

MR. SPEAKER: You ask me to make observation every time.

SHRI JYOTIRMOY BOSU: Four years have passed, from 1971 to 1974.

MR. SPEAKER: Four years and 15 reminders.

REASONS FOR DELAY IN IMPLEMENTATION OF ASSURANCE GIVEN *Vide* U.S.Q No 1244 DATED 31-7-78 RE. REMITTANCE OF PROFIT EARNED BY FOREIGN OIL COMPANIES

SHRI D. K. BAROOAH: Sir, I beg to lay on the Table a statement giving reasons for delay in the implementation of the assurance given by the Deputy Minister of Petroleum and Chemicals in answer to Unstarred Question No. 1244 dated the 31st July, 1973 regarding Remittance of Profit earned by Foreign Oil Companies. [Placed in Library. See No. LT-8300/74].

श्री ज्योतिर्मय बसु : यह हमारे पाम जो कंपनी आयी यह 10 मई 1971 की है लेकिन हमारे घर में पेट्रोलियम मंहाने में। पेट्रोलियम मिनिस्ट्र के घर में हमारे घर को कौन गधा ले जाता है, यह बात हम पूछ रहे हैं।

I would like to know whether it was due to the fact that this reply reveals certain disturbing news about the galloping profits that the foreign oil companies are making.

MR. SPEAKER: Why do you make a speech?

SHRI JYOTIRMOY BOSU: Burmah Shell—from Rs. 499 lakhs in 1970 to Rs. 727 lakhs in 1972; Caltex—from Rs. 115 lakhs in 1970 to Rs. 189 lakhs in 1972; Esso—from Rs. 280 lakhs in 1970 to Rs. 961 lakhs in 1972. Mr. Barooah, you are a socialist. What are you doing? Thank you very much.

SHRI D. K. BAROOAH: May I say a word by way of explanation?

The delay was not at our level. We had to get the information from the Reserve Bank. As it happened in the case of the Deputy Minister of Home Affairs, ultimately, we had to send an officer from our Ministry to the Reserve Bank and collect the information.

12.20 hrs.

BUSINESS ADVISORY COMMITTEE FORTY-SEVENTH REPORT

**THE MINISTER OF PARLIAMEN-
TARY AFFAIRS (SHRI K. RAGHU
RAMAIAH):** I beg to present the Forty-seventh Report of the Business Advisory Committee.

COMMITTEE OF PRIVILEGES TWELFTH REPORT

**MR. HENRY AUSTIN (Eranaku-
kulam).** I beg to present the Twelfth Report of the Committee of Privileges.

12.21 hrs.

MATTERS UNDER RULE 377

CONTINUANCE OF PROCLAMATION OF STATE OF EMERGENCY

SHRI SHYAMNANDAN MISHRA (Begusarai): I want to draw the attention of the House to the fact that the Government is surreptitiously and illegally perverting the Proclamation of a State of Emergency issued by the President on the 3rd December 1971 and subsequently approved by Parliament. The Proclamation of Emergency issued by the President reads as follows:—

“In exercise of the powers conferred by clause (1) of article 352 of the Constitution, I, V. V. Giri, President of India, by this Proclamation declare that a grave emergency exists whereby the security of India is threatened by external aggression.”

Please remember the words "threatened by external aggression". It is clear that, though the Emergency was proclaimed under article 352(1) of the Constitution, the reason for it was strictly limited to the threat of external aggression. It did not even include internal disturbance which is covered by article 352(1) of the Constitution. However, to our great shock and surprise, the Government said only a week back in reply to Unstarred Question No. 3,066 by Prof. Samar Guha on the 21 August, 1974, the following:

"The question of continuance of emergency is kept under constant review in the light of the relevant security considerations and the progress of the process of normalisation of relations with Pakistan and the overall economic situation in the country."

This is, particularly, the clause to which I am taking objection—the overall economic situation in the country. I would like the House to seriously consider the sinister imposition of a new condition of emergency and its dreadful repercussions on the Fundamental Rights and liberties of the people and on the Centre-State relations as it opens up the frightful prospect of indefinite continuance of the state of emergency under the plea of economic crisis or economic emergency. This reply of the Government, read with the reply of the Prime Minister to the foreign correspondents on the 15 June 1974, confirms the doubt that the Government is continuing the state of emergency under the false and illegal plea of economic emergency, though the original reasons for which the proclamation of December 1971 was issued have ceased to exist.

I quote the reply of the Prime Minister at a Press Conference with the Foreign Correspondents' Association held at Ashoka Hotel on June 15, 1974. I take care to reproduce

the version of the Press Information Bureau of the Government of India.

"Prime Minister: Well, I do not know, because there is still emergency in India; there may not be a war emergency, but, I think, the economic emergency, is just as severe for a country as it ought to be in war time... So one has to think of national interest. It is not a question of Government interest or Party interest but the interest of the larger number of people as against the interests of a smaller section."

