

यह इमर्जेंसी जो है वह एक बहुत बड़ी भयानक बीमारी है। कांस्टीट्यूट प्रसेम्बली में जब इस पर बहस हुई थी तो यह कहा गया था कि कभी इसका गलत तौर पर इस्तेमाल नहीं किया जायेगा। लेकिन गलत तौर पर यह इस्तेमाल की गई है। इसलिए इमर्जेंसी की जो बीमारी है वह कभी भी इस देश में नहीं आनी चाहिए। किसी भी समय किसी आदमी का इस गद्दी पर बैठकर विभाग खराब हो सकता है। जब यहां पर अपोजीशन मजबूत नहीं थी और कांग्रेस की अपनी अन्दरूनी गड़बड़ थी तो हिन्दुस्तान को पाकिस्तान की तरफ से और किसी तरफ से खतरा हो जाता था और यह खतरा तो कभी भी मिट नहीं सकता है। जिनके हाथ में गजमत्ता हो वे अगर कांस्टीट्यूशनल तरीके से किसी दूसरे को राजसत्ता देने के लिए तैयार नहीं या उनके विभाग में फिन्नर आ जाये तो जैसा कि एक शायर ने कहा है :

भ्राता है नाबुद्दार्मी की नीयत में जब फिन्नर उठता है साहिलों से पूजा कभी कभी ।

जब भी कभी देश के नेता का विभाग खराब हो जाये तो वह अपनी गद्दी को बचाने के लिए और इस देश को भाड़ में झोंकने के लिए इमर्जेंसी का सहारा ले सकता है। इसलिए हमें इस प्रकार का कोई भी सहारा नहीं देना चाहिए और किसी भी मेम्बर को इसकी यहां पर हिमायत नहीं करनी चाहिए जिसको कि किसी भी समय कोई नेता विभाग खराब होने पर इस्तेमाल करले और इस तरह से इस देश के करोड़ों लोगों की जिन्दगी और आजादी खतरे में पड़ जाये ।

जब पहले सुप्रीम कोर्ट में इस सिलसिले में सालिस्टर जनरल बहस कर रहे थे और उस समय हमारे प्रति भूषण जी मुकदमा लड़ रहे थे तो जब ने पूछा था कि अगर कोई निमिस्टर पर्सेनल बुझनी की वजह से किसी को गोली मार दे तो क्या मरने वाले के घर वालों को बीटें में जाने का हक होगा तो

सालिस्टर जनरल ने बड़े ही शर्मनाक ढंग से कहा था कि जितनी बेर तक इमर्जेंसी लागू है, किसी भी आदमी को जिदगी का हक भी महरूफ नहीं है। इसलिए संविधान में कोई भी ऐसा अधिकार नहीं देना चाहिए जिसके जरिए से एक आदमी का आदालत में जाने का अधिकार छिन जाये। चाहे एक्सटर्नल हमला हो या इंटर्नल कभी भी इस ढंग की इमर्जेंसी नहीं आनी चाहिए कि हमारा जो न्यायालय में जाने का अधिकार है वह चला जाये। न्यायालय किसी बात पर अपनी राय न दे सकें—एसा मौका कभी भी नहीं आना चाहिए ।

मैं आपके जरिए इस सदन से बधाईस्त करूंगा कि कामत साहब ने जो बिल यहां पर पेश किया है उसमें से "इंटर्नल एमरेंशन और "आयर्ड इनसरेक्शन के जो लपज हैं उनको खत्म कर देना चाहिए। अगर कभी एक्टर्नल इमर्जेंसी का खतरा होता है तो उसमें भी सुप्रीम कोर्ट और हाई कोर्ट का एग्जक्यूटिव आर्डर्न पर अपनी राय देने का अधिकार कभी छीना नहीं जाना चाहिए। इन शब्दों के साथ मैं सदन में अपनी करूंगा कि इस देश में कभी भी ऐसा मौका नहीं आना चाहिए कि न दलील, न अपील, न बकील, यह बात कभी नहीं होनी चाहिए। आपने जो मुझे श्री कामत साहब के बिल पर बोलने का मौका दिया उसके लिए आपको धन्यवाद देता हूँ ।

SHRI C. K. CHANDRAPPAN (Can-
nanore): I am thankful to Shri H. V.
Kamath for introducing this Bill. Be-
cause it provides an opportunity for
the hon. Members of this House to
express their views on the question
of emergency. Mr. Kamath's Bill
seeks to include in the Constitution
certain new provisions by which the
declaration of emergency can be bro-
ught under certain specific conditions
and safeguards provided therefor. By
his Bill he wanted to ensure that
the House has more frequent opport-

[Shri C. K. Chaudrappan]

unity to discuss about emergency and then to decide whether to extend it or to withdraw it. Another amendment suggested by him is in relation to that portion relating to internal disturbance. He wants to substitute the words 'Internal disturbance' for the words 'Armed Insurrection', for the word 'disturbance' he wants to substitute the word 'insurrection'. Would it serve the purpose? we have gone through the nightmarish experience of emergency in this country? we have seen, however good might be the intentions with which emergency was declared, it might be misused by the executive and by the political leadership in the country for carrying on their nefarious political ends. After having seen all these things, I think, what will satisfy this country would be that in the Constitution there should be a provision that this emergency would be in the context of the country being threatened by a war or a part of the country being threatened by a war or external aggression.

