

[Shri A. N. Vidyalankar]

should be used in such a common manner and that we should look at it from an angle of political expediency.

President's rule was imposed earlier in some other States also. I come from Punjab, where also President's rule was imposed once. So also in Pepsu. Even now there is quite a lot of talk of President's rule being imposed in Punjab, not because the democratic machinery has actually failed there but because we looked at certain problems from the point of view of political expediency. When a political party is in majority in a Legislature, as the Congress was, I do not think there was any valid ground for the imposition of President's rule only to solve immediate difficulties due to inner party conflicts.

If we cherish democratic values and we were wedded to democratic values genuinely, we should feel deeply concerned and pained when we had to impose President's rule and we had to suspend normal working of democratic institutions. Democracy required a special climate for its functioning. If the representatives of the people were in doubt whether they could exercise fully their rights at a time of difficulties, if they thought that it was not for them to solve the problems, and it was the headache of somebody else, who could apply the correctives, then democracy cannot prosper or function in such a set-up. The representatives of the people should always think that it is they and they alone who could solve the problems even when there is a break-down of democracy.

In the Constitution there were no provisions for President's rule or any provision for exercising executives authority, what would have been the position? Suppose a situation arose in England where no party had a majority or the majority of the party was precarious, only a difference of one or two members, what would they do? They would order re-elections by asking the King or Queen to dissolve the Parliament

Mr. Deputy-Speaker: The hon. Member may continue his speech the next day. We will now take up non-official business.

14.30 hrs.

COMMITTEE ON PRIVATE MEMBERS' BILLS AND RESOLUTIONS

EIGHTY-EIGHT REPORT

Shri Shree Narayan Das (Dabhanga): Sir, I beg to move:—

"That this House agrees with the Eighty-eighth Report of the Committee on Private Members' Bills and Resolutions presented to the House on the 5th May, 1966."

Mr. Deputy-Speaker: The question is:

"That this House agrees with the Eighty-eighth Report of the Committee on Private Members' Bills and Resolutions presented to the House on the 5th May, 1966."

The motion was adopted.

14.30½ hrs.

RESOLUTION RE: PROCLAMATION OF EMERGENCY AND DEFENCE OF INDIA ACT—contd.

Mr. Deputy-Speaker: The House will now take up further discussion of the following Resolution moved by Shri Surendranath Dwivedy on the 22nd April, 1966:—

"This House calls upon the Government to take steps to revoke the Proclamation of Emergency and to repeal the Defence of India Act without delay."

Time taken is 14 minutes. 1 hour and 46 minutes are left. Shri Dwivedy may continue his speech.

Shri Surendranath Dwivedy (Kendrapara): Sir, when I was speaking the other day, I was pointing out

that during the course of the Emergency, whatever might have happened or not happened, one thing is very evident and that is that the Central authority in this country has completely surrendered itself to the provincial satraps, the Chief Ministers. Even in the matter of the Emergency and the Defence of India Rules, which are primarily the concern of the Parliament and the Central Government, this Government is not in a position to take any independent decision after making a proper assessment of the situation as it prevails in the country today. The powers given under the Emergency have made the State Governments trigger-happy. Therefore, even if normal circumstances prevail, they are reluctant to give up these powers and restore the fundamental rights to the people.

This matter has been debated, during these 15 days after I moved the Resolution, at different places and in the other House also and the Home Minister has come out with a statement about Government's policy in this matter. Sir, in this country we are acquainted with statutory rationing and modified rationing. This Emergency that is prevailing in the country is a statutory emergency, but now he has come out with a modified emergency. This statement is nothing but that he wants to continue the emergency in this country.

Again, he repeats the same arguments trying to mislead the people as if the Emergency powers will not be exercised for the normal functioning of the administration of this country. He again emphasizes that the intention of Government is not to continue the emergency for a day longer than is absolutely necessary for the defence of the country. Again, he warns that there has been a chain of incidents involving sabotage and attempted subversion.

As I have already dealt with detail, whenever an occasion arises and there

is a danger or threat of war or of internal subversion, this country and this Parliament are prepared at a moment's notice to vest the Government with all emergency powers needed to meet the contingency. We have not failed in that. I do not think the country will ever hesitate to vest this Government with adequate powers to meet situations like this.

But here what we are concerned with is what is the position today. We agree that in the border areas there are certain elements which are really working against the interests of the country. But I would humbly submit that the present laws that we on the statute are sufficient to deal with this. There is the Criminal Law Amendment Act which deals with persons who question the territorial integrity and the frontiers of India. The Criminal Law Amendment Act of 1961 contains adequate provisions to deal with such contingencies. The Indian Penal Code, section 153A also, in matters like this would be sufficient to deal with offences of this nature.

The whole thing is that the Congress Governments today want to deprive the right of appeal to courts for the people. I want to put it to the Home Minister; is the situation such as to deprive this fundamental right of protection of courts to the citizens of this country? It raises a basic issue of fundamentals of a democratic government. Suppose, as he argues, the situation is very serious in the border areas. Is it, therefore, for the sake of a few areas that you want to deprive 490 million people of this country of their fundamental rights? That is the question. I think, we will be going beyond the intentions of the Constitution as well because the Constitution clearly stipulated when there is a grave emergency, then only the Proclamation of Emergency should come.

I would think that after the experience that we had of these areas, it is

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time, if we really want the development of a healthy democracy in this country, some serious thought should be given to this aspect. It is very necessary because we see what is happening in all parts of the world. We should be the guardians of this constitutional and democratic development and it is for us, for the Parliament and the Government, to see and seriously think, whether we should not revise the constitutional provisions as exist today in regard to the Proclamation of Emergency.

But without doing that, what he has announced, I think, has profoundly shocked public opinion. In 1948 when we were confronted in Kashmir with various problems of the same nature as are prevailing now, was there an Emergency then? The Naga problem was there in 1956 also and yet, there was no Emergency. I think, the Government dealt with that problem as successfully as they could. So, if you want to deal with these problems and the Government makes out a case that in the border areas there are certain elements which cannot be dealt with or that there are certain offences which are being committed deliberately and which cannot be dealt with under the ordinary law that is prevailing in the country, they should come out with some legislation wherein for purposes specifically meant these powers may be given to the Government. That is a different thing altogether. But you are going to create two classes of citizens in this country by this modified Emergency. The Emergency is all over the country, but what is this private arrangement? They are requesting the State Governments not to use it. With the mercy of the State Governments will this Government function?

According to his own statement, if in certain areas they commit the same offence, it will not be justiceable and they will be deprived of their right; but in the rest of the areas it will be justiceable. If what he says is correct, then you are creating two

classes of citizens in this country which is untenable and unthinkable. I take exception to it because it is not very clear. He has not clarified the statement. He not only mentions border territories but he mentions States also. So, it is not only some areas here and there but probably he has some States in mind too, which will be under this Emergency.

When he mentions this, my apprehension is probably true that the States do not agree that the Emergency should go. They want to enjoy these powers fully for their own purposes. That will be dangerous. That will create more complications, that is, these half measures. What we find today, which he has admitted, is that there is a spate of resistance to the continuation of Emergency in this country. Of course, we want the support of the people for any move, for any preparation that we make for the defence of the country, and the people will support you only when they feel that you are moving in the right direction and that you are not going to curb the fundamental rights of the people. You have curbed the fundamental rights for a long time and you have reached the last stage now. I really do not understand it. Even now, for every little incident in the States, not only the D.I.R. but all the Emergency powers are being used. Sir, I know it myself that he himself condemned it when he visited Orissa during the students' strike there and he had the courage to say in a public meeting of students that he disapproved the use of the D.I.R. and the requisition of army and military to quell disturbances like the students' disturbances. But all this is happening because the Emergency powers are there. The civil administrations in the States, for every little thing, call in the army and they take recourse to the D.I.R. Not only the people are deprived of their fundamental rights but this creates a feeling that civil administration in the country has failed completely and

that we are more and more depending on the army. One would not be surprised that you will reach a stage—God forbid, that should never happen in this country—by continuing in normal circumstances such Emergency measures, which would create a feeling as if this country cannot be ruled and the civil administration cannot be maintained without the support of the military. That will be a bad day, a sad day, for this country.

Shri Tyagi (Dehradun): God forbid.

Shri Surendranath Dwivedy: We want to prevent that and to prevent that, it is necessary to give complete freedom to the people of this country to express themselves, to organise themselves as they like, as they have got under the Constitution.

After the Second World War, as soon as the war was over, all countries withdrew the Emergency rules immediately. Here, for four years, we are continuing them and we are thinking probably to continue them till the next General Elections. They want to fight the next General Elections under Emergency. They want to tell the people that Emergency conditions still prevail and they want to instil fear in the minds of the people. Some people are afraid, because of the D.I.R., to express themselves freely. They do not know at what time they will really apply them. Therefore, they do not freely express themselves. If these conditions prevail, I do not think in this country we are going to have free and fair General Elections. Because of certain circumstances, one does not know what would happen in some of the States to the present Congress Governments. Therefore, it is to prevent that calamity to yourself that you want to continue this. So, we are not going to have free and fair General Elections in the country.

Now, he has agreed to modify this. I would like to know the areas which according to him, are excluded from

the application of the Emergency powers at the present moment.

Shri Tyagi: Does my hon. friend honestly feel that there is no danger from outside?

Shri Surendranath Dwivedy: There is danger from outside. We have been warning this Government of that danger and we shall meet that danger if we prepare ourselves, if we become strong enough, for the defence of our country. What have you done all these four years? I would have welcomed this Emergency to continue for a longer period in this country, even if there were no threat at all—I will be the first person to support the continuation of Emergency—if I had seen during the course of these three or four years that this Government has overhauled the administration, they have taken steps to fight the hoarders, the profiteers, to bring about economic equality in the country, to take measures by which the exploitation is removed and the people as a whole, 48 crores of people of this country, are prepared as equal citizens to meet the dangers, whether external or internal. Nothing of the sort has been done. The Government machinery is continuing as normal as before. Rather, under the shelter of the D.I.R., they are sheltering all sorts of corruption, mal-administration, mis-use of power and authority in this country, thereby violating the very basic principles of democracy.

I would not like to go more into details. I only make an appeal to him; I make an appeal to the Members of Parliament. The Government now is in a very difficult position because there is a pressure from the State Governments. I find that there is the general desire in this Parliament that this should not continue longer. I, therefore, request my fellow colleagues in this Parliament to say that my Resolution is very simple. I say that they should revoke the Proclamation of Emergency and repeal the Defence of India Act without delay, and let this Parliament give its

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mandate and let this Resolution be accepted unanimously. Whatever the State Chief Ministers might say, let us say here to the Government that we all want that Emergency Proclamation should be revoked without any delay and that fundamental rights of the citizens be restored to them.

Mr. Deputy-Speaker: Resolution moved:

"This House calls upon the Government to take steps to revoke the Proclamation of Emergency and to repeal the Defence of India Act without delay."

There are some amendments to this Resolution. Shri Shree Narayan Das.

Shri Shree Narayan Das (Darbhanga): I am not moving amendments Nos. 1 and 2. I move No. 4:

"That for the original resolution, the following be substituted namely:—

"That House is of opinion that the time has come that the Government should reconsider the desirability and necessity of continuing or revoking of the Proclamation of Emergency or limiting the operation of such emergency only to such areas as are threatened or likely to be threatened by external aggression or by internal disturbances." (4).

Mr. Deputy-Speaker: Shri Banerjee—he is not here; Dr. Singhvi—he is also not here. So, the motion and the amendment are before the House.

Shri Sham Lal Saraf: Mr. Deputy-Speaker, Sir, I heard very attentively the speech that my hon. friend Shri Surendranath Dwivedy delivered not only today but also the other day. He and many other friends here had very much justified the declaration of Emergency at the time it was proclaimed. There can be no two opinions about that and I must say that in a number of ways it has worked well.

We, whether on this side or on the other side, when the country is in danger and the danger is external as well as internal, must keep our heads cool and only after a cool thinking we must give our opinion to say what to do or not to do. As far as the Central Government is concerned, I can vouchsafe for it, from my own personal experience also, that they have done well and that it was very timely that this proclamation was made. But I must say this much also that some of our State Governments have not done well, that they have not carried out the policies of the Central Government in the way they ought to have done with the result that today, in any State, you see a number of mal-practices that have been brought into operation of this Emergency and also the D.I.R. The name of the Central Government is tarnished. If you kindly permit me to speak about my State, I can tell you a few things very frankly. The Home Minister is here and let him know them. Firstly, under the cover of Emergency and the D.I.R., honest political elements who swore by India and worked for the country's cause for many decades have been suppressed, have been prosecuted under the D.I.R. and have been put behind the bars. Many things are coming to light and I may not say in detail about them now because I know what my responsibilities are as a Member of the Congress Party. Therefore, keeping that in view, may I respectfully ask the hon. Home Minister, with all this responsibility that his Government has taken, whether it is not equally his responsibility to see how it is implemented in all parts of the country. I know you will not have a direct hand in it. But all the same, nobody can absolve you from that responsibility if it not implemented with the same approach with which this Emergency had been declared.

