

MR. CHAIRMAN: That we will see then. Now the last item. No. 11.

Shrimati Joshi.

Report (May, 1980) of the working Group on National film Policy

THE DEPUTY MINISTER IN THE MINISTRY OF INFORMATION AND BROADCASTING (MISS KUMUD-BEN M. JOSHI): Sir, I beg to lay on the Table a copy (in Hindi) of the Report (May, 1980), of the Working Group on National Film Policy. [Placed in Library. See No. LT-1318 80].

MR. CHAIRMAN: Now, the 6th item....

SHRI BHUPESH GUPTA: As far as the 6th item is concerned, I suggest that facts relating to payment of bonus should be laid on the Table first. After that we shall take up this item...

श्री भोला पासवान शास्त्री (बिहार) : हमने तो इसको सत्रे पढ़ने उठा दिया था लेकिन आपने कहा कि टाइम से अहेड आप चले गए हैं । मैं इस संबंध में कहना चाहता हूं कि जो पावर सरकार ने नेशनल सिन्डिकेटि आर्डिनेन्स के अंदर ली है, उसका धड़ल्ले से एप्लूज हो रहा है । एक केस को मैं जानता हूं वेशी नहीं कहूंगा, एक केस को मैं जानता हूं जिसमें सरकार ने जिसको पकड़ा है वह लोक सभा का मेम्बर है जो अखबार में आया है । सरकार को उसे छोड़ना पड़ा । बिना ग्राऊंड दिखाये था, उसको छोड़ना पड़ा . . .

(Interruptions)

MR. CHAIRMAN: I have consulted the Leader of the House. He said that these ordinances are being brought before the House very soon

and there will be time enough to discuss everything.

SHRI NAGESHWAR PRASAD SHAHI (Uttar Pradesh): You must reprimand the Government for issuing these Ordinances.

SHRI BHUPESH GUPTA: This is a very bad practice. Whatever the communication between you and the Leader of the House, it should be done within the hearing of the House. Will you hear me if I come there?

MR. CHAIRMAN: I asked him to speak out to the House.

SHRI BHUPESH GUPTA: All right. Let there be a discussion. But he was speaking to you and you were listening to him. If I may submit with all respect, if the Leader of the House wanted to say something, he should have got up and said it.

MR. CHAIRMAN: That is what he wanted to say.

SHRI BHUPESH GUPTA: We do not believe in wishpering. No. whispering.

SHRI LAL K. ADVANI: (Gujarat): Sir, it would be proper if the honourable Member here is allowed to have his say.

श्री भोला पासवान शास्त्री : मैं ने तो अपन. वक्तव्य खत्म ही नहीं किया था ।

श्री सभापति : शास्त्री जी, मैंने उनसे पूछा कि उनका एटीट्यूड क्या है ।

श्रीमती पुरबी मुखोपाध्याय (पश्चिमी बंगाल) : श्रीमन्. . . (Interruptions).

MR. CHAIRMAN: Please sit down.

श्री भोला पासवान शास्त्री : श्रीमन्, जब आप बोलियेगा तो हमको बैठना

पड़ेगा । आप बैठ जाइये, सुन लीजिए, उसके बाद में फैसला कर लीजिएगा ।

श्री सभापति : आप बोलिए, जो कुछ आपको बोलना है ।

श्री भोला पासवान शास्त्री : हम इसलिए कह रहे थे, जो शुरू में आपने कहा कि टाइम से अहेड चले गए हैं, इसलिए अहेड चले गये कि घड़ल्ले से गिरफ्तारी हो रही है । आपने उन लोगों को बुलाकर पूछा हमारे बयान के बाद । एक लोकसभा का एम० पी० ए० के० राय धनवाद का पकड़ा गया और बिना ग्राऊंड के पकड़ा गया उसका गलत अरेस्ट हुआ था जो हमको इन्फार्मेशन है । फिर उसको छोड़ना पड़ा । मेरे कहने का मतलब यह है कि जैसा आपने कहा कि मैं क्यों कह रहा हूँ तो मैं इसलिए कह रहा हूँ कि ऐसे कितने आदमी पकड़े जा रहे हैं और आज यह अध्यादेश संसद की टेबल पर रखा जा रहा है । इसलिए यह मौका हमारे कहने का है कि इस पर बहस होगी । जैसा आपने कहा कि आगे तो बहस होगी, जब बिल के रूप में आयागा तब बहस करेंगे लेकिन इस मौके को भी हम हाथ से जाने नहीं देंगे ।

(Interruptions)

SHRIMATI PURABI MUKHOPADHYAY: Mr. Chairman, you please hear him. You have not heard him at all.

