

[Shri Nambiar]

hon. Minister replies there is one resolution which has to be completed, and then another resolution has to be taken up.

Mr. Deputy Speaker: We will take up both those resolutions.

Shri Nambiar: Otherwise that will get lapsed.

Shri Thirumala Rao (Kakinada): Is it your proposal, Sir, that we should sit till 5.45?

Mr. Deputy-Speaker: We can take up the third resolution also.

Shri Thirumala Rao: There are a number of engagements, and not knowing of this proposal about extension we have agreed to these programmes.

Mr. Deputy-Speaker: If the House agrees we can sit half an hour late.

Some Hon. Members: No, no.

Mr. Deputy-Speaker: Then Shri Bhagwat Jha Azad will continue on Monday. We will now take up non-official business.

14.32 hrs.

COMMITTEE ON PRIVATE MEMBERS' BILLS AND RESOLUTIONS
THIRTY-FIFTH REPORT

Shri Muthiah (Tirunelveli): Sir, I beg to move:

"That this House agrees with the Thirty-fifth Report of the Committee on Private Members' Bills and Resolutions presented to the House on the 4th March, 1964."

Mr. Deputy-Speaker: The question is:

"That this House agrees with the thirty-fifth Report of the Committee on Private Members'

Bills and Resolutions presented to the House on the 4th March, 1964."

The motion was adopted.

14.32½ hrs.

RESOLUTION RE: PROCLAMATION OF EMERGENCY—contd.

Mr. Deputy-Speaker: The House will now proceed with the further discussion of the following Resolution moved by Shri Tridib Kumar Chaudhuri on the 21 February, 1964:—

"This House is of opinion that the Proclamation of Emergency declared by the President on the 26th October, 1962 need not be continued any further and hence recommends to the Government to advise the President to revoke the same."

The hon. the Home Minister to continue his speech. Thirty-one minutes are left for this Resolution. The Home Minister has already taken eight minutes, so twenty-three minutes remain out of which I have to give some time for the reply also.

Shri Tridib Kumar Chaudhuri (Berpampur): I must have some time for reply.

Mr. Deputy-Speaker: Yes, he will have seven minutes.

The Minister of Home Affairs (Shri Nanda): Mr. Deputy-Speaker, Sir, I intervened in the discussion on the resolution tabled by Shri Tridib Kumar Chaudhuri recommending that the Government should advise the President to revoke the Proclamation of Emergency and I had made a few observations when the House adjourned on the last occasion. I stated then that I was very keenly conscious of the fact that the Proclamation of Emergency armed the Government with very wide powers.

powers of an exceptional character of an extraordinary character. Naturally, these are not powers for ordinary times or for ordinary purposes. This is true, Sir.

But the approach of the hon. Member sitting there, Shri N. C. Chatterjee, was inexplicable to me. What he said about it was rather surprising. I may not have fully grasped the intent or the meaning of his observations. It appears to me, Sir, that according to him it is inconceivable that in any situation the fundamental rights of the citizen which are enshrined in the Constitution should at all be taken away. And he reminded us of the British times when, he said, nothing of this kind had happened and even that autocratic power had not taken away the civil liberties of the people to this extent. Sir, when the Constitution was framed.....

Shri N. C. Chatterjee (Burdwan): I want to make one position clear. I stressed the point that the access to the Supreme Court and the High Court should not be blocked as has been done this time, and that was not done even in the British time.

Shri Nanda: I do not want to enter into the Constitutional niceties in view of the limited time available. But if the Constitution arms the Government with certain powers which override certain rights, and if special laws are made under those provisions, then certainly the Government has to be protected against any kind of claims against it arising out of the exercise of those powers. We are not discussing the amendment of that Article of the Constitution. That is not the purpose here. The

question before us is this. According to my hon. friend, irrespective of the question whether those provisions are repugnant to the Constitution or not, Fundamental Rights in no case should be contravened.

My limited purpose now, Sir, is this. The framers of the Constitution provided for the full plenitude of freedoms in the Constitution. And if they had not then felt that occasions may arise when these very freedoms this latitude may become a handicap, then they had not visualized they had not pictured to themselves—the treacherous role of China. But they certainly had in mind that some such situations may arise when there may have to be a suspension of certain rights provided in the Constitution.