One point which is very important is this. This morning I had read an article written by some Mr. Malhotra

in *The Statesman* about the functioning of the intelligence services. I can say with a full sense of responsibility and without any fear of contradiction that the intelligence has very much failed our Government, particularly in my State of Jammu and Kashmir, I know of a number of instances in which they have not correctly reported to the Centre, and they have not correctly reported to the Government and to the Minister, with the result that many things have come up on the surface. Again, I would submit that I know my responsibility and it will not be in the fitness of things if I were to speak about these things in detail. But there is one thing that I would like to submit to the Home Minister and it is this that the time has come now when he should do a lot of re-thinking about our intelligence services. I have spoken a number of times about the Army intelligence and how it needed improvement, and I had pointed out a number of such improvements. I am very thankful to the Defence Minister that he has certainly made certain strides in regard to the improvement of the Army intelligence, which have given very good results and very good dividends today. But with regard to the civil intelligence, particularly the Central civil intelligence, a lot of things have to be done yet.

I have had occasion to know some of the top officers or the top ranks during the last decade and a half, who are highly placed in the Central intelligence services, and I can say very honestly that I have always seen them functioning not as intelligence officers but as police officers. Whether it be a sub-inspector or a kotwal or a superintendent of police or any such officer, the way he would approach a problem is the way of a police officer and not an intelligence officer; even if the thing has to be viewed from the intelligence point of view we find that the same police approach is applied to intelligence. We see all over the world how intelligence has

very much improved, and how scientific approaches have been brought into this matter all over the world. Why should we lag behind? Why should there not be some re-thinking about it? And why should we do not make it function in the correct manner, and why should we not have a kicking intelligence, as it is called, as far as the civil intelligence is concerned?

Again, I can quote a number of instances in a number of States where our intelligence services have failed and absolutely failed. In a democratic set-up, I must very frankly admit that the Ministers form the bridge between the people and the administration, and both must work honestly and sincerely. We in the Congress Party are under a certain discipline. As far as that matter, my non-friends in the Opposition have a lot of freedom because they can speak with a certain amount of freedom. But I would submit that if a fair amount of responsibility also goes with it, then they can serve the country very well. There is no doubt about that. But what is happening today? We in our party meetings sometimes do not honestly express our viewpoint; we do not adopt an honest approach in placing the things which would really be in the best interests of the country. All the time, we are interested only in seeing how we can strike the Minister or strike the Government and how one could say all the things that could in any way tarnish the face or the look of the Government individually as well as collectively. Similarly, as far as the administration is concerned, there are very good officers at the Centre as well as in the States, but there are also officers who are not functioning properly and who do not allow this Government to form a bridge between the two wings, namely the people and the administration. Therefore, it is for the hon. Ministers and the Government collectively as well as individually to see how the proper conventions could be developed to establish the correct working of

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the administration. In a certain number of cases, I have seen that the hon. Minister will not budge even an inch this way or that way from what is written on the brief, and he merely reads it out. I think that that would not be the correct thing to do. What is the reason why these discrepancies have come in the working of the administration? Firstly, the correct approach is not there on the part of the administrators at the Centre as well as the State level. That approach has to be corrected. Then the correct functioning of the political parties has also to be kept in view. Keeping these things in view, I would again say that it is a really welcome step, and a very bold step on the part of the Government, the Prime Minister and the Home Minister and the Government, as a whole, that they have in a way revoked this emergency. Again, I fully support the emergency being continued in some of the border States. But I would submit one thing that in no case should any administrator be permitted to make use of this emergency and DIR for political purposes against any political person.

Shri Surendranath Dwivedy: If it is there on the statute-book how could that be prevented?

Shri Sham Lal Saraf: I am speaking out my mind. That should not be allowed, and I hope that the Home Minister and the Central Government will take the responsibility to see that that is not done. And if that is assured, then I can assure the Government that the majority of the people in the country will be with them.

Shri Daji (Indore): I rise to support wholeheartedly the resolution moved by my hon. friend Shri Surendranath Dwivedy. I submit that the continuance of the emergency from now onwards, even for one minute more, is morally unconscionable, legally unconstitutional and politically anti-democratic. Not only today, but within a short period after it was proclaimed, the emergency has ceased to exist. You will recall that when the emergency was really necessary

and even the drastic powers under the DIR were required, this House including the Opposition, including all sections of the House (unanimously supported the Government in the proclamation of the emergency and the promulgation of the DIR. In fact, in the informal committee formed for drafting the DIR, some of us found a place. The legal authority for the emergency may be a declaration by the President and an endorsement by the Parliament, but the moral basis of the emergency was the united support given by all sections of the House and all sections of the people to the declaration of the emergency, and I say that since now those very sections which supported Government wholeheartedly during the time of Chinese aggression for issuing a Proclamation of Emergency, and even some sections of their party have come out openly against the emergency, the moral basis for continuing the emergency is now gone. To continue the emergency now may have some legal force but it has no moral binding any longer. This itself should be sufficient to make the Government pause. After all, all of us are not so irresponsible in the Opposition. Let it be said to the credit of this House and to the credit of the different political parties in the country that all of us had unitedly rallied round for the defence of the country and we did not grumble even the most draconian powers that Government wanted under the DIR, though they were sugarcoated by Shri Shastri's assurance on the floor of the House and in the committee that the DIR would never be used for political purposes or to suppress a political opponent.

Shri Tyagi: And that was not done.

Shri N. C. Chatterjee (Burdwan): It was done.

Shri Daji: It was done. I myself stand here as an example of one who had been detained under the DIR for having gone on a peaceful Gandhian hunger-strike against the rise in wheat prices; the wheat prices were controlled but I was detained.

Shri Tyagi: That was for his personal safety.

Shri Daji: That is one example. Now, I shall give another most glaring example. I ask Shri Nanda who is a trade unionist of a much longer standing than I, what justification there was to use the DIR against the strike of the scavengers in Bombay. Does he mean to say that the scavengers' strike would facilitate the Chinese aggression or the Pakistani attack? But even the strike of the scavengers was sought to be suppressed by resorting to the DIR. Hundreds of them were put in jail because the strike could not be broken. But ultimately the strike was successful and ultimately Government had to negotiate and settle. So, let not my hon. friend say that the DIR was never misused. Not merely some sections of this House, but even a cross-section of the people in this country, political and non-political are opposed to it.

Legally, what is the statement of the Home Minister amounting to? The Home Minister's statement for modifying the emergency is a standing document of indictment which goes against the constitutionality of the Proclamation of Emergency. My hon. friend Shri Nanda perhaps never realised it; the bureaucrat had drafted the statement and he had just read it out. That statement itself, really speaking, not only condemns the continuance of the emergency but makes it less constitutional. What does the Constitution visualise? Shri Tyagi had interrupted my hon. friend Shri Surendranath Dwivedy when he was speaking, whether he did not think really that there was any danger from outside. I had actually noted down those words that Shri Tyagi had uttered. I respectfully submit that the Constitution does not visualise a Proclamation of Emergency when there is danger from outside. I would request my hon. friend to please read the constitutional provision again. Let him read the de-

bates on this particular article. There is no word "danger" used there, for that would mean that the Fundamental Rights of the citizens of our country would be determined by the whims of Ayub or the mood of Mao.

15. hrs.

Shri Tyagi: All the parties agreed only on account of foreign aggression.

Shri Daji: Not danger. There is a difference between danger and actual factum of aggression. Constitutionally, emergency can be justified not by any danger, howsoever imminent it may be, but a state of affairs where internal disorder or external aggression makes it impossible for normal civil administration to be carried on. Only then can emergency be justified. From the document read out by the Home Minister himself, it can be shown that there is no national emergency to justify the proclamation of emergency. Therefore, any further continuation of it is unconstitutional.

Politically, it has been said, the entire administration has been turned into a constitutional dictatorship. Yesterday, my friend, Shri Seo Narain—he is not here—used a sentence from my speech wherein I said that there would be a rise in people's movement, you will have to face a people's movement. He picked it out and said that DIR is justified on that ground. He said this on the floor of the House.

It seems there is a gross misunderstanding as to the meaning of emergency. What is the effect of emergency? Constitutionally, it has two effects. First, it suspends the citizen's fundamental right to enforce his fundamental rights. Secondly, it abridges the States' rights. I want to know for what reasons the Home Minister can refuse to lift the emergency and continue to suppress our right to enforce our fundamental rights. Or take the second category, the States' rights, which is not that important. There have been errant States, but in not one case has the

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Central Government been able to exercise any check, even where it is for a good purpose. Even when the Prime Minister was there in Calcutta, she was made to look like a clown by the Chief Minister of West Bengal.

The Minister of Home Affairs (Shri Nanda): That is a very wrong as-
persion to make.

Shri Daji: I say she was made to look like a clown because she had given an appointment to an Opposition leader to meet her at 2 p.m., but at 12 Noon that leader was whisked away into jail. It was known that he was due to meet her at 2 P.M. but even before that, at 12 noon, he was arrested. I say no self-respecting Prime Minister would have tolerated such a thing.

Shri Harish Chandra Mathur (Jalore): Why go on repeating it?

Shri Daji: I say no Government can afford to deny to its citizens their fundamental right to enforce their fundamental rights when there is no real emergency.

Therefore, I say it is a dangerous development. When the emergency was proclaimed, the Prime Minister and the Home Minister consulted us, but when it is to be removed, they consult the Chief Ministers. As I said on an earlier occasion, consulting the Chief Ministers on the revocation of the emergency is like consulting a college of cardinals and asking for a vote in favour of atheism or consulting a body of tycoons and asking them to give up the profit motive. It is absurd. You cannot expect the Chief Ministers to give up this power. And the leader of the group of Chief Ministers wanting continuation of the emergency is the Chief Minister of Madhya Pradesh whose borders are not touched by any foreign

power. He is the leader of the group of Chief Ministers opposing revocation of the emergency.

Shri Ram Sewak Yadav (Parabanki): Bastar is there.

Shri Daji: That itself shows the guilty conscience. They have got into a mental habit, a crippling habit, an anti-democratic and dictatorial habit of relying on the DIR to suppress all opposition to their rule. There is no longer a national emergency. Of course, an emergency exists for the Congress Party with its policy of high prices, rising popular movements against it. But the graph shows that you cannot control or check it by the emergency powers or by DIR. You have not been able to prevent the Naga rebellion or the Mizo rebellion. Have the emergency powers of Government been successful in preventing the Bengal *Bundh*? Did it prevent the Kerala *Bundh*? Did it prevent their defeat in the Kerala elections? Is it going to prevent Government's isolation from the people, their political isolation from the people? Is it going to save them from defeat in the coming elections? By making use of these draconian measures against the people and adopting these anti-democratic measures, they have not been able to prevent any of these things.

Therefore, I say in the name of democracy, in the name of the fundamental rights of the citizens which cannot be trifled with, the emergency must be lifted immediately. The Home Minister will give an excuse and say that it will be applied only to the border areas and that there is growing support for it in responsible quarters. What does it mean? Here I am reminded of a story. Once a woman asked her husband, 'I have been away for 100 days. Have you been faithful to me?' The husband said 'Yes, for 99 days'. The wife was worried. But the husband said, 'You must be thankful. For 99 days I was faithful and only for one day I was

not. Why should you be angry?' This story applies to the Home Minister, who now says that he is withdrawing the emergency, only it will apply to the border areas. This is like being faithful for 99 days and unfaithful for one day. You cannot be 99 per cent democratic and one per cent anti-democratic. Either you are democratic or you are anti-democratic.

Shri Nanda: Hundred per cent anti-national?

Shri Daji: I have not called him anti-national. I hope I will not have occasion to do so. But I do call him anti-democratic. People will not forget or forgive the draconian measures he has used against them to suppress their popular demands and movements. They will not forget the arbitrary arrests that have been made under DIR. Before the DIR and the Government and the party in power are bundled out of power in the next elections, it will be better and graceful for Government to themselves revoke the emergency even at this late stage, though it is already late. But better late than never. Withdraw the emergency now before the people's movement rises in a crescendo not only for lower prices, higher standard of living and better employment, but on this specific issue itself I want that before the next elections, or as early as possible before that, this emergency must be done away with giving to the people the guaranteed rights which the Constitution makers gave to them.