MR. CHAIRMAN: Please sit down. Mrs. Mukherjee.

श्री भोला पासवान शास्त्री : हम आपके नोटिस में लायेंगे, इस सदन के जरिए समूचे देश के ध्यान में लायेंगे कि इस अध्यादेश का जो प्रोवीजन है, इसका किस तरह से मिसयूज हो रहा

है । इसलिए मैं चाहता हूँ कि आप गवर्नमेंट को इस के लिए रिप्रमान्ड करें : (Interruptions)

SHRI G. C. BHATTACHARYA (Uttar Pradesh): Everybody will demand reprimand of the Government

(Interruptions)

SHRI ARVIND GANESH KULKARNI (Maharashtra): I want to submit that in the name of Shri Sitaram Kesri there is one ordinance on Maruti. I am objecting to it and you have reprimanded the Government last time for this type of behaviour and said that Government should not issue Ordinances on the eve of the Parliament session. Maruti is the greatest scandal of this country. It is bigger than even Watergate Scandal. This Ordinance should not have been allowed to be placed. You have to reprimand and censure the Government for this.

SHRI PILOO MODY: You will see that in the short holiday that this House had, there have been ten Ordinances that have been promulgated. It comes to almost an ordinance a week. I think it is the symbolic of the fact that the Government cannot rule otherwise. You cannot rule by the powers that have been granted to you by the legislature and the Constitution and, therefore, you resort to methods that are provided in cases of extreme emergency. The Ordinance is not a laughing matter. It is resorted to when something is so imperative that it cannot wait till the legislature meets because the legislature cannot be called except by due procedure. In such situations this facility has been provided. From the quality and quantity of these Ordinances it is apparent that the Government did not want these to be discussed before they are passed. They have a majority in this House and there is no problem about passing whatever they want to pass. They do not want a

discussion prior to the law being passed. So, they resorted to this practice. I think it is in violation of the Constitution. You have promulgated this draconian Ordinance—the National Security Ordinance. Through the back door MISA is being introduced. It has already been used in this short period, it has already been misused and abused. This is the way the Government wants to function. I think this House cannot tolerate this sort of situation. Parliament cannot tolerate this sort of situation. I do not think the country should tolerate this sort of situation. I think we should not allow the Government to ride rough shod over democratic procedures which we have painfully tried to create over the last 30 years or more. I completely and thoroughly disapprove of this practice. I want to condemn this practice and I want you to censure the Government for promulgating this Ordinance. I want an assurance that in future they will come to the house to pass any law and not resort to this sort of thing.

One Ordinance is on the nationalisation of Maruti. I am against nationalisation of all types. And there is no reason, therefore, why I should not be against nationalisation of Maruti also. My friend, Mr. Kulkarni, said Maruti is a scandal of monumental proportion... (Interruptions) I am not discussing the merits.

MR. CHAIRMAN: I do not know what else you are doing.

SHRI BHUPESH GUPTA: We are mentioning this in the legislature. What else are we doing?

SHRI PILOO MODY: It was necessary to say this... (Interruptions) I am debating in the House. I do not want to debate with you. It was necessary to mention this to show the complete unnecessary of passing an Ordinance like this for nationalisation of a company, instead of doing it following due procedure. I mention this just as an example.

SHRI P. RAMAMURTI (Tamil Nadu): Sir...
(Interruptions)

श्री सत्यपाल सलिक (उत्तर प्रदेश):
सभापति महोदय, मेरा व्यवस्था का प्रश्न है ।

SHRI LAL K. ADVANI: Mr. Chairman, Sir...
(Interruptions)

श्री रामानन्द यादव (बिहार) :
एक-एक पार्टी से दो-दो आदमी आपने अलाऊ कर दिए हैं ।

MR. CHAIRMAN: Just a minute. You want to say something? I do not know. The point before the House is about the laying of these Ordinances.

SHRI LAL K. ADVANI. Yes, Sir. I come to that.

MR. CHAIRMAN: The Ordinances have been passed and the power does exist in the Constitution.

(Interruptions)

SHRI BHUPESH GUPTA: That we question. That power has been wrongly used and it is not the purpose of the Constitution.