Now, those circumstances arose. When those circumstances arose, for this Government or for any Government, it is inconceivable that they should not have had recourse to the exercise of those powers. That would have been a betrayal of the interests of the people, of the country. It was indeed very heartening to see that the House responded with such great enthusiasm, it was very heartening, and there was no reservation at all in the minds of anybody about arming the Government with all the powers which the Proclamation of an Emergency makes provision for.

The question now is whether conditions have so changed in the intervening period that it is now no longer necessary to have the exercise of those provisions and therefore the Proclamation should be revoked. That is the question. Before we come to any conclusion about it, let us look at what those provisions are, what the rationale behind it is, what the purpose is.

[Shri Nanda]

In these various provisions in the Constitution pertaining to the Emergency there is an approach that things which have to be done in the interests of defence should proceed—those activities should proceed smoothly. And, because certain obstructions might otherwise arise on account of the varying laws in the different States in the country and because certain other powers which the States exercise might hinder the implementation of certain programmes, therefore certain Articles have given power that laws can be made which will remove that barrier, so that the Central Government can have laws which enter into the sphere of the States also. Similarly regarding the executive power. This is in order that those activities may proceed, and without any kind of delay or hindrance. Then there are other provisions which are meant to enable certain Defence activities to proceed, which otherwise might not have been carried out. There might be delays, and those delays are to be avoided. I do not want to go into all those details. Certain procedural restrictions—those which would prove to be dilatory—they have been overcome. Penalties have been made more deterrent. These are the kind of things which constitute the armoury for the purpose of making the preparations for defence more smooth and more effective.

Questions have been raised on one side that we have not made full use of certain powers, and on the other side that there has been misuse of those powers. The question about the misuse of those powers relates primarily to the operation of those provisions which relate to the powers of detention. When we look at the manner in which this power is exercised, the extent to which this power is exercised, it will be very clear that there has been no such extreme or excessive use of

those powers. The number of persons who have been detained is not so large as to create any kind of suspicion that there has been sweeping use of those powers. Out of a total number of 1,323 persons detained up to 10th February, 1964, as a result of the review 1,041 have been released, leaving only 282 persons under detention.

Shri Nambiar (Tiruchirapalli): That proves that detention was wrong, *mala fide* and unnecessary.

Shri Nanda: That proves something else. That proves that reviews were made frequently and wherever it was found that there was less danger from certain sources because of better sense dawning on certain people, there was greater relaxation and more releases.

Shri Tyagi (Dehradun): They are not thankful at all.

Shri Nanda: Of the persons under detention it is understood that 186 did not have any political affiliation. Of the remaining 96, there were 61 Communists, 9 Congressmen, 4 Jamait-e-Islami, 2 Jan Sangh and 1 Socialist members; others 19.

Shri Ram Sewak Yadav (Barabanki): So, Socialists are more patriotic than Congressmen.

Shri Nanda: The Socialists are so microscopic that even one would have been too many.

श्री रामसेवक यादव : इस को देखने के लिए नज़र चाहिए ।

Shri Tyagi: Did the hon. Minister say Congressmen also?

Shri Nanda: Yes.

Shri Tyagi: I protest. Why should Congressmen be there?

Shri Nanda: Out of millions of Congressmen, a few could not be as

good as the hon. Member Shri Tyagi is.

श्री रामसेवक यादव : बुरे ज्यादा होते हैं, अच्छे कम होते हैं ।

Shri Nanda: I have very little time at my disposal and so I have to proceed.

Shri Gauri Shankar Kakkar (Fatehpur): How can a Congressman do wrong!

Shri Nanda: So, it is a totally erroneous notion that these powers have been used to suppress any party, or to strengthen any other party, or for any other political purposes. It is very clear from the figures. Since the number also is very small, I hope...

Shri Dinen Bhattacharya (Serampore): What about the two M.Ps. of our House—Shri Dasaratha Deb and Shri Biren Dutta of Tripura?

Shri Ram Sewak Yadav: What about Shri Maurya?

Shri Nanda: Members of Parliament are very much better persons than the normal run of people in this country. Still, they are also fallible.

Shri Dinen Bhattacharya: They were here before the day they were arrested.

Shri Tyagi: There must be some grouse.

Shri Nanda: There was also a feeling or suspicion that labour activities were suppressed and certain trade union workers were arrested and detained under the exercise of these powers. Now, being a trade union worker myself, I am particularly sensitive on this point. I was also detained during an earlier period.