श्री श्रीनारायण दास उपाध्यक्ष
महोदय, सदन के समझ जो प्रस्ताव विचारार्थ प्रस्तुत किया गया है उस प्रस्ताव की जो भावना है जो ख्याल है उस से कोई भी प्रजातन्त्र का प्रेमी इन्कार नहीं कर सकता है। अभी यह संकटकालीन स्थिति की घोषणा और भारत सुरक्षा कानून जो हमारे देश में लागू किया गया है वह किस परिस्थिति में लागू किया गया यह सभी लोगों को मालूम है। जब सन् 1962 में चीन की सड़वाई

हमारे देश पर हुई थी तब इस संकटकालीन स्थिति की घोषणा की गई थी और उस के अनुसार भारत सुरक्षा कानून का नियम हुआ। उस के कुछ दिनों के बाद पाकिस्तान की सड़वाई से जो परिस्थिति पैदा हुई उस से यह स्पष्ट हो गया कि जिस संकटकालीन स्थिति की घोषणा की गई थी उस घोषणा को जारी रहना चाहिये और भारत सुरक्षा कानून के अन्दर जितने नियम बनाये गये उन नियमों की आवश्यकता थी।

यह बात सही है कि हमारे संविधान में जो मौलिक अधिकार दिये हुए हैं वह प्रजातंत्र के लिए बहुत ही आवश्यक हैं और उन मौलिक अधिकारों का जब हनन होता है तो किसी भी प्रजातंत्र के प्रेमी को उस से दुःख हो सकता है। मौलिक अधिकार प्रजातंत्र की रीढ़ हैं अगर उस पर घाघात हो तो प्रजातंत्र के ऊपर घाघात समझा जाता है। लेकिन साथ ही साथ इस संविधान में जिसमें मौलिक अधिकारों का नियमन किया गया है उसी संविधान में 352 और 353 धाराओं के अन्दर संकटकालीन स्थिति घाने पर कैसे नियंत्रण होना चाहिए इस बात का भी उल्लेख किया गया है। जहां प्रजातंत्र की रक्षा के लिए आवश्यक है कि हम संविधान में दिये गये मौलिक अधिकारों की रक्षा करें वहां यह भी कभी कभी आवश्यक होता है कि प्रजातंत्र की रक्षा के लिए कुछ ऐसी कार्यवाही की जाये ताकि प्रजातंत्र का हनन न हो।

जैसा कि सभी माननीय सदस्य मानते हैं देश में ऐसी स्थिति पैदा हुई थी कि जिस स्थिति में संकटकालीन स्थिति की घोषणा होनी चाहिए थी। सभी राजनैतिक दलों ने इस का समर्थन किया था। आज इस बात की विवेचना करने की आवश्यकता है इस बात को जानने की आवश्यकता है कि इस संकटकालीन स्थिति की सही प्रथा बिलकुल खरम हो गई या कुछ अभी है बाकी? जैसा कि सभी लोग जानते हैं कि उसार से चीन का खतरा हमारे देश पर बना हुआ है.....

श्री सुरेन्द्रनाथ द्विवेदी : वह हमेशा रहेगा। 1000 माल रहेगा।

श्री श्रीनारायण दास : पाकिस्तान का भी खतरा हमारे ऊपर बना हुआ है उस परिस्थिति में भी हमारे देश में जो राजनैतिक पार्टियां हैं और उन राजनैतिक पार्टियों का जो व्यवहार है तो जैसे सरकार की जिम्मेदारी है कि संविधान में जो अधिकार दिये गये हैं उन का ठीक ठीक इस्तेमाल करे उसी तरीके से हर एक राजनैतिक पार्टी के लिए हर एक नागरिक के लिए भी यह आवश्यक है कि वह प्रजातंत्र की रक्षा के लिए अपने कर्तव्य का नियमन भी उसी तरीके से करे ताकि प्रजातंत्र पर किसी प्रकार का खतरा न आ जावे।

लेकिन हमारे देश में मित्रो पहाड़ियों और नागा भूमि में जो स्थिति है, या बंगाल में जो कार्यवाहियां हुई हैं—वे किस वजह से हुई है और किस के द्वारा हुई है, इस की जांच हो रही है —, क्या उन के कारण प्रजातंत्र के लिए खतरा उत्पन्न नहीं हो गया था ? मैं मानता हूँ कि देश के हर एक नागरिक को अपने हक के लिए, अपनी मांगों को मनवाने के लिए, लड़ने या आन्दोलन करने का अधिकार है, लेकिन इस अधिकार का प्रयोग संविधान के अन्दर रह कर ही किया जाना चाहिए। लोग आन्दोलन कर सकते हैं, हड़ताल कर सकते हैं, लेकिन केवल अहिंसात्मक तरीके से, केवल ऐसे तरीके से, जो देश के किसी कानून के खिलाफ न हो। लेकिन मैं समझता हूँ कि बंगाल में जो कार्यवाहियां और घटनायें हुई हैं, उन से सभी प्रजातंत्र प्रेमियों की आंखें खुल जानी चाहिए और उन को मालूम हो जाना चाहिए कि हमारे देश के लिए बाहर से तो खतरा है ही—इस में कोई सन्देह नहीं है—, लेकिन देश के किसी किसी भाग में भी ऐसी स्थिति है, जस में प्रजातंत्र के लिए पूरा खतरा है।

माननीय सदस्य ने अपने प्रस्ताव को सदन के सामने रखते हुए कहा कि यह गर्वन-मेंट देश में भारत सुरक्षा कानून और संकट-कालीन स्थिति को जारी रख कर उन के साथे में ग्राम चुनाव कराना चाहती है।

श्री सुरेन्द्रनाथ द्विवेदी : यह बिल्कुल ठीक और सही बात है।

श्री श्रीनारायण दास : इस सरकार पर कोई भी अभियोग लगाया जाये, लेकिन अगर इस पर यह अभियोग लगाया जाये कि यह सरकार लोगों के प्रजातांत्रिक हकों और मौलिक अधिकारों की रक्षा नहीं करना चाहती है, तो यह अभियोग किसी भी तरह से इस पर लागू नहीं होगा, क्योंकि सभी जानते हैं कि कांग्रेस शासन के अन्तर्गत इस देश में आज जितनी स्वतंत्रता राजनीतिक पार्टियों को मिली हुई है उतनी अन्यत्र कहीं भी नहीं मिली हुई है।

श्री हरि बिष्णु कामत (होशंगाबाद) : वह स्वतंत्रता संविधान ने दी है। उस का श्रेय कांग्रेस को नहीं है।

श्री श्रीनारायण दास : आज साधारण जनता और राजनैतिक पार्टियों को संगठित होने, बोलने, लिखने, मिलने और भाषण करने आदि की जितनी आजादी हिन्दुस्तान में है, उतनी आजादी शायद किसी भी दूसरे देश में नहीं है।

श्री हरि बिष्णु कामत : वह आजादी हमें संविधान के द्वारा मिली हुई है, कांग्रेस के द्वारा नहीं।

श्री श्रीनारायण दास : इस लिए यह आरोप बिल्कुल गलत है कि यह सरकार भारत सुरक्षा कानून को जारी रख कर

देश में चुनाव करवाना चाहती है। हमने इस देश में सभी राजनीतिक पार्टियों को पूरी स्वतंत्रता दे कर तीन बार आम चुनाव में भाग लिया है। इस अवस्था में हिन्दुस्तान की मौजूदा सरकार पर किसी भी तरह से यह आरोप नहीं लगाया जा सकता है कि वह साधारण जनता और राजनीतिक पार्टियों को उनके प्रजातंत्रिक अधिकारों से वंचित करना चाहती है या उन को दबा कर स्वयं सत्तारूढ़ रहना चाहती है। आज कांग्रेस सत्तारूढ़ है, अधिकार में है—इस लिए कि हिन्दुस्तान की जनता यह चाहती है कि कांग्रेस अधिकार में रहे। भ्रमले आम चुनावों के सम्बन्ध में कुछ माननीय सदस्य की अपनी कल्पना हो सकती है, जिस को उन्होंने इस सदन में प्रगट किया है, लेकिन मैं समझता हूँ कि यद्यपि परिस्थिति गम्भीर है, तो भी हिन्दुस्तान की जनता भ्रमले चुनावों में कांग्रेस के मिद्धान्तों और नीतियों का समर्थन करेगी। इस लिए विरोधी दल का यह कहना गलत है कि भारत सरकार भारत सुरक्षा कानून को इस लिए जारी रख रही है कि दूसरी राजनीतिक पार्टियों को दबा कर उन के कार्यकर्ताओं को जेल में रख कर कांग्रेस पार्टी भ्रमले आम चुनाव लड़ना चाहती है। भारत सरकार की कभी भी यह नीति नहीं रही है।

माननीय सदस्य, श्री द्विवेदी, ने कहा कि देश में जो चुनाव आने वाले हैं, वह तब तक निष्पक्ष चुनाव नहीं हो सकता है, जब तक कि इमरजेंसी को घोषणा को बिल्कुल रद्द न कर दिया जाये। मैं समझता हूँ कि इमरजेंसी की घोषणा किसी के राजनीतिक अधिकार को छीनने या उस का हनन करने के लिए नहीं की गई है। हो सकता है कि कहीं कहीं किसी किसी जगह, जहाँ तहाँ, इक्के-दुक्के भारत सुरक्षा कानून के नियमों का दुरुपयोग हुआ हो, लेकिन मैं समझता हूँ कि साधारणतः इस देश में भारत सुरक्षा कानून का प्रयोग किया गया है, वह केवल

देश की सुरक्षा को दृष्टि में रख कर या देश में भीतरी गड़बड़ी को रोकने के लिए ही किया गया है।

इन कारणों से हम उस प्रस्ताव का पूरे तौर से समर्थन नहीं कर सकते हैं, जो कि सदन के सामने उपस्थित किया गया है। हमारे गृह-मंत्री ने अपने वक्तव्य में कहा है, इस कानून का उपयोग कम से कम किया जायेगा और खाम कर उन्हीं क्षेत्रों में किया जायेगा, जहाँ बाहरी आक्रमण और अन्दरूनी गड़बड़ी का खतरा होगा। मैं समझता हूँ कि उन के इस वक्तव्य को देखते हुए अभी इस बात की जरूरत नहीं है कि हम संकटकालीन स्थिति की घोषणा को पूरे तौर से रद्द कर दें या भारत सुरक्षा कानून की धाराओं को बिल्कुल खत्म कर दें।

मैंने इस सम्बन्ध में एक सम्मिटीयूट रेजोल्यूशन उपस्थित किया है। मैं समझता हूँ कि देश की वर्तमान अवस्था कैसी है, बाहर से कितना खतरा है या देश के किसी प्रदेश में अन्दरूनी खतरा कितना है, यद्यपि इस बात की जानकारी हम लोगों को है, लेकिन अपने माधनों के कारण बाहरी और भीतरी स्थिति का जितना ज्ञान सरकार को है, उतना हमें नहीं हो सकता है। इस लिए संकटकालीन घोषणा और भारत सुरक्षा कानून को जारी रखने या रद्द करने का मामला सरकार पर छोड़ देना चाहिए। इस सम्बन्ध में सरकार की नेकनीयती पर शक करने की कोई गुंजायश नहीं है। इस बात को सरकार पर छोड़ देना चाहिए कि संकटकालीन परिस्थिति का कम से कम समय के लिए जारी रखा जाये और भारत सुरक्षा कानून के अधीन बनाए गए नियमों का कम से कम उपयोग हो और केवल तभी और देश के उन्हीं हिस्सों में उपयोग हो, जहाँ देश की सुरक्षा को खतरा हो या कोई भीतरी उपद्रव होने की सम्भावना हो।

[श्री श्रीनारायण दास]

इन शब्दों के साथ मैं माननीय मंत्री जी से अनुरोध करूंगा कि मैंने जो सब्स्टीट्यूट रजोल्यूशन रखा है, वह उस को मान लें।

Dr. L. M. Singhvi (Jodhpur): I hope you would give me special permission to move my substitute motion, so that that may also be before the House.

Mr. Deputy-Speaker: You were not here when you were called.

Dr. L. M. Singhvi: I want your permission.

Mr. Deputy-Speaker: All right.

