I will now hear only Shri Nath Pai.

**Shri S. M. Bamerjee** (Kanpur): I thought you were already satisfied about its admissibility.

**Mr. Speaker:** I did not know that.

**Shri Nath Pai** (Rajapur): Mr. Speaker, the question which is posed here is rather of vital importance to the proper understanding of the constitutional framework under which we function. It is germane, I beg to submit, to the understanding of our relations between the Union and the States and, therefore, I shall claim your indulgence for the submission which I have to make.

**Mr. Speaker:** It should not be a long speech.

**Shri Nath Pai:** Not necessarily. It will be as brief as necessary to make my point clear. Yesterday I quoted article 353 which only talks of the rights of the Union Government. I should now like to quote article 355 which casts an obligation and duty on the Union Government under conditions which are identical with those which I beg to submit have today arisen in the State of Orissa. The adjournment motions of Shri Surendranath Dwivedy and mine are based on the provisions of this article. May I read the text? It says "the failure of the Union Government to discharge its obligation to direct the State of Orissa...."

**Mr. Speaker:** Where does his adjournment motion come in?

**Shri Nath Pai:** I can plead for mine because they are identical. They use the same language—"the failure of the Government of India to intervene and take adequate measures to bring about normal conditions in the State of Orissa despite...."

**Mr. Speaker:** I have disallowed his.

**Shri Nath Pai:** May I read mine?

**Mr. Speaker:** It is too late. We are already seized of this adjournment motion of Shri Dwivedy.

**Shri Nath Pai:** I am speaking on the admissibility of the adjournment motion of Shri Surendranath Dwivedy. May I read article 355? It says:

"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 Constitution."

**Mr. Speaker:** I want to bring to your attention two imperative conditions here and if I succeed in satisfying you that these two conditions laid down in this article are complied with by this adjournment motion, then I think it becomes almost mandatory that it is admitted by you. The first condition is "disturbance". There is a duty cast on the Union to protect every State against external aggression and internal disturbance. The Union Government has a constitutional duty to protect every State against internal disturbance. Now it cannot be denied that in the State of Orissa lawlessness has reached a dimension where the very concept of constitutional government and the rule of law are not only brought into contempt but they are in jeopardy. The fundamental rights provided in articles 13 to 32 are being blatantly, palpably and arrogantly violated by that government every day. Today there was a report in the press that a jail was broken open and 11 prisoners were set free. Yesterday a reference was made to an appeal made by the High Court bar of Orissa, requesting for the intervention of the Union Government.

**Shri Surendranath Dwivedy** (Kendrapara): It is a reign of terror.

**Shri Nath Pai:** It has not been denied even by the Government here that conditions which are far from normal are prevailing today in the

[Shri Nath Pai.]

State of Orissa. I want to know whether it is not fully satisfactory that this requirement, namely, that the state of disturbance exists, has been satisfied. In the State of Orissa today there is no law and the lawlessness has assumed a proportion when a party, which claims to be the Government but whose moral and political mandate has come to an end, is continuing to occupy the position of power without having the authority or the power to exercise that power.

The second condition which we should satisfy is that the Government of every State is carried on in accordance with the provisions of this Constitution. On a previous occasion when the Union did intervene, Shri Thakur Das Bhargava, a very venerable Member of this House, had this to say which being germane to our consideration I beg your permission to read. It is in the Lok Sabha Debates of the 20th August, 1959. It says:

"This Constitution is fully powerful and it invests the President with these powers."

He is asking the question when such lawlessness becomes the order of the day in a State, is this Parliament, is the Union Government helpless, powerless? Can we not act? My submission is that we have ample powers. Orissa offers a classical example when the Union Government can act and must act. If we are not aware of our powers, we will be charged with gross dereliction of our duty.

I want to submit that the criterion which we applied when the President was asked to intervene in the State of Kerala in 1959 is identical with the conditions today prevailing in the State of Orissa.

**Some Hon. Members:** No, no.

**Shri Surendranath Dwivedy:** It is worse than that.

**Shri Nath Pai:** We cannot have different criteria for discharging our

duties in respect of the two States. I have repeated that there is lawlessness, complete and unabashed, in the State of Orissa. I have said that there is every day violation of constitutional rights. What the Union Government is required to do is not to protect the Government of Orissa but it is required under the Constitution to protect the State. The interpretation of that word here is very clear, that is, to protect the people of Orissa from lawlessness from a Government which is unable to govern in this State.