MR. CHAIRMAN: How it is used is not my concern. It is the concern of this House... (Interruptions) and the country.

SHRI G. C. BHATTACHARYA: Your concern is not important. Our concern is important. (Interruptions). Sir, it is our concern and it is the concern of the people of the country. Your concern is not important.

SHRI LAL K. ADVANI: Mr. Chairman, Sir, please do not make any observations. (Interruptions) Please do not make these observations.

MR. CHAIRMAN: I will explain.

SHRI PILOO MODY: Why you have brought in this, we do not know.
(Interruptions)

MR. CHAIRMAN: Let me do my duty.

(Interruptions)

SHRI LAL K. ADVANI: I would like to refer to your duty. *(Interruptions)* Your duty, Sir, is this. You should make these observations after you have heard us.

MR. CHAIRMAN: Let us be clear. *(Interruptions)*. Just a minute. One at a time. *(Interruptions)* If the honourable Members will not hear me, I must say that I shall not hear them either. *(Interruptions)*. You see, the point is a very simple one. Have I the jurisdiction . . .

(Interruptions)

SHRI LAL K. ADVANI: After you have heard them only.

MR. CHAIRMAN: You answer this: Have I the jurisdiction to stop a Minister from laying on the Table of the House an Ordinance, may be 10 or 100 or 500 Ordinances, an Ordinance, a simple Ordinance, whatever its character or texture may be ?

SHRI PILOO MODY: That you will decide after you have heard all of us. *(Interruptions)* That you will decide after you have heard of us.

MR. CHAIRMAN: Yes. I will sit the whole day and I will hear you, because I have not been unused to decide cases nor have I been afraid to decide cases. The question is this. You show me a rule or authority which empowers me to stop laying of an Ordinance which has already been passed.

SHRI P. RAMAMURTHI: Yes.

SHRI LAL K. ADVANI: We will show you.

(Interruptions)

SHRI PILOO MODY: You are not stopping it; but we are stopping it.

SHRI LAL K. ADVANI: Please listen to me. Sir.

(Interruptions)

SHRI SHIV SHANKAR: Mr. Chairman, Sir.. . .

(Interruptions)

MR. CHAIRMAN: May I read out to you the supreme document?

SHRI LAL K. ADVANI: I am familiar with it, Sir.

(Interruptions)

SHRIMATI PURABI MUKHOPADHYAY: You have to hear all of us before you give your ruling.

(Interruptions)

MR. CHAIRMAN: You are out of time, Mrs. Mukhopadhyay.

SHRIMATI PURABI MUKHOPADHYAY: No. I am not. *(Interruptions)* You are creating a bad precedent then. You must hear us first before you give your ruling. You have to hear us first.

MR. CHAIRMAN: Now, there is an article 123.

SHRI LAL K. ADVANI: I am familiar with it.

SHRI PILOO MODY: This is a most amazing thing that the Chair should be quoting the rule instead of the House quoting the rule to the Chair.

(Interruptions)

MR. CHAIRMAN: Mr. Piloo Mody, there is a difference between a rule and the Constitution and I am quoting the Constitution.

SHRI PILOO MODY: I did not really think that that was the function of the Chair I regret it.

MR. CHAIRMAN: You may regret it. I regret many things, but I do not mention them.

SHRI BHUPESH GUPTA: You hear it in good humour. *(Interruptions)* You hear that in good humour as you always do.

MR. CHAIRMAN: I take everything in my stride . . . *(Interruptions)*. and I know Mr. Piloo Mody is the last person to mean offence.

SHRI BHUPESH GUPTA: Mr. Piloo Mody is a sizeable embodiment of humour.

MR. CHAIRMAN: I know it is the exuberance, and it is the exuberance of, you know, what it is.

SHRI LAL K. ADVANI: Sir, early this morning I addressed a letter to you. . . .

MR. CHAIRMAN: I have got it.

SHRI LAL K. ADVANI . . . in which I had specifically referred the first Speaker of the Lok Sabha, Mr. Mavalankar, and his observations on this issue of ordinance-making. I thought perhaps you might have an opportunity of going through that.

MR. CHAIRMAN: I got it.

SHRI LAL K. ADVANI: Therefore, I shall request you not to make any observations as to what exactly your duties are in this regard and as to what exactly your powers are in this matter, before you have gone through that. Therefore, I wanted you to listen to us first.