There cannot be at more authoritative interpretation of the present situation relating to emergency than the statement of the Prime Minister.

You will kindly recall that only a year back the Government had mooted the proposal for the localisation of emergency in certain parts of the country and had pleaded with the Opposition to accept that proposal. So, the dangerous shift in the position of the Government is clear beyond doubt in the enlargement of the scope of the emergency illegally and it is bound to be misused by the executive.

Now, a number of constitutional issues arise:

- (1) Can the scope of emergency be extended by the executive *suo motu* without reference to Parliament?
- (2) Does not the addition of a purpose not germane to Art. 352(1) of the Constitution make the whole Proclamation illegal?
- (3) If the war emergency for which the Proclamation of 1971 was made does not exist as the Prime Minister said, what is the status and function of the proclamation?
- (4) If there is only an economic emergency, can the present Proclamation be used to take care of it?

[Shri Shyamanandan Mishra]

- (5) Even if there is a Strange phenomenon like the economic emergency, a concept used by the Prime Minister but unknown to the Constitution, can the emergency provisions of the Constitution be invoked at all? The Constitution speaks of a financial emergency in Article 360 and not economic emergency.
- (6) Even if the Prime Minister meant financial emergency in the place of economic emergency, is not a fresh Proclamation under Article 361 called for in place of the old one under Art. 352(1)?

The subject, Mr. Speaker I submit is of the highest importance as the Constitution stands amended in the light of the Proclamation in respect of the Fundamental Rights of the citizens and the Centre-States relations. Further, a statutory resolution cannot be tampered with by the executive. So, I request you to ask the Government to make a statement on the issues raised and permit a discussion on the subject during this session itself.

SHRI H. N. MUKERJEE (Calcutta-North-East): This opens a Pandora's box of problems which we have got to take note of.

I am very happy that you have permitted a mention of it under Rule 377. But we are now confronted with a situation where on the sly the Government seems to continue the process under the Proclamation, which is completely unwarranted. Therefore, I submit to you that a discussion should be directed, because anything mentioned here is taken note of by the whole country. We take note of it as you take note of it also.

SHRI SOMNATH CHATTERJEE (Burdwan): Kindly appreciate the grave importance of the Emergency continuing.

श्री अटल बिहारी वाजपेयी (ग्वालियर): अध्यक्ष महोदय, सरकार से कहिए कि इस पर ध्यान दे और फिर चर्चा के लिए समय रखें।

अध्यक्ष महोदय : अभी तो सभी लोग बोल रहे हैं। यह तो 377 के अन्डर सबाल उठा है।

श्री अटल बिहारी वाजपेयी : एमर्जेंसी का प्रोक्लामेशन हाउस से एप्रूव कराना पड़ना है और उमने उम को एप्रूव किया है। क्या बिना हाउस की एप्रूवल के इस प्रोक्लामेशन को एमंड कर सकते हैं ?

SHRI S. M. BANERJEE (Kanpur): What is the need of an Emergency? Let them make a statement.

SHRI SOMNATH CHATTERJEE: A person detained under MISA is to remain in jail without trial so long as the emergency continues. Therefore, without trial a man is kept in jail for years. So long as the emergency continues, the detention will continue. That is why one of the learned Judges of the Supreme Court has said that this will amount to life imprisonment without trial. That will be the result. (Interruptions).

SHRI S. M. BANERJEE: Now, the Prime Minister should come here and make a statement.

SHRI SOMNATH CHATTERJEE: Personal liberties have become a mockery in this country. It has become an empty phrase.

MR. SPEAKER: It will be conveyed to the Prime Minister.

श्री मधु लिवये (बांका) : प्रापत्कालीन स्थिति पर एमर्जेंसी पर मेरा प्रस्ताव प्राप ने मान लिया है और एक बुलेटीन में यह प्रकाशित हुआ है। उस पर बहस का मौका नहीं मिल रहा है और इस तरह से प्रश्न

संजी जी और गृह संजी जी नये नये कारण
बूझते चले जा रहे हैं। इस पर चर्चा करने
का सदन को मौका मिलना चाहिए।

SHRI S. M. BANERJEE: You have admitted one of the motions tabled by Mr. Madhu Limaye. This Government wants to do all sorts of things under cover of emergency. But now the session is extended upto the 7th. Why should not a discussion be allowed?

MR. SPEAKER: This is Motion for disapproval of the Additional Emoluments Compulsory Deposit Ordinance.

SHRI H. N. MUKHERJEE: I must crave for your guidance on a point of order in relation to matter under Rule 377.

MR. SPEAKER: It has already been raised.