I submit to you that, in the light of these very clear provisions and in the light of what has been established by this House when it gave consent in 1959 for the intervention of the Government in Kerala, you be pleased to accept this adjournment motion.

I have one plea to make to Shri Nanda. He should emulate the brilliant example of his colleague who yesterday showed the goodness and the courage to accept that there was a failure. Shri Nanda should emulate Shri Subramaniam and say that he has been remiss in not intervening energetically.

Finally, may I say that we will be allowing the Army to be used to prop into power a Cabinet, a Government, a regime whose moral basis has been destroyed by the report of the Central Bureau of Investigation that it is tainted with corruption? I think, it is a very pernicious practice. The powers given to the Union Government are not to be employed to prop up such regimes but to defend the people against the perpetuation of the authority of a regime like this. I submit to you, therefore, that you too admit our motion so that we can fully censure this Government for its failure in the State of Orissa.

**The Minister of Home Affairs (Shri Nanda):** Sir, it is true....

**Shri D. C. Sharma (Gurdaspur):** Sir, I had sent a calling-attention

notice and I want to say something on that.

**Mr. Speaker:** It is the adjournment motion that I have taken up first.

**Shri Nanda:** It is unfortunately true that in the State of Orissa there was a bad situation in respect of law and order.

**Shri Nath Pai:** There is; it continues.

**Shri Nanda:** Let me proceed. A series of incidents occurred which cannot but be described as deplorable in the extreme, but the question before you and before the House now is whether a discussion on this subject is permissible in terms of the Constitution and the Rules. I am going to deal with that.

I submit, Sir, that it is not within the purview of Parliament to deal with this motion here and I shall explain briefly my reasons. It is very well known and well understood that law and order in a State lies entirely within the sphere of that State; it is a State subject. It comes under List II of the Seventh Schedule of the Constitution.

**Shri D. C. Sharma:** Not entirely.

**Shri Nanda:** I am dealing with it. I am going to take other points also. It is sought to differentiate this case from the general position. Therefore, I shall deal with the points, the grounds, which have been urged to make a distinction.

One of the grounds is that the assistance of the army has been obtained and it was said that the Centre sent the army. Now, from the point of fact, that is not so although that does not make any material difference. The Government asked for the assistance of the army and the support of the civil power and it is within its competence to do so. Even a district magistrate can do so in certain situations. Therefore, that is no reason at all that because as a standby troops were called there that should bring it within the purview of Parliament.

**Shri Ranga (Chittoor):** It is not only in Bhubneshwar but in a number of places.

**Shri Nanda:** I may refer to List II, item 1. It has been stated there:

“Public Order (but not including the use of naval, military or air forces or any other armed forces of the Union in aid of the civil power)”.

That is one thing.

The second point raised by hon. Member Mr. Ranga was that it is not a matter confined to one place, that is, Bhubneshwar but that disorders have taken place in several places. Well, it may be in one place or in five places; again it is a law and order situation and it is entirely the responsibility of the State to deal with that situation.

**Shri Nath Pai:** He has to admit that there is a state of lawlessness.

**Mr. Speaker:** He will have now.

**Shri Nambiar (Tiruchirapalli):** He is not giving the real facts. There is a general breakdown.

**Mr. Speaker:** He has to hear him.

**Shri Nanda:** There is no such thing. I have all the information with me. Things have appeared in the press. I have been in touch with the things. It has been held against us that we sent the Cabinet Secretary to the State. Of course, we want to keep in touch with what has been happening there. Even then, that does not change the jurisdiction.

The other point which the hon. Member tried to urge was the question of some allegations made against the Chief Minister or Ministers. I do not know whether there is a casual relation between this and that and whether this has been caused because of that. In the first place, I would say, there is no delay at all. I can say that there has been no delay in

[Shri Nandi]

dealing with this matter. (*Interruption*) Looking at the point of time, when we received these allegations..

**Shri Surendranath Dwivedy:** You received them in October.

**Shri Nanda:** The hon. Member has very little notion of what is involved in dealing with allegations covering a huge volume and extending to the transactions of various firms and companies and this and that.