Dr. L. M. Singhvi: I beg to move:

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

"That this House constitutes a special Committee consisting of the following members to consider the immediate revocation of the emergency:—

Shri Gulzarilal Nanda
Shri G. S. Pathak
Dr. Asoke K. Sen
Shri Harekrushna Mahatab
Shri Surendranath Dwivedy
Shri M. R. Masani
Dr. L. M. Singhvi

with instructions to report to the House within a week." (5)

Shri N. C. Chatterjee: One year back there was an important civil liberties convention held in Bombay which was attended by members of different parties, not merely one party but different parties, and I had the privilege to be associated with that. There, the members of the different parties unanimously asked for the revocation of the emergency.

Thereafter, I had the privilege to attend the civil liberties convention in Patna, and I was amazed to know that out of hundreds of people arrested under DIR, not one belonged to the

Left Communists. We are here having this special plea that in order to go for the pro-Chinese communists, this thing has to be kept on the statute-book, but not one, I was told, who was arrested was a Left Communist. It has been used, and I am sorry to say, it has been abused. This power has been abused and grossly abused. This is not my statement.

Shri K. N. Tiwary (Bagaha): I come from that province. My information is that Left Communists were arrested.

Shri N. C. Chatterjee: I was told that most of them were right Communists and also trade unionists, P.S.P., S.S.P. and students and other people. May be one or two were Left Communists, but the majority of them were not Left Communists surely.

Then I ought to remind this House that a distinguished Judge of the Bombay High Court has said that things have gone on in such a way under the administration of DIR that practically India has become a police State, and that in a totalitarian State things could not have been worse.

Shri K. N. Tiwary: Question.

Shri N. C. Chatterjee: You know that in the Patna High Court there was an allegation that the orders passed under DIR by the Chief Minister were *mala fide*, and when the Chief Minister was asked by the Chief Justice to file an affidavit to repel the allegation against him, he asked for time again and again, but never filed the affidavit. Ultimately the man was released on bail. Then, instead of complying with the order of the High Court and replying to the allegations of *mala fides*, the Government of Bihar came up to the Supreme Court and challenged the jurisdiction of the High Court to grant bail in a DIR case. Of course, the Supreme Court repelled that argument of the Bihar Government and said that the High Court was justified in ordering bail.

It is not so in one case. DIR has been used against trade unionists like Mr. George Fernandes; editors of the standing of the Editor of the *Searchlight*, Mr. Joseph, Mr. Atreya and others. It has been used against trade union leaders and other leaders indiscriminately. It has been abused and grossly abused and you know in many cases the courts have had to strike down the orders under the DIR. When the emergency is really gone, especially after the Tashkent declaration, this is a fraud on the Constitution. It is not a constitutional dictatorship as Shri Setalvad, the former Attorney-General described, but it is an unconstitutional dictatorship. What I am feeling is that the people and all sections of the House here should ask the Home Minister to put an end to it.

What is being done under article 358? I am sorry to say that what they are doing is a blot on the Constitution; article 358 provides for an automatic suspension of article 19. What is article 19? Article 19 enshrines the sacred freedoms, the freedoms that are sacred to man. You know in our Constitution, there is a distinction as compared to other constitutions: namely, we have not merely said that there shall be fundamental basic human rights; we have declared that they shall be justiciable rights. We have also said that any man whose fundamental rights are threatened can come up to the Supreme Court and make a writ petition under article 32. He can also go to the high court under article 226. Article 19 is the most sacred thing. It concedes the right to freedom of speech and expression; to assemble peaceably and without arms; to form associations or unions; to move freely throughout the territory of India; to reside and settle in any part of the territory of India; to acquire, hold and dispose of property; and to practise any profession, or to carry on any occupation, trade or business. All these are now put in cold storage by one stroke of the pen under article 358. The rights are completely gone so far as the procla-

mation of emergency is in existence. Therefore, what happens is that the executive is clothed with dictatorial powers.

Article 358 says that so long as this emergency continues all fetters on legislative powers, all fetters on executive action are removed. The Government can take any action against the defiance of fundamental rights. Therefore, I am saying that this sort of dictatorial powers should not be assumed when there is not really any emergency, and when you have entered into an agreement, or declaration, with Pakistan a solemn declaration, and when you are saying that you are going to implement it.

Under article 359, there can be suspension of the enforcement of the rights conferred by Part III of the Constitution. There is a provision, and I do not find what is the difficulty. It says: "an order made as aforesaid may extend to the whole or any part of the territory of India." Therefore, sub-clause (2) of article 359 does say that by a suitable amendment of the proclamation of emergency, you can restrict it to any part of India. Then, why have the whole thing clamped on the citizens of India? The truth is, power corrupts and absolute power corrupts absolutely.

The State Chief Ministers have been using these powers liberally and they got these powers very handy; they abused the powers and are now loathe to part with these powers. Therefore, I am submitting that this is not fair, when the emergency is really gone, to stick to the proclamation and to continue this blanket power which really puts in cold storage all the basic fundamental rights which adhere to every human being. Therefore, I think that as Shri Dwivedy has said, the result will be two classes of citizens: one with fundamental rights and the other without any fundamental rights, in this territory of India. And this will lead to all sorts of anomalies. I submit that this should not be tolerated

[Shri N. C. Chatterjee]

any more, and this should be completely scrapped. Otherwise, we shall be guilty of violation of all those rights which we cherish. It will be reducing the fundamental rights which we have made deliberately justiciable, and we have also conferred remedial rights on the citizens.

You remember the judgment of Justice Patanjali Sastri. We have made the remedial rights themselves the fundamental rights. You know that Chief Justice Gajendragadkar, in his great judgment on the DIR case, has said, on the blank admission by the Attorney-General of India, "I warn the Government that although they are passing these laws and taking this action in defiance of the fundamental rights, they are all illegal under the Constitution." The courts are barred, and you have no access to the courts so long as the proclamation of emergency is there. One day, when you revoke it, then you shall remember that you will be saddled with a number of actions for unconstitutional acts; that is what the Chief Justice said. Because, they are clearly in defiance of the basic human rights guaranteed under the Constitution. When the real emergency is not there, when you have entered into a solemn pact with Pakistan which you are anxious to implement, when there is no immediate Chinese threat—for two years, there is nothing; this kind of threat will continue for ever—is any government justified in putting in cold storage all basic human rights simply because there is some danger of some clash with a foreigner or a neighbouring State? Then it will be unending. That is not the purpose of this emergency. Therefore, I am strongly pleading for complete revocation of both the proclamation of emergency and the DIR.

Shri D. C. Sharma (Gurdaspur): Sir, I think most of the speakers who have preceded me have been giving academic discourses on fundamental rights, class room lectures, modern

sermons on morality and very enlightening discourses on political science. I do not think any one has read the resolution sponsored by my hon. friend, Shri Dwivedy. If anyone were to read it, he will find it to be very very innocuous. Shri Dwivedy himself is convinced that the proclamation of emergency should not be revoked straightway. He is himself sure of the fact that the Defence of India Act should not be done away with forthwith, because the resolution says:

"This House calls upon the Government to take steps to revoke the proclamation of emergency".

We should bear in mind this operative phrase in the resolution. I think the Home Minister has been taking steps to revoke the emergency. He has said that the emergency would be applied only to border areas and it would not be operative in other areas. He has taken a very major and big step forward so far as the revocation of the proclamation of emergency is concerned.

Then the resolution says:

"to repeal the Defence of India Act without delay".

Of course, we are taking steps to repeal the Defence of India Act. We have mitigated its effect; we have taken away the teeth from it. We have reduced its area of operation and tried to see to it that it is not used against any citizen of India in a spirit of vengeance or in the spirit of destruction of liberties. "Without delay" is a phrase which can bear many interpretations. My hon. friend went from emergency to matrimonial infidelity. He said, a husband may be faithful to his wife for 99 days, but he may not be faithful to his wife for 1 day. I do not understand what is the connection between emergency and matrimonial infidelity. But I cannot understand one thing.

Shri Surendranath Dwivedy: How can you understand when you have become old?

Shri D. C. Sharma: Of course, I look old, but I am not yet as old as my hon. friend, Shri Surendranath Dwivedy.

I was submitting very respectfully on the question of "without delay" that Government is the best judge of time and of the measures and of the situations, when the Defence of India Act is to be abrogated or curtailed, so far as its operation is concerned.

15.30 hrs.

[SHRI SHAM LAL SARAF in the Chair]

Therefore, I think it is a very harmless and innocuous Resolution which my hon. friend has brought forward.

Shri Surendranath Dwivedy: So, it should be accepted.

Shri D. C. Sharma: I believe that the Government of India, under the aegis of the Home Ministry and under the aegis of our Home Minister is already doing that.

A constitutional point was raised that the Constitution does not recognise any emergency which comes from outside. An emergency may come from outside or from inside. It may come from across the border or it may come from the core of the country. It can still be an emergency.

When I look at the map today I find that, as one of my friends has already stated, our country is passing through a state of unrest, and that unrest is being fanned into a fire, sometimes a big fire, by some interested persons. I do not say that they are inside the House; they may be outside also, and that unrest is connected with internal troubles.

A friend of mine was asking what the scavengers' strike has got to do with it. The scavengers' strike or any

strike, the bandhs, the Delhi Bandh, Bengal Bandh, all these are symptoms of a deep-rooted disease. It may be internal but I think it is very often external. Therefore, the stage of emergency is needed, and needed very badly.

Only this morning we were discussing about the explosion accident. When the report of the accident comes before the House we will find that the hand of some external power is there. Who is supplying arms to the Mizos? Who is giving arms to the Nagaland people? All these things are there, and they are as a result of the operations of external powers, either openly like China or insidiously and treacherously by some other powers. Therefore, as long as there are people or powers interested in keeping the country in a state of perpetual difficulty, these provisions have got to be there.

But one thing I will say. Some friends have said that some State Chief Ministers have abused the provisions of the Defence of India Act. I myself took one or two cases to the hon. Home Minister in connection with the Defence of India Rules and he was pleased to say that it is a matter which concerns the State Government. I cannot understand it. When the Labour Party was fighting the last elections, in which they came out victorious, one of the slogans they raised was that the Labour Party can govern. Similarly, I think our Indian Government should be able to govern. If our Home Minister feels helpless in the face of these Chief Ministers, I think it is a very very sad situation. I would, therefore, submit that if the State Chief Ministers have abused this power anywhere.

Shri Surendranath Dwivedy: Arrest them under the DIR.

Shri D. C. Sharma: . . . it should be looked into. I think, the necessary steps are being taken and the wishes of my hon. friends are being met; but, at the same time, I must say that

[Shri D. C. Sharma]

this has got nothing to do with the elections. Elections or no elections, DIR or no DIR, Emergency or no emergency, the Congress will be returned with a thundering majority here and also in the States, whatever my hon. friends may say.

Shri Surendranath Dwivedy: Very haltingly you say that.

Shri D. C. Sharma: Shri Ranga, like a dreamer, indulges in wishful thinking. I also do it sometimes. Therefore I would say to Shri Ranga that he should not indulge in that kind of imaginative flights into the land where nobody exists. The Congress Party will come into power again. Therefore these things have got nothing to do with the elections.

Shri Dwivedy himself has been good enough to say to us to do this, to take steps without any delay, any time it suits us. He has been a good friend of the Home Minister and nobody has any right to find fault with him. I think, the Home Minister will look into it and do whatever is necessary.

Mr. Chairman: How much time does the hon. Minister want?

Shri Nanda: About half an hour.

Shri Sezhiyan (Perambalur): Sir, I propose that time be extended.

Mr. Chairman: The whole debate should be completed at 4.16.

Shri Surendranath Dwivedy: We can continue it till 4.55 and Shri Mukerjee could be given a chance to move his Resolution at 4.55.

Mr. Chairman: The time allocated for this debate is up to 4.16. Within that period it has to be completed.

Dr. L. M. Singhvi: Time can be extended.

श्री रामसेवक यादव : बहुत से माननीय सदस्य इस पर बोलना चाहते हैं। मैं प्रस्ताव करता हूँ कि समय बढ़ाया जाए।

Mr. Chairman: The question is:

"That the time for this Resolution be extended up to a quarter to five."

Shri Surendranath Dwivedy: Up to five minutes to five.

Mr. Chairman: The question is:

"That the time for this Resolution be extended up to five minutes to five."

The motion was adopted.

Shri Ranga (Chittoor): Mr. Chairman, Sir, I rise to support this Resolution. I have heard very carefully the speech of my hon. friend, Professor D. C. Sharma. I was wondering whether I was hearing a speech being delivered at a College Union.