SHRI H. N. MUKERJEE: I am asking for your guidance in regard to this point. I welcome the way in which it has been used today, but I seek your guidance which is, when, in pursuit of your permission to raise a matter under Rule 377, a fundamental and significant issue happens to be taken cognisance of by the whole House, would it not be desirable, in order to make that issue amenable to appropriate parliamentary discussion, occasionally only on exceptional circumstances, that a discussion might follow in the House? I am not asking for it here and now. Something has been reported ever here and the whole country is naturally exercised over the matter and the country would also like to know the reaction of the Members of the House.

SHRI SAMAR GUHA (Contai): In the last session.

MR. SPEAKER: Kindly sit down.
SHRI SAMAR GUHA: I want to

submit a few words about the allied question.

MR. SPEAKER: There is no debate.

SHRI SAMAR GUHA: I just want to make a submission to you.

MR. SPEAKER: The House is seized of the matter. There is no question of this or that gentleman having brought it or some one else having brought it.

The entire House is seized of them matter. That should satisfy you.

SHRI SAMAR GUHA: I welcome it. I have to make a submission. During the last session the same question was raised on national emergency. And the Pakistan issue came up. Specific issues were raised and in relation to that it was said that this will be used for local purposes, that is to say, it will be localised.

MR. SPEAKER: This can come when there is a debate.

SHRI SAMAR GUHA: Just allow it.

MR. SPEAKER: I have no objection. Professor, kindly sit down. Do not do it every day.

SHRI SAMAR GUHA: One more sentence and I will sit down.

MR. SPEAKER: When I am standing, please sit down. There is no debate now.

SHRI SAMAR GUHA: My point is this.

MR. SPEAKER: Oh, God, help me; may I be saved from you sometimes! After all, I am a human being.

SHRI SAMAR GUHA: I purposely wanted not to disturb you, I have drawn your attention to this.

MR. SPEAKER: Will you kindly sit down for some time when I am standing? Please sit down.

SHRI SAMAR GUHA: Unfortunately this is the lesson for many of us that unless one creates a disturbance, one is not heard.

MR. SPEAKER: I am prepared to meet that, if you are under this impression. Look at this gentleman.

SHRI SAMAR GUHA: If you allow me, I shall do it.

MR. SPEAKER: I am helpless now. You can force it over my ears. But, I am not listening to this.

SHRI SAMAR GUHA: Sir, I shall not raise unnecessary things. I will do this only if I am permitted by you.

MR. SPEAKER: I have not permitted you.

SHRI SAMAR GUHA: Then I shall sit down.

MR. SPEAKER: When I was standing I could not permit you.

SHRI SAMAR GUHA: If I am not permitted to raise this, what respect shall I have from my people?

SHRI SHYAMNANDAN MISHRA: The hon. Minister who replied to the question is keeping tightlipped. Why is he now tightlipped when he has already replied to the question of Prof. Guha?

MR. SPEAKER: Please do not make it complicated. Already he has agreed to sit when I am standing. You have placed these facts and also your observations. These will be conveyed by the Minister to the Prime Minister.

SHRI S. M. BANERJEE: The motion is already there.

MR. SPEAKER: I have no objection for discussing anything in this House if you will go on doing this every time. But, what do you want me to do now?

SHRI ATAL BIHARI VAJPAYEE: Before discussion, you will kindly ask the Law Minister or the Home Minister to make a statement on the im-

portant constitutional points that have been raised. Otherwise, no useful discussion can take place unless the Law Minister comes out with a statement.

12.38 hrs.

STATUTORY RESOLUTION RE. DIS-APPROVAL OF ADDITIONAL EMOLUMENTS (COMPULSORY DEPOSIT ORDINANCE AND ADDITIONAL EMOLUMENTS (COMPULSORY DEPOSIT) BILL

MR. SPEAKER: We shall now take up the next item—items 11 and 12. The two will be taken up together. Mr. Banerjee says....

SHRI S. M. BANERJEE (Kanpur): Sir, this cannot be discussed here.

MR. SPEAKER: You move the motion under item No. 11. That is the only thing I have with me.

SHRI S. M. BANERJEE: Sir, I rise on a point of order. There are two things.

MR. SPEAKER: What is your point of order?

SHRI S. M. BANERJEE: My point of order is this. About item No. 11 I have no objections, as notice has already been given, because you have asked for it. Once it is discussed, then it calls for a further discussion. My point is this. I do not know whether you have gone through the papers.

MR. SPEAKER: There are two.

SHRI S. M. BANERJEE: I would invite your attention to the various rules of this House, particularly to rule 186 (viii) at page 80 of the Rules of Procedure. It reads thus:

"It shall not relate to any matter which is under adjudication by a court of law having jurisdiction in any part of India."

Motions are being disallowed in this House if a case is sub judice or it is before a judicial or even a quasi-