Shri Dinen Bhattacharya: By the Britishers.

Shri Tyagi: So, you are taking revenge.

श्री राम सेवक यादव : तब तो मंत्री महोदय को पता होगा कि वह ब्रिटिशर्स से भले हैं या ब्रिटिशर्स उन से भले हैं ।

Shri Nanda: I can say with absolute confidence that no trade union activity as such and no trade union worker as such has been penalised. It is incidental. If some arrests have taken place and some persons have been detained, it is incidental to the fact that their activities were prejudicial to the security of the country. In a certain part of the country, an attempt is made to paralyse the means of communication and they are disrupted. It may be hundreds of miles away from the border area, but it will affect the effectiveness of our defence, it will affect or undermine the preparations that are afoot for the purpose of strengthening our defence, it will affect the integrity of the economy of the country. A very few such cases have occurred. But when you look into them, when you closely examine those cases, it will be found that there was no case of bias against any trade union worker and there was no intention at all to stifle any trade union activity in any manner.

There were also some cases of newspapers. There also the number has been very few. Arrangements that have been made are such that it is not at all possible for any kind of hasty action to be taken without the fullest consideration of any impropriety that might have been committed—any violation of the spirit of the emergency provisions that might have taken place. There is the initial scrutiny, then the show-cause notice and so on—all these processes are there. So, actually the press has not been affected. Of course, there is a direction that these provisions have to be exercised with due regard to the purposes for which they have been made available to Government, but nothing will be done in excess of the absolute needs of the situation.

But that is not the main question. The main question is the misuse of those powers. The purpose of the members who spoke for the Resolution would be to go at the Government and to see that the misuse is stopped. That is perfectly all right. But that is

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not at all relevant to the main purpose of the Resolution. If it is the suggestion that because there is misuse, therefore, the proclamation of emergency should be revoked, that is an independent question. There should be no misuse. Let us try to prevent it.

If there has not been enough use of those powers, as has been urged by some hon. Members, it may be that those powers are kept in reserve and not being used. If occasions do not arise for their use or exercise, well and good. But they are there and the fact that they are there has a deterrent influence. Many things do not happen because the powers are there and can be exercised. So, that also is no reason for the revocation of the proclamation of emergency.

Then, there is the other argument that while the situation calls for some stern action and the Government should be armed even more effectively than is being done, there is something lacking in the efforts of the Government. There is some such feeling in the country. Then again, the answer is not to revoke it, but to castigate the Government so that they may take prompt action. After all, it is not a matter for the Government alone. It is a matter for the whole of the people of the country. Let us all with one voice say that more should be done than is being done now. It is not an argument at all to say that because it is not done, so, there should be no emergency provisions at all. That approach is totally wrong—if that is the object of the hon. Members.

But if their object is something else, that is a different matter. If the hon. Member who has moved this Resolution and those who supported him feel that the situation has so changed that the emergency ceases to exist and, therefore, we need not have those powers, then, the hon. Member will have to look at the facts. Is the position so? Is it that the threat posed against this country now is any bit less than it was at that time? I think it is very

much more, much graver now than earlier. I need not go into all the facts of the case as to the quantum of Chinese forces now and at the time when they made the massive attack.

Shri D. C. Sharma (Gurdaspur): And the Pakistani forces also on our border.

श्री राम सेवक यादव : क्या इमर्जेंसी कोई तोप है, जिस से चीन और पाकिस्तान का मुकाबला करेंगे ?

Shri Nanda: There is the additional factor that they are also entrenching themselves. They are making some kind of permanent arrangements there,—communications, roads and all that,—so that it does not appear as if they have no hostile intentions, they have no evil designs.

Is it any hon. Member's case that they are not there? They are visibly there. Or, is it the case that being there they do not intend to do any mischief? It cannot be. Then what is all this for?

In addition, there is this new and sinister development of Pakistan and China aligning together and coming to some kind of an understanding which is now open. That might possibly have been a secret some day but now there is no secrecy about it. With all that, I think, the threat now is manifold compared to the earlier time.

Shri Tyagi: Despite that your arrangements seem to be rather slack.

Shri Nanda: Then you can abuse us for that; but let nobody say that the Proclamation of Emergency should be revoked. Bring out those things and let us have a discussion on that.