It is clear that even within the Congress Party, the majority of the Members are in favour of the withdrawal of the DIR and the revocation of the Emergency, if only they could be assured by the Home Minister that it would be possible for him to run the show without its aid. Again and again we learn from the papers that within the Congress ranks there are discussions about this. Over months these discussions have ranged and we learn that there is an overwhelming majority on their side in favour of the removal of the Emergency and the DIR. But somehow or other they are again persuaded to allow the Home Ministry and the Government to carry on with this infamous piece of legislation on their statute book.

Supreme Court advocates, large numbers of them, have also favoured its withdrawal and their president, the ablest of the Supreme Court advocates, has condemned this Government, because of this DIR, as a constitutional dictatorship.

Sir, in this House, during the debate on the President's Address, all the Opposition Parties were unanimous in supporting the amendment that was moved by me and my Party in this House favouring the removal of the D.I.R. Now, under these circumstances, one would expect the hon. Home Minister to rise in his seat to say, late though it is, that he is prepared to accept this Resolution. But we know that he is not yet ready to do so. Why? For what interest? Can it be said that this Emergency and the law in favour of it and all the powers that the Government has taken for themselves have been used to good purpose during the past years? Only this morning we discussed it. In Kerala, my hon. friend was unwise enough to rush in where angels would have dreaded to tread, to swoop down on a large number of Left Communists and to put them in jail in such an irresponsible manner, according to me; and holding the position that he did, one would have thought that he would not have behaved in that manner. But he did. He put them all in jail. He found his particular Act so very convenient for him. And what were the results? Did they redound to the credit of the country or of the Congress Party or of the democracy that we have established here in this country? No, Sir. The results have proved quite conclusively what a calamitous mistake the Home Minister has made in the application of the D.I.R. Afterwards, many of the Chief Ministers have found themselves very happy in applying this to all and sundry for various offences, offences which have nothing to do with the Emergency, offences which have nothing to do with any ideas or activities connected with patriotism or the lack of it and yet it was so misused by all of them, and no wonder, when my hon. friend was thinking of withdrawing this, he felt bound to ask all the Chief Ministers to come over here, to make a pilgrimage once again to Delhi, in order to advise him as to its withdrawal.

Sir, some of our Members were saying, in the other House, I think, and

in other places also and even within their own Party, that he had no warrant to send for these Chief Ministers because it was not within their province, it was entirely the Central Government's responsibility, and yet they had to call them. Why? It is because, for their own good reasons, they have come to depend for their present power on the Treasury Benches upon the goodwill of the Chief Ministers and the Chief Ministers have found it a very useful instrument in this and therefore, they wanted to consult them, as they have become indirect masters of themselves, before they could take any action at all. To this pitiable position, the Union Government has reduced itself. Why should the Chief Ministers agree with the Union Government when they find it so very convenient to take hold of anybody and everybody without any hindrance, without any difficulty, without any inhibition, without any necessity to have to consult whether they are impinging the fundamental rights, without having to consult whether they are going against the fundamental rights or the Directive Principles or even the human rights?

Sir, I was once a detenu. On two occasions, I was taken as a detenu. For years and years I was kept there and for months I was not allowed to have correspondence even with my wife. We were simply being tossed over from one State to another, from pillar to post. I know what the rigors are of being a detenu. But at least, even then, we were told why we were taken in. Now, there is nothing of that kind at all; there is no need to serve any notice giving the reasons why anybody is being put in detention; then, there is no time-limit, and no chance is given to have any one of these distinguished lawyers to plead one's case in the Supreme Court on a *habeas corpus* petition demanding that one should be produced before the court. None of these things need be done now; all that the Government or the administration has to do is to go mad one fine morning and then say that so-and-so or such-and-such people

[Shri Ranga]

are simply being taken into custody; neither Parliament nor anybody else can question the fiat of a mad Home Minister or a wise Home Minister. Often times, power makes even a wise man mad, and unfortunately that is so with so many of our friends. However good the Home Minister is as a person, one could easily see what mischief power can do. By watching the political career of Shri Nanda himself one could see that personally he is a good man, but the moment he became the Home Minister, he had gone mad, and when he got the DIR he had become madder; now he finds it difficult; he is trying his best to become sane-minded, but he finds it difficult to come back to the sane world of our common men. He would become a sane person only when he is shorn of these powers. I do not want him to be driven out of the Home Ministry, but I want him to be rid of this power, of this cloak, of this *kavacham* which he has put on himself on the urging of devils, and not of gods.

Mr. Chairman: May I ask the Home Minister to reply to the debate at about 4.30 p.m. so that he could take about 25 minutes?

Shri Nanda: Yes.

Mr. Chairman: Again, I would say one thing to hon. Members. There are hardly about 40 minutes left, and there are a number of Members who are wanting to speak. If hon. Members would take note of that, perhaps, a larger number of Members could be accommodated.

Shrimati Lakshmikanthamma (Khammam): May I bring one thing to your notice and for your consideration? We find that the same Members are speaking on the Home Ministry's Demands, on the resolution regarding Kerala Proclamation and the same Members get a chance to speak on the private Members' business also.

Mr. Chairman: It is likely that the hon. lady Member may get a chance.

श्री रामसेवक यादव : सभापति महोदय, मेरा एक निवेदन मुन लें । यह बड़ी महत्वपूर्ण बहस हो रही है । इस लिये इस बात का ध्यान रखें कि हर गुप का एक मदम्य अवश्य बुलाया जाये ।

Shri Harish Chandra Mathur: The question of external aggression and internal security has hardly anything to do with this party or that party. This question of emergency and the powers under the DIR which have a relevance only to the external aggression and internal security is a matter for just the same concern for any party in this House. As I submitted the other day, it was with the willing support of all sections of this House that we had adopted these provisions.

I would have very much welcomed this resolution if it had come about a couple of months earlier. I say this only because I wish to tell my hon. friend Shri Surendranath Dwivedy, the Mover of the resolution, that the death-knell of the DIR and the emergency was rung on 20th April this year, when in the Executive we discussed this matter and came to the definite conclusion that we should do away the emergency and the DIR, and it was in consequence of the discussion which we had been carrying on in the party for a considerable time, as Shri Ranga had rightly pointed out, that we had come to a certain conclusion on that day, and that decision had already been taken.

Now, let us not feel that what the Home Minister has announced in this House is the end of it. It does concern the Chief Ministers also, and I think very rightly so. It is not that they have, as Shri Ranga has said to take the decision. It is an all-India decision which has to be taken by the Central Government in consultation with Parliament. But the Chief Ministers are the implementing authorities. The Chief Ministers have been

implementing, and, therefore, they had to be consulted, not in regard to whether we should do away with the emergency or not, but with regard to the difficulties that may be there, and the steps which have got to be taken. So far as that part is concerned, I think that there should be no grouse at all. Let us balance the things. There should be no complaint and no grouse if the Home Minister asks the Chief Ministers to come and consults them on particular issues. It would be absolutely wrong not only if the decision is not taken by the Centre but even if it is permitted to appear that the decision is not taken by the Centre.

It is our responsibility as guardians to see to it that decisions are taken and correct decisions are taken by the Centre.

I would advise the Home Minister to sit with the Opposition Leaders as well as certain members of his own party to discuss all the aspects and see what are the difficulties in the way of immediately revoking the DIR. Then we will have to hammer out a course of action. On the question of national interest, nobody, either on this side or on the other, would refuse the Home Minister any remedies for the genuine difficulties which we may have to face. But I would make it clear to the hon. Home Minister that the decision which he has already taken, at the instance both of the Party as well as of the Opposition, is not the end of it at all.

Shri Surendranath Dwivedy: It is a haphazard decision.

Shri Harish Chandra Mathur: That was what could immediately be done. That was the decision which could be immediately taken without any difficulty. Now if they have certain difficulties in the border or whatever it is, let us make an assessment of it. After all, when the difficulties are in connection with the maintenance of internal security, there is no reason

why you cannot take every one into confidence and discuss the thing.

Shri Chatterjee talked about a convention. Even they as a matter of fact had come to a certain conclusion which was subject to certain provisos; they also never came to the conclusion that it should be done away with immediately and without conditions. I have been one who has been asking for the revocation of the emergency and the DIR immediately. But if there are things which the other side has got, if there are difficulties which the administration can put before us or if the legal profession has any suggestions to make, it is for the Opposition leaders as well as for Government to sit together and discuss them and come to certain conclusions so so that we reach an agreed conclusion in the matter.

I do not think it is correct to go into extraneous discussion and say that because the Congress Party wants to win the election through the instrumentality of the DIR, it wants to retain the emergency. There is nothing more absurd than this. There are people in the Congress Party—I can assure the House and my friends sitting in the Opposition—who would never like to go to elections if they are not free, fair and independent elections. (*Interruptions*). We have gone through them three times and we will do so for the fourth time (*Interruptions*). If my hon. friend is so much at it, may I say that even in spite of the present difficulty and all the trenchant criticism of the party, when an intellectual opinion poll was taken, it was very much in favour of the Congress Party? Only last month this was taken. It was not the Congress which took the poll. So let us not cloud the issue (*Interruptions*). Let us not cloud the major issue by unnecessary extraneous things being brought in.

Shri Surendranath Dwivedy: On this question, let us go to the polls and find out whether the Congress enjoys majority support for the continuation of the emergency. Let him

[Shri Surendranath Dwivedy]

accept this and let us go to the people of India and find out whether they want the emergency or not . . .

Mr. Chairman: Order, order. Every body heard the hon. Member with rapt attention when he was speaking.

Shri Surendranath Dwivedy: I am sorry you are not correctly interpreting it. This is a mutual interruption. It is done.

Mr. Chairman: A word or two by way of interruption is in order, but not a speech for a minute or two.

Shri Surendranath Dwivedy: You have not taken it in the right spirit.

Shri Harish Chandra Mathur: What is the opinion poll which my hon. friend wants to take? The Prime Minister herself has made a clear and categorical statement to us and to those outside that she does not want the emergency to continue if it is possible. My hon. friend, Shri Nanda, has been absolutely clear in his mind about it and that was why Shri Dwivedy who moved the Resolution was speaking with tongue in his cheek. He knew what the views of the Home Minister are and how the Home Minister's mind is working, that he has tried sincerely and conscientiously for revoking the emergency.

Shri Surendranath Dwivedy: Then accept the challenge. Let that be the test.

Mr. Chairman: No dialogue like this.

Shri Harish Chandra Mathur: There is no question of arguing on this. We do not even need any goading in this matter. It is a question to which we have given consideration and come to a certain conclusion. As I said, the death-knell of the emergency was sounded on 20th April. That is a fact. This is definitely a fact, and we are going ahead about it. There is no need to further influencing the Government, because the Prime Minister

tells us not only in confidence but also outside, so also the Home Minister. The only question left is: what are the difficulties which have got to be sorted out? And they must be sorted out in consultation with the leaders of the Opposition as well as with the legal luminaries and members of the party. Let us not import. I submit again, other considerations in this matter. This is a national matter in which party considerations have little to play, and they should not be permitted to go into it.