MR. CHAIRMAN: You give me the relevant . . .

SHRI LAL K. ADVANI: I will do it presently Sir, in this particular matter, when the first Speaker of the Lok Sabha, right at the outset, found that the Government at one stage was taking resort to ordinance-making as a matter of routine, it was then that he pointed out to the then Minister of Parliamentary Affairs and later on to Prime Minister Pt. Nehru, that after all the Constitution provides that it is the function of Parliament to make laws, it is not the function of the Executive to make laws, though the Constitution-makers incorporated the article that you are citing article 123. But this was with a view to enabling the Executive to meet an extraordinary situation, exceptional circumstances, when it is not possible for Parliament to meet and when there is when is considerable time between that particular point of time and the meeting of Parliament and if a law is not

enacted through this ordinance making power, Heavens would fall, an extraordinary situation against national interest, against public interest, arises, if that is not done. But later, what happened, suddenly the Government even in those early years of 1952, 1953 and 1954, started issuing ordinances as a matter of routine. Those who were in the Opposition felt it their duty as the watch-dogs of Parliamentary interest to protest. But that was not confined only to the Opposition. Mr. Mavalankar, regarding himself as the Custodian of Parliamentary interest and the custodian of Parliamentary privileges he also objected to this. On November 25, 1950, Speaker Mavalankar wrote to the Minister of Parliamentary Affairs—I quote:

“The procedure of promulgation of Ordinances is inherently undemocratic, (even though it is provided in Rule 123). Whether an Ordinance is justifiable or not, the issue of a large number of ordinances has psychologically a bad effect. The people carry the impression that the Government is carried on by Ordinances, the House carries a sense of being ignored and the Central Secretariat perhaps gets into the habit of slackness which necessitates Ordinances, and an impression is created that it is desired to commit the House to a particular legislation, as the House has no alternative but to put the seal on matters that have been legislated upon by the Ordinance. Such a state of affairs is not conducive to the development of best Parliamentary traditions.”

MR. CHAIRMAN: At what stage did Mr. Mavalankar make this statement?

SHRI LAL K. ADVANI: He wrote a letter to the Minister of Parliamentary Affairs. Let me complete.

MR. CHAIRMAN: At what stage?

SHRI LAL K. ADVANI: This is after 1950.

MR. CHAIRMAN: No, no . . .
(*Interruptions*)

SHRI LAL K. ADVANI: Let me complete. Then you will have an idea as to what . . .

(*Interruptions*)

SHRI PRANAB MUKHERJEE: What I suggested was that the leaders of the various Opposition groups may raise their voice against issuing Ordinances during the inter-session period. But if you want to have a full-fledged debate. . . (*Interruptions*). Forty minutes have already gone. The understanding was, I suggested to you, that this item will be taken up after brief observations. But if we want to have a full-fledged debate, it is not fair . . .

(*Interruptions*)

SHRI LAL K. ADVANI: You will observe that I have not gone into the merits of the Ordinance. That I will do when the time comes.

(*Interruptions*)

MR. CHAIRMAN: If you want to have my reaction, my reaction . . .
(*Interruptions*)

SHRI LAL K. ADVANI: Sir, it is not fair. You should first hear us. I have not uttered a single irrelevant word. I confined myself to the process of Ordinance-making I regard it as an encroachment into the powers of Parliament.

MR. CHAIRMAN: On the Ordinance-making itself, if you want to have my reaction . . .

(*Interruptions*)

SOME HON. MEMBERS: Later on.

SHRI LAL K. ADVANI: Let me complete.

SHRI PILOO MODY: You can send your reaction in writing to the Government

(*Interruptions*)

SHRI LAL K. ADVANI: And it is not merely in a letter that he wrote. Even in the House he said, when Members pointed out that this was bad:

"I myself do not like promulgation of Ordinances. It is only in extraordinary cases. No Ordinance should be issued. The ordinary rule should be: No Ordinance."

This is the ordinary rule prescribed by the Speaker of the Lok Sabha. And things do not end here. Furthermore, on July 17, 1954, when this practice continued, Speaker Mavalankar wrote to the Prime Minister, Mr. Nehru. Please listen to me, Sir, I seek your indulgence, Sir. He said, "The issue of Ordinance is undemocratic and cannot be justified except in cases of extreme urgency or emergency." These are the criteria he laid down: extreme urgency or emergency.

AN HON. MEMBER: He wrote to whom?