I believe, we have not been sitting idle. I am sure, the hon. Defence Minister has occasionally presented whatever information it was possible for him to give how during this period we have strengthened our defence arrangements. We have not been sitting idle. We are in a much better position to deal with the enemy than we were before and this respite has

been used to good purpose. If that is so—during whatever more breathing time we have—it should not be that we should get rid of those powers and sit still but we should use them more vigorously and more effectively. That should be the suggestion; that should be the approach.

Then, another reason could be that it might be that those people are still there and are strongly placed; it might also be that with Pakistan and China coming together, this threat and danger to the independence and integrity of this country has become graver still, but other things have happened and there are other developments and we have no intention of fighting because some shift in policy is occurring. That could be another argument. But it has been made very clear that there is no such shift at all. China has never come out with any kind of a pledge or assurance that it is going to accept the Colombo proposals in full. It may have its own version and interpretation, but that is not the way we have accepted them and they are not prepared to accept them still. This is their position now. They are not even prepared to accept the other efforts that we have made of taking the dispute to the International Court. Therefore there is no inclination at all to have a peaceful settlement. That is the position now. Therefore we cannot relax our efforts, vigilance, and preparedness for defence.

In these conditions, therefore, for anyone to suggest that we give away these powers the use of which, as I have shown briefly, is helpful for the purpose of defence arrangements—will be losing sight of the needs of the country for the purpose of defence.

Then, there were some other arguments. It was said that we might have the powers when the situation again arises; there is nothing now, therefore do not have the powers. We can resume these powers when the situation arises. That, I believe, no serious person would have thought of. It means that immediately the fighting

stopped—it stopped months ago—we should have revoked the emergency and then we should have waited till fighting started. That is certainly no way of dealing with a serious situation like that. It is this period when there is no fighting which is much more important for our purpose of facing the situation later on.

Then, there was the question of acclimatisation. It was said that if we keep the emergency provisions when there is not so much seriousness about it, then, when actually the situation arises when these are very much needed it will not serve the purpose because people will have become acclimatised to it. That is only on the supposition that there is no real emergency. But that supposition is not correct. Therefore, if it is that people have now lost the sense of emergency anywhere, let us try to revive it by whatever means that are available to us and not say the other way about,—namely,—that we leave them to themselves and do nothing about it.

There was one more argument and that was about something which I am supposed to have said. The actual words were different.

Shri D. C. Sharma: Why are you always misreported?

Shri Nanda: Not always; it is only on rare occasions when it suits the purpose of somebody to misreport. I was supposed to have said that the emergency is going to be ended soon.

Shri Tridib Kumar Chaudhuri: You said, "We want to end the emergency soon". That is what you said towards the end of December.

Shri Nanda: I know, what I said and I am going to explain what it means. It was in the context of the discussion of the Preventive Detention Act. I was told, "Here you have got the Defence of India Rules; why, therefore, have the Preventive Detention Act also? The answer was that these are a different set of circumstances—that is—Preventive Detention Act and Defence of India Rules,

[Shri Nanda]

and it may be—we will welcome that day—it should come as soon as possible—that the Defence of India Rules are not required because we are free from that menace to the security of the country. And still internally such a situation may be there that we might require the Preventive Detention Act. In that context I said that I will be very happy if the emergency is ended soon. That was the idea; it was not that I had promised. How could I promise? It is for those people to promise who may know about the Chinese intentions and can make a prophesy to say that things will not flare up again; they will go back and therefore there will be no need for any emergency. But since we do not know those intentions, it is not possible to end the emergency.

Shri Tridib Kumar Chaudhuri: Mr. Deputy-Speaker, Sir, I am afraid, the hon. Home Minister has missed the central point of the demand that was raised during the course of the debate on my Resolution. Sir, this Resolution is really an expression of the want of confidence in the way the Government have used the emergency powers. These emergency powers were given in their hands to gear up the defence and to mobilise the national resources and manpower for driving out the enemy from our sacred soil. But, unfortunately, by their policy of drift and vacillation, by their policy of weakness and their abuse of the powers that were given to them they have completely killed the sense of emergency.

I may also remind him of the fact that India is not the only country which is fighting a war. There have been other countries which fought their wars—and fought them successfully—and they did not have recourse to such powers for gearing up their defence resources. They did not have the need for them because they were serious people and they knew business.

15 hrs.