श्री मधु लिमये (मुंगेर) : अध्यक्ष महोदय, आपको याद होगा कि हमी विषय पर 18 मार्च को संविधान में मैं एक संशोधन लाया था। उस पर जो बहस हुई थी उसके उत्तर में मैंने भारत सुरक्षा कानून के दुरुपयोग के उदाहरण पेश किये थे। उस वक्त हीरेन्द्र मुखर्जी साहब ने कहा था कि यह आरोप कार्यवाही में आ गए हैं और सरकार को इन आरोपों का जवाब देना चाहिए। महाराष्ट्र के गृह मंत्री द्वारा जो सत्ता का दुरुपयोग किया गया था उसके सम्बन्ध में यह आरोप थे। उसी समय सभापति जी, आपने भी फरमाया था कि यह चूंकि बहुत गम्भीर आरोप हैं इसलिए मैं गृह मंत्री जी को मौका देता हूँ इन आरोपों का खंडन करने के लिए। लेकिन खेद की बात है कि गृह मंत्री जी ने इस सदन में न तो उस दिन, न उसके बाद, कई मौके उनको मिले थे, लेकिन उन्होंने उन मौकों का इस्तेमाल करके मेरे आरोपों का कोई खंडन नहीं किया। अब कल के प्रखबारों में निकला है कि महाराष्ट्र विधान सभा में मुख्य मंत्री ने मेरे आरोपों के बारे में निवेदन किया है और प्रसत्य साबित करने का प्रयत्न किया है। लेकिन मैं ने यहां पर जो कहा, उसका एक एक करके खंडन करना चाहिये था, वह मुख्य मंत्री जी नहीं कर पाये हैं। अभी आज नन्दा साहब मौजूद हैं सदन में, इसलिए मैं उनसे बिनती करूंगा कि

मैंने उम वक्त जो कहा था उसके बारे में वह सफाई दें। महाराष्ट्र के मुख्य मंत्री ने जो स्पष्टीकरण देने का प्रयास किया है उससे मेरे श्रमों का खंडन नहीं होता है, यह मैं आपके सामने रखना चाहता हूँ। मैंने मवाल उठाया था कि एक लड़की जिसका नाम पैमी दत्त था उसका भारत सुरक्षा कानून के अन्तर्गत गिरफ्तार किया गया।

सभापति महोदय वह बात आ चुकी है। आप कह चुके हैं। समय कम है, आप अपनी बात जल्दी कहिए।

श्री मधु लिमये मुख्य मंत्री जी ने जो उत्तर दिया है उसमें मे कुछ मवाल उठते हैं। तो मैं केवल मवाल पूछता हूँ। पहला मवाल यह है कि मुख्य मंत्री जी ने कहा कि हमने सोच विचार करके छः मात दिन वह कहा जाता है, उसके यहाँ कौन आते हैं, यह सब देख कर के गिरफ्तारी की। तो मैं यह जानना चाहता हूँ कि जब इतना सोच समझ कर उनको पकड़ा गया तो सात ही दिन के अन्दर उनको फिर क्यों छोड़ा गया? दूसरा मेरा मवाल है कि उनके खिलाफ आरोप क्या थे तीसरा मेरा यह कहना है कि क्या उनसे जबरदस्ती कोई बयान लिखवाया गया कि वह पाकिस्तान की जासूस हैं या अन्य इसी किस्म का बयान उनसे लिखवाया गया? इसी तरह चौथा मवाल है कि क्या एक पुलिस अफसर उनकी माँ और उनकी बहन को ले कर यरवदा जेल में उनको यह मनवाने के लिए गया था कि इस तरह का बयान दोगी तो छूट जाओगी और नहीं दोगी तो भारत सुरक्षा कानून के अन्दर न जाने छः महीने, बारह महीने या कितने दिन जेल में रहना पड़ेगा?

बात उसमें यह है गृह-मंत्री जी के लड़के की जो खानगी बान है, उसमें मुझे कोई दिक्कत नहीं है उस लड़के के साथ उनकी मुहब्बत थी और वह शादी करने वाले थे या नहीं, यह कोई महत्वपूर्ण

मवाल नहीं है। मेरा मवाल यह है कि भारत सुरक्षा कानून के अन्तर्गत यह जो ज्यादा अधिकार सरकार को प्राप्त हुए हैं, जिनको लेकर घदालत में भी नहीं जा सकते, उनका दुरुपयोग हो रहा है या नहीं? इस लड़की की गिरफ्तारी के बाद हमारे दल की बम्बई म्युनिमिपल कारपोरेशन की एक बहुत जिम्मेदार कार्यकर्ता है श्रीमती मृणाल गारे, वह उनमें मिलने के लिए गई थी, उनमें यह सारी बातें उन्होंने कही थीं। गोपालन साहब के दल की एक औरत यरवदा जेल में थी, उनमें इन सारे तथ्यों का पता चला है। और इगलिए मैं गृह मंत्री के द्वारा चुनौती देना चाहता हूँ महाराष्ट्र के गृह-मंत्री, यदि उन्होंने सत्ता का दुरुपयोग नहीं किया है, तो वह एक स्वतंत्र निष्पक्ष जांच समिति के सामने आयें, मैं इन आरोपों को साबित करने के लिए तैयार हूँ।

अगर उम लड़की को, गृह मंत्री के लड़के को और पुलिस के अफसरान को हम मवाल पूछने का मौका मिलेगा तो एक, एक बात जो मैंने यहाँ पर कही है वह साबित कर के मैं छोड़ूँगा यह मैं माफ बतलाना चाहता हूँ।

16 hrs:

साथ साथ मैंने यह भी कहा था कि भारत सुरक्षा कानून के अन्दर गृह मंत्रियों को इतने ज्यादा अधिकार हाँ गये कि लोग डरने लगे हैं। गृह मंत्री जी के लड़के की जब शादी हुई तो एक सरकारी गजेटेड अफसर के द्वारा न्योता दिया गया। पाँच हजार लोगों को न्योता दिया गया और इन पाँच हजार लोगों के द्वारा उनको कितने उपहार और भेंटें दी गई उस की तफसील मैं गृह मंत्री जी से जानना चाहूँगा क्योंकि लोग डरते हैं और कई लोगों ने हम से कहा कि भारत सुरक्षा कानून के अन्दर उनके हाथ में इतनी ज्यादा सत्ता है कि कुछ कहना नहीं है। व्यापारियों ने और कई बड़े लोगों ने कहा कि अगर हम उनकी आदी में नहीं जाने और उपहार

[श्री मधु लिमये]

नहीं देते तो हो सकता है कि ब्लैक लिस्ट में हमारा नाम आ जाता और वह जेल में हम को बंद कर देते ।

एक तरफ तो अकाल की स्थिति है, आप बात कर रहे हैं सोमवार को खाना मत खाओ, मंगल को मत खाओ और बुध को मत खाओ और दूसरी तरफ हम देखते हैं कि महाराष्ट्र के गृह-मंत्री जी के लड़के की शादी में 4,4 और 5,5 हजार लोगों को खाना खिलाया जाता है तो यह आखिर चल क्या रहा है ? मैं गृह-मंत्री से कहूंगा कि उन्होंने कई बार आश्वासन दिया है कि भारत सुरक्षा कानून का दुरुपयोग नहीं करेंगे । उन्होंने यह भी कहा है कि सरकारी अधिकारी और मंत्री आदर्शों को लेकर अपना व्यवहार करें तो मैं उन से जानना चाहूंगा, हमेशा वह सदाचार की बात करते हैं तो गजेटेड अधिकारी जो कि सरकारी अधिकारी हैं हम उनको सरकारी खजाने से पैसा देते हैं, तो क्या किसी मंत्री के लड़के की शादी का न्योता वह अपने हस्ताक्षर से दे सकते हैं ?

माथ माथ जब अकाल की स्थिति है, भुखमरी से लोग मर रहे हैं तो मंत्री अगर यह आदर्श समाज के सामने रखेंगे, चार, पांच हजार लोगों को खिलाने का काम करें, ऐय्याशी और फिजूलखर्ची पर पैसा बर्बाद करेंगे तो वह क्या खाक आदर्श सामने रखेंगे यह भी मैं जानना चाहता हूँ ?

श्री द्विवेदी ने इस वक्त जो प्रस्ताव रखा है मैं समझता हूँ कि वह बहुत अच्छा प्रस्ताव है और सरकार को इसे स्वीकार कर लेना चाहिए । बार-बार आप आश्वासन देते हैं कि हम इस का दुरुपयोग नहीं करेंगे लेकिन व्यवहार में दुरुपयोग हो रहा है । आज भी हमारे दल के हिन्दू मजदूर पंचायत के अग्र-वाल जेल में बंद है । जब सब लोगों को छोड़ा जा रहा है तो उन को क्यों नहीं मुक्त

किया गया है यह समझ में नहीं आता है ? मैं चाहता हूँ कि इसके बारे में गृह मंत्री जी विचार करें ।

Shri Nanda: Where is that?

श्री मधु लिमये : यहीं दिल्ली में है । आप के ही मार्फत बंद हैं ।

Shri Nanda: We shall deal with it.

श्री मधु लिमये : इसलिए इन सारी चीजों पर सोच-विचार करें । उन से निवेदन है कि द्विवेदी साहब के प्रस्ताव को वह माने और यह संकटकालीन स्थिति एक बिल्कुल यथार्थ चीज बन गयी है उसको हटाये । भारत सुरक्षा कानून की कोई ज़रूरत नहीं है उस को समाप्त करके वह एक प्रजातंत्र का और नागरिक स्वतंत्रता का वातावरण देश में कायम करे ।

Mr. Chairman: Shrimati Lakshmi-kanthamma. Five to six minutes. She need not repeat the arguments already placed before the House.

Shri Lakshmi-kanthamma: Some Members place the same arguments before the House off and on. I wanted new persons to be given a chance.

Mr. Chairman: It is for everybody; not for you only.

Shrimati Lakshmi-kanthamma: Mr. Chairman, Sir, Shri Dwivedy said that the police are trigger-happy. I would like to bring to the notice of the House under what difficult circumstances the police have to discharge their duties. If we read the papers and see the reports, we find that near Delhi some 10 police officers were beaten like anything and they were taken to the hospital; there are examples where they are stoned and at some places, they are attacked with arrows and in some other places petrol or some other liquid is poured over them. In demo-

cracy, just as we have the right to discharge our duties to the public, and to preserve democracy, they also have the right and the duty to protect the lives and properties of individuals and the public.

It is not as though we want the DIR or the emergency to continue for a day longer than it is necessary, as the Prime Minister, in her first major speech, has said in this House.

After that assurance of the Prime Minister, so many steps have been taken in each State. In my own State of Andhra Pradesh, all those detained under DIR including the left communists have been released in spite of the fact that today it is not as though there is no threat to our country. The opposition members shouted when the three Nagas in the jeep were not arrested and asked why they were not arrested and why those documents were given to them. But when somebody is arrested, they again ask, why have you arrested him? Who is to decide under what circumstances anybody should be arrested in the interest of national security?

Shrimati Renu Chakravarty (Barrackpore): Why DIR? Why not take action under the ordinary criminal laws?

Shrimati Lakshmi Kanthamma: Why did you support the DIR when it was first proclaimed here? Even then the ordinary laws were there. There is no change in the situation. From the Defence Minister's statement, from the President's Address and from reports from border areas, it is clear that the build-up of the Chinese is more than in 1962. They are dumping arms, ammunitions and modern types of weapons all along the border. Pakistan has gone against the Tashkent declaration and there is the Peking-Pindi axis. With all this threat to our borders, if our friends including Prof. Ranga certify that the left communists are patriots, we have to sit up and think what is to happen to this coun-

try. Is it on certain principles and having regard to the interests of national security that we take decisions from time to time or is it only on the hatred to certain parties that we take decisions?

DIR was not misused. When Mr. EMS Namboodiripad was making statements prejudicial to the interests of the security of this country, opposition members said, how is this man allowed to move about and talk as he likes? Only after a very long time he was arrested. In Andhra, what kind of treatment was given to Mr. Sundarayya, the renowned left communist leader? We know from the White Paper and other reports about the activities of the left communists—displaying of Mao's photo, acid bulb tactics and so on. Only when the government was fully convinced about their activities, they were arrested. When Mr. Sundarayya was ill in jail, he was allowed to go to Moscow for treatment. When he returned, he was released. There is not a single left communist in jail in our State.

We learn from reports that so many subversive activities are going in West Bengal, pre-meditated, pre-planned, with the help, inspiration and instigation of the Chinese. They are planning to cut down, communications by attacking vital installations, railways, signal equipment, telecommunications, etc., so that they can seize power.

Shri Daji was speaking about the people. Which people, I ask? The goonda elements, the anti-social people, are these the persons whom he calls the common people? I can say with all confidence that the people of this country will see to it that democracy is protected from the hands of a few people who do not believe in democracy. The revocation of the emergency depends on the behaviour of China and the Left Communists in this country. It is not in our hands.

Shri Muhammad Ismail (Manjeri): Mr. Chairman, Sir, I strongly support

[Shri Muhammad Ismail]

the Resolution that is placed before the House, demanding the revocation of the emergency and the Defence of India Rules. At the outset, I would make a proposal, a demand and a request. I have been trying to put forward this idea for the past several weeks, but I did not get any opportunity to speak in the House on such subjects. Therefore, I will now put forward this idea, this request and this demand, which is that the Government must appoint a committee consisting of high judicial personnel to inquire into the causes of arrests that were made under the Defence of India Rules, to find out whether there was any evidence—not to speak of evidence—whether there was any justification, whether there was any strong suspicion of *mala fide* or dangerous action on the part of these people for justifying their arrests. If the ideal of democracy is still left in our country and if there is proper and constitutional respect for the freedom of the people, such a committee must be appointed, whether the Government accepts this Resolution or not. Most probably from what I have been witnessing in the House, the Resolution may not be accepted by the Government. But whether they accept it or not, this Committee which I am now proposing must be appointed in the interest of the people and in the interest of the freedom of the country, so as to restore the sense of security in vast sections of people in the country.