But, in no context, should it be permitted in future; we should not allow emergency to be declared in the country even if it is in the name of armed insurrection. During the elections we heard the spokesmen of the Janata Party denouncing the emergency and proclaiming to the nation that once they come to power they will see to it that in future no power on earth would be able to declare an emergency in India. They promised Constitutional amendment to that effect—I don't know whether it is practicable or not, that is another matter. They declared that they will bring such an amendment whereby no ruler in this country in future could declare an emergency. But what we have seen now is that the Janata party is climbing down from that position and they are now coming to say that emergency could be imposed in case of internal armed rebellion in the country.

Now, it is open for discussion. Whoever sits on that side of the Treasury

Benches, the rules, of this country will interpret any movement as just an armed insurrection and if that movement is against their power and authority, they will fall heavily on it and kill it. I do not think that in our country we have such bad experience of the Executive's misusing the powers of emergency for curtailing the democratic rights thereby destroying democracy. This is not happening only now. In emergency it happened. If you remember the events of this country in the days of 1948—51, you can see how the Communists were butchered like anything—not in dozens but in thousands—and the Communist Party itself was banned as also so many mass organisations in this country where not much of a democracy was there from those who were speaking day in and day out about democracy.

But, to-day, under the Janata Rule, you can see that in Bihar, in the name of Kaldut operation, 29,000 prisoners are behind the bar without facing trial undertrial prisoners. This is a fact. Even those people who were fighting against unemployment, 500 of them, were put behind the bars and they are still behind the bars.

So, what I am saying is that even without emergency when the bourgeois is in power, if they find that there is an element of threat against them from any quarter, whether there is emergency or not they will come down on it very heavily and they will put it down. So, there is no need for emergency for that matter.

It is in this background that I am looking into the provisions of the constitutional amendment proposed here. In our opinion, there should not be any provision in the Constitution under which the emergency can be declared on the pretext of armed rebellion or armed insurrection.

We support emergency only if it is declared in the context of an external threat or in the context of an aggress-

sion by a foreign power on our country. Look at the conditions of the last Lok Sabha when Mrs. Gandhi was in power. She could have got the two-thirds majority in the House if it was required. If the discussion was open in the House every month instead of two months, she could have done it. That was because she had the required majority.

SHRI P. K. DEO: You might have supported it.

SHRI C. K. CHANDRAPPA: Without your vote she had the requisite majority. In this Bill, Shri Kamath is trying to introduce such provisions by which the Government could be restrained from the misuse of emergency on the pretext of an internal disturbance or armed rebellion. In our opinion, such restraints on emergency would not bear much fruit. Therefore, I am concluding by saying that we support the emergency only under conditions of war and under conditions that there is an external threat, and we do not support any emergency—whatever safeguards are provided—in a situation which will be explained in the name of internal disturbance, armed rebellion or armed insurrection. This is our position.

SHRI PABITRA MOHAN PRADHAN (Deogarh): Mr. Chairman, Sir, anybody who is in-charge of something requires some power to protect that. If no power is given to the person who is in-charge of any property he will not be there for the purpose. Any government which is in power should have some authority according to which—as and when it is required—it will utilise that authority to save the nation either from foreign aggression or from internal insurrection. That is the general policy of any society. It is for this reason that there is provision of Article 352 in our Constitution. Article 352 is very clear about Emergency and other actions. So many persons belonging to different parties, caste and

creed for two years and six months and decided certain policies about emergency. I think, it does not require any amendment as those provisions and principles are very clear.

We are now afraid of the experience which we had during the last twenty months of emergency during Congress rule under the leadership of Smt. Indira Gandhi. Now, the point is whether this Article 352, as it is to be kept, or it be amended as Mr. Kamath desires. I would like to say that if persons of Indira Gandhi's mind, attitude and calibre come to power with such followers as the existing Congressmen, the same thing will happen. The amendment suggested is that instead of two months it will be one month; instead of thirty days it will be fourteen days. Further, instead of bringing the matter to Parliament every six months, it will be brought frequent. Even if these amendments are accepted and people of Indira Gandhi's desire, aspirations and attitude come to power, they will do it. My point is that Indira Gandhi did not do it alone with the authority of Article 352. She did it because she had the brute majority in the Lok Sabha. As and when she desired she brought the changes and amendments in this Constitution. She also brought the changes in the Penal Code, election laws and also in the Constitution. So, even if we carry out the amendments suggested by Shri Kamath such persons as Mrs. Indira Gandhi and the Congressmen will do it. So, I do not find any reason as to why we should be so much critical about the original Article 352. Well, to give clarity to the Constitution you may say it is 14 days instead of one month, I have no objection. But you must be very very clear and cautious