But so far as our Government is concerned, I will here refer to some of

the emergency powers that we have put in the hands of the Government. Article 353 practically renders the entire Government of India a 'unitary government; that is, in spite of the State Legislatures, State Governments and the State List of constitutional powers being there, the Central Government can intervene in the States' sphere as and when necessary. We have seen how the various State Governments have moved and behaved during the past 14 months. We have seen how petty scrambles for power, Minister moving against Minister, Cabinet Member moving against Cabinet Member for offices, with intriguing aims against one another, have happened before the eyes of the people. Do you mean to say that you keep up the spirit of Emergency and spirit of national defence in this way? The only thing that you have done is to take powers under article 359 to write off the fundamental rights of the people. Even if the fundamental rights were not written off in the fashion that you have done, even then the defence efforts would not have suffered the least. I would remind the hon. Minister of one famous saying of a great Judge of Great Britain who said:

"Amidst the clash of arms, the laws are never silent. They speak the same voice in peace and war."

Unfortunately, we have here special laws which are only used for killing all those basic rights which make our fundamental rights, which go to make our Constitution unique in the world. These are wiped off. Under article 19, we have guaranteed 7 types of freedoms to the citizen. These are wiped off. Then, article 14, right to equality, before law, goes. Again, articles 21 and 22 go. Only article 31 relating to private property is not touched. The way these powers have been used is alarming. Only this morning, we heard how the two hon. Members of this House have been arrested under D.I.R. because of speeches that they made six or eight months ago. Do you mean to say that

if they were not apprehended under D.I.R., the whole defence effort of the Government would have collapsed? I may also cite the case of hon. Member, Shri Kishen Pattanayak who belongs to the Socialist Party who are not satisfied with the type of defence efforts that we are putting up. If anything at all, they can be called "ultra-defencists". He made a speech against the injustice of revenue officers in the collection of defence funds and he was hauled up before a court of law under D.I.R. and kept in jail without trial for several months until the Supreme Court could be moved and he could be released on bail. Do you mean to say that this is the way you are gearing up your defence efforts? Do you mean to say that if hon. Member, Mr. Kishen Pattanayak, was not arrested and kept behind the prison bars, your defence efforts would have collapsed? You are doing the things that you ought not to have done, and you are not doing the things that you ought to have done. That is why we want that the Emergency should be lifted. We do not trust this Government with the great powers that we have given to them.

Mr. Deputy-Speaker: The question is:

"That this House is of opinion that the Proclamation of Emergency declared by the President on the 26th October, 1962 need not be continued any further and hence recommends to the Government to advise the President to revoke the same."

The motion was negatived.

15.05 hrs.

RESOLUTION RE: LAND REFORMS

Shri Nambiar (Tiruchirapalli): Mr. Deputy-Speaker, Sir, I beg to move the following Resolution:—

"This House recommends to the Government to take immediate steps by way of legislative and executive measures to bring about a thorough land reform including

transfer of ownership of land to the tiller, removal of rural indebtedness and provision of proper marketing facilities with price supports."

Sir, I have the honour and privilege of moving this Resolution before the House for its adoption. This is a question which is hanging fire for the last 17 years ever since we become free, particularly after the planned economic development took place. The Government and the ruling Party has been telling us that land reforms would be effected speedily. But I am sorry to say that much has not been done, not only that the land is not given to the tiller, not only that no better land tenure is brought in to effect production of agricultural goods, but something worse has been done during all these years. Landlordism and all its concomitant evil effects do continue to remain in all colonial and semi-colonial countries and we have nothing to boast of towards success in eradicating the same. No country which desires progress, which desires industrialisation, which desires production of goods, food, raw materials, clothing and other necessities for the people, can afford to neglect this task unless it does it at its own peril. In the past the feudal system might have served a progressive role once in history compared to its earlier forms of slavery and tribal despotism, but its continuance any further will only lead to our national ruin.

I submit that this feudal system must go for two main reasons. Firstly, it will enable the peasant, then the actual tiller to produce as much as the nation wants in foodstuffs and industrial raw materials and secondly it will usher in a new era of a different socio-economic order not only in the countryside but in urban areas. I say, remove the fetters of the peasant, encourage him by giving better implements, credits, fair price and marketing facilities, and he will solve much of the present crisis. He will enable you not to go in for alms, loans, PL-480s and what not. He will even save the nation's honour, stabilise its