How were the Defence of India Rules administered? Were they administered, for one thing, by responsible officials under the direct control of even the State Governments? The Chief Ministers and the administrators under them were the agents of the Centre, so far as the Defence of India Rules were concerned. But, then, they have now turned....

Mr. Chairman: He should conclude now.

An hon. Member: He has just started.

Shri Muhammad Ismail: I am having this chance of speaking after so many weeks. Every time I have been trying to catch the eye..

Mr. Chairman: I would request him to resume his seat. There is hardly any time left. This debate has to close 5 or 10 minutes before 5 O'Clock so that the other Resolution can be taken up. Because Shri Ismail had not spoken earlier, I have accommodated him. Now he should conclude.

Shri Muhammad Ismail: It is a matter of consideration on your part to have allowed me to speak because I was not speaking previously, but consideration ought to have been shown to me because I have got a particular point of view to represent before the House. That has not been shown to me and that is very unfair to me, because I have to put forward my idea.

Mr. Chairman: There is no time.

Shri Muhammad Ismail: So far as the administration of the DIR is concerned, I do not think even the Chief Ministers of States were responsible for many of those arrests. It is the constables, the village officers, the volunteers of the ruling party and the volunteers of the parties which were favoured by the ruling party, who were responsible for those arrests.

My hon. friends spoke of scavengers having been arrested in one part of our country. Mere working men, labourers, who have been working in a factory belonging to the public sector for seven or eight years, who were very dutiful and loyal servants, all of a sudden found themselves out of jobs. When questioned they were told that in the interest of the security of the country they were sent away. Not because of the security but, I say, it was because all of them belonged to one community, that is, the Muslim.

community and that too in far away Andhra Pradesh which is not a border State or anything of the sort. Yet, they found themselves out of jobs.

There are instances where a collector has been commending the services of certain people in the defence or war effort but those people who were commended by the Collector only the previous day have been arrested without the knowledge of the Collector. The Chief Ministers or important administrators did not know whom they were arresting. They were only saying that they depended upon the police for information. That is all that they could say. They did not go into the merits of the case, not in any one single case.

Ex-ministers have expressed such cases of the DIR being abused. Only the other day two ex-ministers spoke in this House about how people's freedom was taken away on very flimsy grounds. Therefore all these things must be gone into by a committee to reinstate and restore the sense of security amongst the citizens of the country.

Mr. Chairman: Dr. Singhvi, if he is interested in speaking for five minutes.

Dr. L. M. Singhvi: I will try to conclude as soon as possible. I have a substitute motion which I have moved and which I am bound to support.

Mr. Chairman: Only five minutes.

Dr. L. M. Singhvi: If you want to steamroller the debate, you can do so in your jurisdiction, but even the Chairman does not have jurisdiction to oust debate altogether.

Mr. Chairman: The hon. Minister wants half an hour for his reply.

Dr. L. M. Singhvi: That you have repeated three times.

Mr. Chairman: The hon. Mover has to get about 10 minutes. We have to

conclude the debate by five minutes to five when another Resolution has to be moved. Keeping that in view, I ask you to speak if you are interested in speaking for five minutes.

Shri Sezhiyan: May I speak?

Mr. Chairman: Yes, for five minutes only.

Shri Sezhiyan: Mr. Chairman, Sir, the Resolution brought forward by the hon. Member, Mr. S. N. Dwivedy, requires the attention of the whole House irrespective of party affiliations. Those who believe in the democratic rights of the country will support it.

The fundamental question that has to be considered is that the Proclamation of Emergency issued by the President under article 352 of the Constitution and the Order by the President under article 359 (1) of the Constitution, create two specific issues. We should not bother about the internal or external security. The more fundamental question concerning this one is that these measures have got a two-fold effect on the fundamental rights in the country because these two measures taken by the Government and the President have combined effect.

The first thing is that all rights of the citizens throughout the country under article 19(1) of the Constitution remain suspended. Secondly, the citizen is debarred all over the country from moving any court in respect of the infringement of his rights under articles 14, 21 and 22 of the Constitution. That is the whole question. Not only persons have been put behind the bars and trapped inside the jails, even the fundamental rights enshrined in the Constitution have been put inside the jail. I cannot go to the courts and move a writ. That is the basic defect in the Emergency being continued even though there is no necessity for this.

Some hon. friends who were speaking from the other side, the ruling party, stated that political bias has

[Shri Sezhiyan]

not entered into it and the police has not utilised these powers for other than legitimate use. I can quote only two judgments—one given by the Punjab High Court and the other by the Supreme Court.

In the writ petition of Sham Lal and four others, the Supreme Court, on the 11th November, 1965, observed:

"D.I.R. are not to be applied in cases of the type where the police for one reason or other have been unable to get individuals adequately convicted."

If they cannot convict a person, if they cannot prove in the court by due process of law the charges made against any person, they immediately apply D.I.R.

Also, justice Bedi of Punjab High Court made the very same observation on the 22nd November, 1965. He said:

"If the police for one reason or the other could not get them convicted adequately under the law of the land, it does not mean that they should resort to the provisions of the D.I.R."

The Judge was constrained to make this observation because the Government and the executive have all along been taking resort to the D.I.R. Whenever they want to put anybody inside the jail, they resort to the D.I.R. If they honestly feel that somebody is against the security of the country, let them bring forward a Bill, an anti-national Bill or a sedition Bill, whatever it is, and put it on the statute books. But the question should be decided by the court and not by the Home Minister.

Therefore, the due process of law should be allowed to take place.

Mr. Chairman: He should try to conclude now.

Shri Sezhiyan: Let me here also quote Shri A. K. Sen who was responsible for the introduction of the D.I.R. He has made a categorical statement now:

"The Emergency must be withdrawn because the purpose for which it was introduced did not exist any more. So far as the Chinese are concerned, it is a continuous menace and should be fought out. If the Emergency is withdrawn, no harm will be caused to anyone."

Therefore, it is high time that the Government withdraws this Emergency and the D.I.R.

Mr. Chairman: He should conclude now.

Shri Sezhiyan: Mr. Mathur was saying that the Congress Party is not going to use the D.I.R. for political ends. I quote one more person who is a non-political person, who was the then Attorney General of India. While delivering Sir Alladi Krishna-awami Iyer Endowment Lectures at Madras University, on 18th August, 1965, Mr. M. C. Setalvad has this much to say:

"The Congress Government at the Centre had employed the Emergency powers to take over State administration, to promote party interests."

This is the verdict of the ex-Attorney General of India. He has stated that the Party in power has utilised the D.I.R. for its own use and the police is utilising powers to put anybody inside the jail.

Mr. Chairman: He must conclude now.

Shri Sezhiyan: This is against the fundamental right. This is unconstitutional, undemocratic, and this is a blot on our Constitution which should be removed not as early as possible.....

Mr. Chairman: He should resume his seat now.

Shri Sezhiyan: The term "as early as possible" is a very dubious term.

I say, this should be immediately withdrawn.

Dr. L. M. Singhvi: On a point of order. I protest very emphatically that first you take an undertaking from Members before they rise to speak with effect that they will not speak for more than five minutes and if they do exceed, you can do nothing about it. This is most unfair, if I may say so.

Mr. Chairman: May I know under what rule he is raising that point of order? Let him quote the rule and then I will give him my ruling.

Dr. L. M. Singhvi: Mr. Chairman, I would like to know the rule under which you can demand the citation of a particular rule which has been violated. This is the practice of the House that when time is fixed, when instructions are given by the Chair, it should be followed by the Chair. The Chair is not entitled to ask for an undertaking in advance and if the Chair asks for it, it is bound to see that it is implemented. This is basic and plain commonsense, if I may say so.

Mr. Chairman: I may tell the hon. Member that it is absolutely in the hands of the Chair to regulate the time and to fix the time. The hon. Minister.

Shri Nanda: Mr. Chairman, Sir, in spite of the fact that here and there strong expressions were used but, I feel, the general trend of discussion discloses very near unanimity regarding the approach in the matter of how to deal with the question, the problem of Emergency. Therefore, while speaking to the hon. Mover of the resolution, I wish to convey this to him that really there is no occasion

for me to join issue with him, because we agree in substance and it is on that basis that we have already moved forward. As Shri D. C. Sharma has stated, that is the crux of the matter. Whatever my hon. friend may urge again when he replies to the discussion, let us at least understand that on the essence we are agreed, and really there is no question of any strong divergence on this major national issue.

I recall that occasion, that grim day, when this nation faced the challenge from a foreign power invading the soil of this country, and how at that time this whole country, all the people of this land rose in unison, and also in Parliament, without a single exception, everyone, all parties and all the Members established it beyond any question for all time that when it was a question of the security of the nation or the defence of this country there were no parties. It was very heartening. So, it was not any recourse to a particular article of the Constitution or some special powers on which we relied. That is subsidiary and secondary. The main thing is that reservoir of patriotism which was obvious then. We shall have to draw again, whenever that occasion comes, on that great fund of good-will and of deep patriotism of the people of this country and the representatives here in Parliament. That is going to be our sheet-anchor. Therefore, there is no great insistence on adhering to any one clause or the other. As I stated before also, if, with that broad framework of reference, namely the interests of the nation and the security of the nation, we could sit together and come to any conclusion that it could be done in some other way and these powers were too severe and extraordinary and exceptional and therefore they could be dispensed with today, then I would submit that I am not going to wait for giving them up till tomorrow. That should be a sufficient assurance for the hon. Member who has moved the resolution and all others that here we are treating it as a national issue, and therefore, there

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is no question of any kind of insistence on retaining any special powers for a single day, as I have said before.

I want first of all to clear this one point. Is it any question that whenever there is a grave emergency, as visualised in the Constitution, these powers have to be available to the country and to the nation? I raise this question because Shri N. C. Chatterjee had said something in this regard, as if there was inherently something wrong with the emergency powers and there was going to be, for the time being when the emergency is in force, the suspension of fundamental rights, and as such these were infamous provisions, something which was a constitutional dictatorship and for that reason something bad and so on. I think we part company there, because I think that it was the wisdom and the vision of the Constitution-makers that they introduced those provisions in the Constitution; and later on, as he said, it was unanimously that the whole House and all the Members passed the resolution approving of the Proclamation and gave support to whatever action had later on to be taken for the purpose of the defence of the country in terms of those special provisions in the Constitution. I, therefore, need not justify that at all, but I would like to elucidate one or two points which have been raised. What are the objections now to the statement of policy in which there is a drastic revision of the terms of the original statement, amounting to taking away the operation of the emergency from more than nine-tenths of the country and retaining it only for a relatively small part of the country?

The hon. Member, Shri Daji, referred to 99 days and one day. I do not want to go into that. But I say this. If I plead that this Government has kept the border safe for 99 per cent in respect of one per cent it was not safe and something happened there to the detriment of the vital interests of the nation. I think I will have fore-

feited any consideration; any person in Government would in that condition have forfeited any consideration by the House. Therefore, the question is, the whole point is: Is it required in special areas or not?

My hon. friend, Shri Chatterjee, said, 'Yes, the Constitution says that where a situation exists where the security of India or any part thereof'. Therefore, he said, why not restrict it to that part? All right, if it is conceded that it can be separated, it can be considered. It is asked: Why do you for the sake of one small part, subject the 480 million people of this country to those onerous conditions and hateful provision, as he might say? We do not like that. I am open to conviction.

Dr. L. M. Singhvi: Why not appoint a committee?

Shri Nanda: We may do that. If it is possible to separate it into two parts, it can be considered. But the advice which I have got on which I have to rely is different. The words are that the situation may arise in part, that is, the threat might occur in any part of the country, whether it is aggression or whether it is something which has something to do with internal security, internal disturbance etc. The cause may be anywhere in the whole system, but the ailment is for the whole body. That is why the emergency is for the whole nation.

This is a question of interpretation. I do not want to make any kind of..

Dr. L. M. Singhvi: Why does Government not have it examined either by reference to the Supreme Court for advisory opinion or by constituting a committee such as I have suggested?

Shri Nanda: As I said, I am open to that. Let us do that. If it simplifies things that way, I do not stand out against it. We may do it soon, immediately.

It is not a question of modified rationing—the hon. Mover knows that—in the sense that statutorily the Chief Ministers and Governments of the States will have the option, it will be open to them still to exercise their special powers and we will be left to their tender mercies, whether they do it or not. If that were the position, certainly I would say it is an extremely unsatisfactory position—if I have by the proposal that I have made left things in that way. But I believe I have explained the position clearly, as I understand it and in the sense in which we have made this announcement, that it is not going to be a matter of discretion for any Chief Minister or State Government to exercise those powers or not. That is, the emergency applies to the whole country. Its operation is restricted to a few places, and yet it is a matter whether they may on some occasion take up that instrument again and use it. That is not the intention.