**Shri Nath Pai:** What can we do if the crimes of your colleagues are voluminous?

**Mr. Speaker:** I would request the hon. Members to have patience. Let us hear the hon. Minister.

**Shri Nanda:** This only shows there can be fertile imagination also and lots of complaints and allegations can be thrown about. I am not pre-judging but I say that it is not that because there are many allegations, therefore all those allegations or any number of them are necessarily true.

**Shri Surendranath Dwivedy:** If one is true, that is enough. (*Interruption*).

**Shri Nanda:** Then, the question is that there is that report. I can add that the officers who worked on that did a very commendable job. Within the terms of their assignment, they have carried out the work expeditiously. Now, as to what it contains, immediately, as soon as that report came, I asked for comments regarding the points which arose out of it. That was done immediately and I believe, it is not going to take any length of time for the further stage whatever it is, of action. It is going to be taken up without any delay, maybe at the end of the month or maybe earlier. The point is there is not going to be any delay in dealing with this case. Unless in the minds of any hon. Member there is a feeling that this other thing has something to do with it..

**Shri Nath Pai:** It has.

**Shri Nanda:** And then other inferences can be drawn.

**Shri Nath Pai:** It destroys the whole moral basis. (*Interruptions*).

**Mr. Speaker:** I request hon. Members to have patience. How can I decide a thing unless I am allowed to hear. (*Interruptions*).

**Shri Nanda:** The hon. Member himself is rather raising a dangerous inference if he comes to any such conclusion without those allegations having been dealt with and without any findings before us. If some people take it into their heads to do something with the students and others, it is a very wrong thing. If that is the inference—they say 'yes, it has something to do with it'..

**Shri Surendranath Dwivedy:** There is no such inference.

**Shri Umanath (Pudukkottai):** If the Ministry is headed by a person against whom there have been enquiries conducted by the Central Intelligence, by that itself it loses the moral authority.

**Mr. Speaker:** Order, order. If it continues in this manner I shall not be able to arrive at any conclusion at all. I have heard so many Members, and now I want to hear the Home Minister as well.

**Shri Hem Barua (Gauhati):** Let him admit that there is a psychological connection.

**Mr. Speaker:** Should he say what the hon. Members here want him to say?

**Shri Nanda:** The point is that it was well known to the hon. Members and to the people in Orissa that this matter had been taken up and something which was very unusual had been done, which was also resented. Officers of our Special Police Establishment, our Central Bureau of Investigation

had gone there and taken up the matter and gone into all the record and everything. That was done. And immediately as the report is received, further steps are being taken with the greatest promptness. And if other things arise there, it is regretted.

Mr. Speaker, we are dealing with the question of admissibility. Hon. Member Shri Mukerjee said something about judicial notice. The hon. the Speaker will know whether there is anything like a judicial notice so far as Parliament is concerned.

Then, hon. Member Shri Nath Pai referred to the Constitution.

I may add also that if anything in connection with these matters about the students' agitation etc. requires scrutiny, there is already a decision of the State Government that there will be a judicial enquiry. A judicial enquiry has been promised.

**Shri Umanath:** They have backed out.

**Shri Nanda:** As regards the point about the Constitution, I am not as much an expert as hon. Member Shri Nath Pai may be. But as far as my reading of it goes, there is no warrant for the conclusion that he draws.

First, I will have to refer to the adjournment motion its wording, as to what it is based on. There it is law and order. I have already said as to what bearing it has. Here it is a question of article 353. Article 353 says. . . .

**Shri Surendranath Dwivedy:** I am not interrupting the hon. Minister, but the adjournment motion reads like this: "The failure of the Government of India to intervene and take adequate measures to bring about normal conditions in the State of Orissa". We are dealing with that.

**Shri Nanda:** Exactly, law and order.

**Shri Nath Pai:** Not law and order. To defend the State against disturbances.

**Shri Nanda:** Article 353 says:

"notwithstanding anything in this Constitution, the executive power of the Union shall extend to the giving of directions to any State as to the manner in which the executive power thereof is to be exercised."

When "the executive power extends,"—it is possible to extend it because of the Proclamation of Emergency. But it is only when it has been extended through any direction given that the other situation can arise and not otherwise, and then, of course, Parliament comes into the picture, and not otherwise.

Then, my hon. friend has quoted another article.