Shri Manoharan (Madras South): Who is to stop it?

Shri Nanda: I have stated very clearly that we are going to have legislation in the course of this session where the provision will be that the areas, border areas, where we feel that there is a call, there is a necessity...

Shri Rajaram (Krishnagiri): Because of election year?

Shri Nanda: The hon. Member is thinking only of elections. I am thinking of the nation, I am not thinking of the elections. And it is a very facile way of bringing up something because there is no better argument.

I said there will be an Act here which will prevent any kind of use in any other area except those for which provision is made. Therefore if it is said that for the sake of a few people, all the rest are going to be subjected to the deprivation of their fundamental rights, that is not so.

Then, there were other arguments. Why is it that exception is being taken to whatever is going to be retained? It is said that the emergency has lasted for so many years and people are feeling restive about it. But may I ask: when was this Kutch aggression? About a year or so. When was this full-scale war with Pakistan? How many months ago? When was the Tashkent Agreement? That is, it cannot be said that for all this period nothing was happening, and over the years we just kept it and kept on using it. Even if no emergency had been declared or proclaimed, we would have had to do it after Kutch, and then when there were hostilities with Pakistan. Therefore, it cannot be said that it has gone on for years and years, without serving any purpose.

It is not that the external threat has disappeared. Still we say we are not going to keep in our hands this weapon because of the risks. If God forbid any situation arises, there is not going to be any difficulty at all in extending its use, just as there is going to be no reluctance to part with even this thing, which is going to be retained, if tomorrow or the day after tomorrow it appears that it is not necessary even for the sake of Mizo District or Jammu and Kashmir or whatever area may be requiring it. Whether it does require it or not is now a question of the appreciation of the facts. It is a question of judgment about the situation. It is not a question of any principle involved there. It is a question of assessment, and we can sit together and have that assessment also, because I am sure everyone there will be equally anxious and earnest about nothing being done which will impair the nation's security at any point.

The hon. Mover gave some other reasons also. He said, "I would have been with you in keeping intact—the powers under the emergency—if you had behaved differently, if there had been that sense of emergency and things had been done in this country by all of us in relation to that emer-

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gency to meet that threat whenever it occurs in all respects." I share that feeling with him, we have not done that enough, but when he said, "Have you used these powers against profiteers and hoarders", I say "Yes". I feel very many more persons were detained for these reasons, and far fewer for other reasons, and those other reasons also were connected with national security.

Because I came to this House some time back and said that hereafter the use of these powers will be restricted to matters relating to national security, and there also they will be sparingly used, and that they will be available for no other purpose, I will be asked why then previously this hoarding and profiteering and all these things were considered good enough reasons for the use of these powers. And then there is a distinction where the question of those sweepers, scavengers, arose. I am not justifying every case where it was used, but I am drawing a distinction. Where there is a very active threat, something can happen immediately, quickly, and very soon, and then the situation, internally, is of a very different kind; qualitatively it is of a different kind and urgency and importance. Then, any disturbances inside, even in the matter of communications, prices, availability of things, etc., coupled with the threat which might be drawing near, makes the problem for the country of a different order. So, we have to take action even regarding these things, but when it is not that situation, I certainly thought that the State should not then use those powers even with regard to the other things, because, it is a change in the circumstances which also calls for a change in our attitude towards the use of all these powers.

The hon. Mover has asked, if you had done that, then about profiteers why not now? We do not do that in that way now because we must make use of more normal methods for dealing with these cases in a situation with

which we are now dealing. Now, why is it that we think that we should have these powers regarding the border areas? I believe hon. Members know what the situation is in a certain part of our country, in Assam, and also near that area in some parts, and also Jammu and Kashmir, for example. The question as to whether the powers should be used by the State or whether in the implementation of them they go wrong or not, these are matters of administration and we can look into it. I shall say something about Mizo district also.

Mr. Chairman: He has five minutes to conclude.

Shri Nanda: Well, I have to abide by your orders. I will then hurry up, and I will not, therefore, go into the details.

Dr. M. S. Aney (Nagpur): The reply of the Minister cannot be regulated like that. He must have the time to give a full reply to all the points raised in the House by all the Members.

Dr. L. M. Singhvi: He must be given the time to reply to the questions at least. This is against all canons of parliamentary debate—that even the reply should not be given in respect of the questions that have been raised. What are we here for?

Mr. Chairman: Order, order. I am very sorry that such an hon. Member like Dr. Singhvi is betraying something which I would not have expected of him. This has been announced before the debate started, that this has to conclude before 5 O'clock. Naturally, the debate has to be regulated like that. I am sorry I would not be able to carry on my duty as Chairman if I am told like that. The hon. Minister has to reply certainly, and then the hon. Mover has the right to speak and he wanted 10 minutes.

Shri Surendranath Dwivedy: I will be satisfied with five minutes.

Mr. Chairman: All right.

Shri Nanda: Some persons can only think in terms of extremes: either have it the whole hog or nothing at all. It may be that there are intermediate situations where one can have more flexible powers. The hon. Mover or some other hon. Member said why have we to use the army and why do we bring in the army so often. I personally feel that it should not be done. That is a different question; we should try to see that in the country this situation does not arise where we feel that the police also will not suffice and the army has to be brought in; and much more so in an area like the Mizo district, where there should not be any such situation when we have to do the job with the help of the army only, or some kind of martial law. Is it better that there is a total deprivation of all kinds of rights or is it that for certain purposes we use these powers and enable the administration to be carried on, to ward off the dangers, and see that the extreme use of force which is inevitable in these circumstances is restricted? Do these things help us in dealing with such areas? Is it that we can only kill such persons or should we take them out of the harm's way and detain them? These are things which I am not asserting here; there may be some other special legislation; all right; it may be that we have the special legislation which will mean the bringing in or the enacting of those particular provisions to which they take exception, for example, the Preventive Detention Act. There are cases where recourse under the Preventive Detention Act normally will not suffice. You, Sir, Mr. Chairman, know about the Jammu and Kashmir State. There are people who move about in a state of living, in a way that nobody can suspect that they are not respectable people, and yet they were behind many of these things, the acts of sabotage, and we got hold of them, their link and found that these

were the people, and they had to be detained. There was no other way of doing it. I am just illustrating the need.

About the role of the States, there is rather a misunderstanding. They have a part in the Defence of India legislation itself. There are certain powers in the rules given to the States themselves. They have to carry out that responsibility. When there is a grave emergency, actually what happens is that the States have to bear the burden and carry out their responsibility. If they do not do it, of what avail are these powers going to be to us? It is a question of being in touch with them and with their difficulties. I might say it is not that they have resisted in any way. They have explained their difficulties and their position. It is a varying situation from State to State. In some States, they have no objection. But in some States, they say they have special difficulties. So, by a process of exchange of views, we come to a conclusion which is agreed by all and nobody has stood up against that. They have a difficult job to do, I mean the Chief Ministers also. Some of the States may have committed a few mistakes; I do not justify them.

Reference has been made to misuse. There is a point where the national security view alone has to prevail and the other things become secondary. Sometimes that distinction may be obliterated and I believe in certain cases there has been excessive use of it, which I personally feel could have been avoided. We have been trying to review the position in that sense. I think the experience will stand us in good stead. Considering the many things that had to be done, I can say that the magnitude of such misuse has been small. But it is not a question of how many cases have been there. Even in one case if it has been misused, the suffering of that one man should be considered as a suffering for all of us. We should take every

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precaution to see that while national security is not jeopardised and we discharge our responsibility effectively in that regard, we do not allow such misuse to happen. That is common ground. But that does not mean if there is need in the interest of national security, it should not be used. Because, if we are not going to carry out that responsibility, what are we left with? All the things that we are talking about will evaporate unless we are able to keep up the sovereignty, integrity and independence of this nation. That is of the highest importance. I think no price will be too high for that. Even this question of fundamental rights has a purpose only in relation to that.

The hon. Member had said something about the misuse. About that single case of a woman, whatever she may be, she is a human being whose feelings, whose honour is as important as the honour of any of my relatives or of any one of us. I personally propose to go into it further and deal with it to the extent possible.

There was a note struck by Prof. Ranga. I can tell him, when this Constitution was made, I was not there. This was passed by all the Members. I made use of it in a certain situation, according to my judgment. History will prove whether it was a correct judgment or not. It was not a question of a mad moment. It was a sad moment, not a mad moment.

Dr. L. M. Singhvi: The hon. Home Minister said something which is very reassuring in respect of obtaining the opinion of the the Supreme Court or constituting a Committee of Members of Parliament. Would he indicate by what time he proposes to initiate action...

Shri Nanda: I have to get into touch with the leaders. It will be done in a few days. We have to

decide as to how to proceed with this matter. I will urge on the Mover of the Resolution to accept this suggestion.

Shri Surendranath Dwivedy: Mr. Chairman, I am very glad that there is almost near unanimity, so far as this demand for the revocation of the emergency and the repeal of the Defence of India Act is concerned. Only one or two members have expressed some reservations. In fact, there was a race by the Members of the Congress Party so that they can take credit for this. Strong public opinion has been built in this country which does not want this to continue even for a moment. I am glad that the Home Minister realises that this is unexceptionable and that it should not continue. But he has expressed some difficulties which are not convincing to this House. I am still not convinced that in order to deal with the situation prevailing in certain border areas the normal laws would not be sufficient and that we would have to take recourse to abnormal laws, depriving the fundamental rights of the people of the country.

We are all aware of the threat to the internal security of the country and the external danger. We have given all the support to the Government in facing those threats and dangers. In fact, we have been warning this Government to be prepared always to meet such challenges. But that does not mean that we should persist in functioning in the midst of emergency for all times to come. If there is any threat, we would like this Government to face it boldly.

Therefore, I would request him to reconsider this matter. Before Parliament adjourns, let him come forward and say that he is withdrawing the emergency and repealing the Defence of India Act. If necessary, let him come forward for having some special laws to deal with parti-

cular situations, which this House will have no hesitation in supporting, if they are to meet anti-national activities, secessionist activities, violent activities. If a group of persons, or a party or set of people are working deliberately for subverting the democratic fabric of this country, he can declare them unlawful and he will get the support of the entire House for doing that. That would be a straightforward course. Why not act like that?

I see no reason why these should continue. He should listen to the voice of reason, the almost unanimous opinion of Parliament and accept this Resolution. As my hon. friend, Shri D. C. Sharma, has said, it is a very innocuous one. I am not saying that you should do it immediately. I am saying that you should take steps without delay. That gives you a little time to do this. I hope he will accept this Resolution.

I am saying "without delay" because in this Government even "active consideration" takes one year. I hope he will have no hesitation to accept this Resolution. I think there is no whip. So, I am sure my friends who are sitting there will all support this Resolution. Let us all arm Shri Nanda with powers so that he will have the strength to take steps to remove these abnormal powers and withdraw them as early as possible.

Mr. Chairman: The Home Minister has not said whether he is accepting the Resolution or not.

Shri Nanda: I have said that I shall take action as soon as possible. It is not possible for me to go further than this at this moment. Until we have an opportunity of meeting the various sections of the people and coming to a conclusion, it will be very wrong for me to accept it at the moment.

Dr. L. M. Singhvi: The Prime Minister said "not a day longer". How many months make a day?

Shri Nanda: Before the end of the session.

Dr. L. M. Singhvi: That is most reassuring.

Mr. Chairman: Does the hon. Member press his substitute Resolution?

Shri Shree Narayan Das: I do not press my substitute Resolution.

Mr. Chairman: Has he the leave of the House to withdraw his substitute Resolution?

Substitute Resolution No. 4 was, by leave, withdrawn.

Mr. Chairman: The question is:

That for the original resolution, the following be substituted, namely:

"That this House constitutes a special Committee consisting of the following members to consider the immediate revocation of the emergency:—

Shri Gulzarilal Nanda
Shri G. S. Pathak
Dr. Asoke K. Sen
Shri Harekrushna Mahatab
Shri Surendranath Dwivedy
Shri M. R. Masani
Dr. L. M. Singhvi

with instructions to report to the House within a week." (5).

The motion was negatived.

Mr. Chairman: The question is:

"This House calls upon the Government to take steps to revoke the Proclamation of Emergency and to repeal the Defence of India Act without delay."

The motion was negatived.

Shri Badrudduja (Murshidabad): That is the end of everything.