**Shri Nath Pai:** That is the main thing.

**Shri Nanda:** Yesterday, it was the other thing, but today it is this article which is quoted.

**Shri Nath Pai:** That was the main thing. Both of them are to be read together.

**Shri Nanda:** Article 355 reads thus:

"It shall be the duty of the Union to protect every State against external aggression and internal disturbance. . . ."

There, one has to make a distinction in his mind qualitatively. If in a few places something occurs or some incidents take place or some trouble occurs, either spontaneous or instigated, and if immediately this article is to be brought into force, then I think that we in this Parliament will possibly be considering a number of such questions every day. In fact, there would be no need for a police force, if there are not occasionally some troubles here or there.

**Shri Surendranath Dwivedy:** These are not stray incidents, but these have been continuing for months.

**Shri Nanda:** If it is suggested that even when there are such stray incidents, this provision should operate, then it would mean that the provision of the Constitution that law and order is the responsibility of the State will come to nothing. So, we have to be very clear in our minds about whether law and order is the responsibility of the State or not, and then see whether any situation has arisen which will bring this exceptional provision in the Constitution into play. I may add that here the adjournment motion naturally relates to a matter of urgent public importance. There is the urgency.

**Shri Nath Pai:** It is public also.

**Shri Nanda:** I do not deny that it is a matter of public importance. The urgency would lie in the fact that there is a deteriorating situation and continuing deterioration, but the information that I have with me is that from the 13th onwards, there have only been isolated cases here and there, but the situation has improved distinctly, and it is not a deteriorating situation any longer.

**Shri Nath Pai:** Did the hon. Minister read today's papers?

**Shri Nanda:** I have said that isolated incidents may be there. I have not said that there is no case at all. I have said that there may be some isolated incidents.

Because the situation is improving, therefore, is it suggested that there has to be a discussion here?

**Shri S. M. Banerjee:** If there is a discussion, it will further improve the situation. (*Interruptions*).

**Shri Nanda:** It is said that discussion would improve the situation further. Apart from the question of

admissibility of the adjournment motion, I would submit that if the hon. Member wants further improvement, this is not going to be the way to improve the situation. The urgency and propriety lies in not discussing it here.

**Shri S. M. Banerjee:** Why support the wrong-door? (*Interruptions*).

**Shri Frank Anthony** (Nominated—Anglo-Indians): May I submit that there is one more information which is necessary for your decision? According to the press, the Central Government sent the Cabinet Secretary, Shri Khera. Was he sent *suo-motu*? What were his terms of reference? What was his report? And finally, did he, through the Central Government give a directive to the State Government that there would no longer be any parleys but they would have to act firmly and decisively? That information also would be necessary. Otherwise, you would not be able to give your decision under article 353.

**Shri Nath Pai:** Under article 355.

**Shri Frank Anthony:** Under article 353. We must know whether the Central Government have intervened? It is necessary to know it. Why was he sent there?

**Mr. Speaker:** I am not so much concerned with whether Shri Khera was sent, and what report he has brought.

**Shri J. B. Kripalani** (Amroha): Under what authority was he sent?

**Mr. Speaker:** Whatever that may be, I have only to decide whether this adjournment motion can be admitted. The admission of an adjournment motion depends upon facts, that is, upon whether they are admitted or they have been proved.

**Shri Nath Pai:** They have been admitted.

**Mr. Speaker:** In this case, the facts are not admitted.

**Shri Nath Pai:** He did admit. He said that it was a deteriorating situation.

**Shri Nanda:** I said that there was improvement in the situation.

**Mr. Speaker:** That is not enough. Simply because he says that it is deplorable and there have been disturbances, that does not necessarily lead to this conclusion that circumstances exist where it has become the duty of the Union Government to intervene and take upon itself to issue direction or do anything of that sort.

Here in the House several points have been urged. One of these is the one that has been referred to by Shri Anthony as well, that Shri Khera has been sent. He might have been sent. It is the duty of the Government, as the Home Minister said, to keep in touch with the developments taking place.

**An Hon. Member:** He was sent for inquiry.

**Mr. Speaker:** May be for inquiry. Even then, it is not relevant to the admissibility of the adjournment motion.

Now I come to art. 355:

"It shall be the duty of the Union to protect every State against external aggression and internal disturbance. . .

**The Minister of Rehabilitation (Shri Tyagi):** That we have done.

**Mr. Speaker:** Order, order. Really, who is to decide whether the internal disturbance is of this magnitude or of this nature?

**Shri Nath Pai:** You and I.

**Mr. Speaker:** It should be a matter of subjective adjudication: either the Governor should make a report or it should be the assessment of the Central Government that such circumstances exist, or it should be a resolu-

tion of Parliament to the effect that such circumstances have come into existence. Members can move this Parliament by a resolution that certain circumstances exist in the State which warrant action under such and such provision, and if Parliament resolves that really those conditions exist, then alone it can be said that the Government certainly becomes responsible for taking action under that.

**Shri Surendranath Dwivedy:** If Members feel that such a situation exists, have they not the right to bring an adjournment motion?

**Mr. Speaker:** No. Members are free to table an adjournment motion, but I have to decide whether it really merits admissibility. That is what I am dealing with now. The matter may be very urgent, it may be of public importance as well, but whether it can be discussed in the form of an adjournment motion that is before me that I have to decide.

**Shri Ranga:** It is a matter of urgency; it is a matter of public importance. Beyond that, with regard to the merits, as to whether there is disturbance or not, I do not think the Speaker is called upon to make any judgment.

**Mr. Speaker:** Yes, the Speaker is called upon to see that the facts should be either admitted or proved.

**Shri Nath Pai:** I have done both in this case.

**Shri Ranga:** The Speaker has to consider only two points: whether it is of urgency, whether it is of public importance. Beyond that, he has no jurisdiction.

**Mr. Speaker:** No. I claim that I have got jurisdiction to see also the facts. That is also very necessary. Unless the facts are either admitted or proved, no adjournment motion can take place.

**Some Hon. Members:** No, no.

**Mr. Speaker:** I would request hon. Members not to go on replying to every argument leading to further argument.

**Shri Nath Pai:** The facts were both admitted and proved in this case.

**Shri H. N. Mukerjee** (Calcutta Central): Apropos the words 'admitted or proved', is it meant by the Chair that the facts which are reported in the papers or reported by Members of Parliament have got to be acknowledged by the Government in power or have got to be proved by a judicial or quasi-judicial process before we come here?

**Mr. Speaker:** Just now a reference was made to the adjournment motion, which we discussed yesterday. Immediately the Minister said that he would not assert that there was no negligence, there was no failure, I allowed it. In this case, the Government deny these facts. Therefore, I cannot give an assessment of my own that the conditions are such. . .

**Shri Ranga:** The Speaker is not called upon to do that. Only two points are there for him to decide.

**Mr. Speaker:** The Speaker is called upon to do that and therefore he is giving his ruling.

**Shri Surendranath Dwivedi:** They will never admit those facts.

**Shri Ranga:** They won't.

**Mr. Speaker:** The second question raised is that the military was sent. As has been said here, earlier also I have held that a State Government has a right to request the Central Government to give it military aid under the Cr. P.C. If that is done, the responsibility of the State Government continues. The Central Government does not come in in that, or assume responsibility in that respect. Rather, if the State Government had asked for it and the Central Government had not given it, then there

would have been a failure on the part of the Central Government in not having given that assistance to deal with the situation. The Government says it has given that aid because it had been wanted by the State Government. It has been given in the discharge of their duties and I cannot come to the conclusion that there are circumstances, this is not for me to judge.

**Shri Ranga:** The Speaker has already judged unnecessarily, unfortunately.

**Shri Nath Pai:** I do not want to interrupt you, but once again I plead with you. I only want to know, because it is of the highest constitutional importance for our future guidance, the exact relationship of Parliament to the States, and it is on this that I want you once again to apply your mind, viz., in what conditions can Parliament ask the Union Government to dismiss a Government which palpably violates the provisions of the Constitution. Are we helpless, or do we have the power and the obligation?

**Mr. Speaker:** I thought I had dealt with it by saying that Parliament has every right to move a resolution and decide that such circumstances exist. That should be the adjudication by this Parliament. I have said that. Therefore, in the circumstances, I cannot admit this adjournment motion.

**Shri Nath Pai:** It is a very sad thing.

**Shri Surendranath Dwivedi:** We are very sorry.

**Mr. Speaker:** May be.

**Shri Nath Pai:** Very unfortunate.