SHRI LAL K. ADVANI: To Pandit Nehru. He said, "We as the First Lok Sabha carry a responsibility of laying down traditions. It is not a question of present personnel in the Government but a question of precedents. And if this ordinance—issuing is not limited by convention only to extreme and very urgent cases, the result may be that in further the Government may go on issuing Ordinances, giving Lok Sabha an option but to rubber stamp the Prime Minister."

SHRI PILOO MODY: Therefore, you write to his daughter.

SHRI LAL K. ADVANI: The ruling party may be willing to become a rubber stamp of the Government. We, the Opposition, on this side is certainly not going to be a rubber stamp of the Government. Sir, my submission is that this is a matter in which not only this House is involved but even the Chairman of this House is involved.

MR. CHAIRMAN: You are quite right.

SHRI LAL K. ADVANI: And, therefore, we seek from you an admonition for them on these lines. And, Sir, it is not merely Mr. Mavalankar who

said it. I have gone through the subsequent proceedings in the Lok Sabha. Even Speaker Dhillon who belonged to the same Party, when Members objected to the ordinance—issuing said on the 15th November, 1971 and I quote: "I agree with you that so many Ordinances—the stress is on 'so many Ordinances'—should not have been issued. I personally think it is not a light matter to be ignored. Certain observations have been made by my predecessor. Shri Mavalankar based on sound judgment..."

SHRI PRANAB MUKHERJEE: Again I am asking you, Sir, to limit the time. (*Interruptions*) if Mr. Advani takes 15 minutes, I am sorry to tell that this is not the stage. I am raising a fundamental issue. They are objecting. Are they objecting to the laying of Ordinances on the Table of the House? Can they do it? Sir, I am raising this objection now. Under article 23. . . . (*Interruptions*).

MR. CHAIRMAN: I have got the opinion of Mr. Mavalankar. I have got the opinion of Mr. Dhillon also. And I can assure the House that I do not like Ordinances any more than they did. But the point today is. . . . (*Interruptions*). The point that we have to consider. . . .

SHRI LAL K. ADVANI: May I sum up, Sir?

MR. CHAIRMAN: . . . the laying of the Ordinances.

SHRI LAL K. ADVANI: Sir, this is not fair. You are not allowing me to complete.

MR. CHAIRMAN: You can criticise these Ordinances *ad lib* I cannot stop. My problem is, I cannot stop the laying of these Ordinances on the Table.

SHRI LAL K. ADVANI: May I sum up, Sir? There also, the observations made by the Speaker were before the Ordinances were laid on the Table. Really speaking, this is the occasion where the Chair should admonish them.

MR. CHAIRMAN: One question. Did they stop the laying?

SHRI LAL K. ADVANI: But, Mr. Shastri said that you should reprimand them. Mr. Piloo Mody said that you should reprimand them. I say. . . . (*Interruptions*). Sir, the Opposition wants two things. This is an encroachment into the powers of Parliament by the Executive and, therefore, we look upon you as the custodian of the Parliament's privileges to admonish them. That is number one. Secondly, we would like the Government, we would like the Leader of the House

(*Interruptions*)

MR. CHAIRMAN: Order, please. Admonition is a different matter. (*Interruptions*)

SHRI J. K. JAIN (Madhya Pradesh): He was wasted enough time of the House. Now, he will not be allowed to speak. We cannot keep quiet, Sir. (*Interruptions*) Sit down. You have wasted enough time. (*Interruptions*) We will not tolerate this. What are you doing, I say. Sit down. (*Interruptions*)

SHRI LAL K. ADVANI: Sir, I cannot understand this.

SHRI BHUPESH GUPTA: Sir, I am on a point of order.

SHRI JAHARLAL BANERJEE (West Bengal): Sir, I am on a point of order.

SHRI P. RAMAMURTI: Sir, I am on a point of order.

MR. CHAIRMAN: If you will only listen to me, Mr. Ramamurti? You see, so far as my reaction to these Ordinances *vis-a-vis* the Government and its policy of having them passed is concerned, I have already said that I do not like Ordinance and what I will do or will not do. (*Interruptions*). The only question is that if you want to discuss these Ordinances, the Leader of the House said that each leader of the

[Mr. Chairman]

party may, if they like, say, what they like. But there will be time enough for you to do that when in six weeks' time they would be placed before the House.

SHRI LAL K. ADVANI: That is another issue, Sir. We have only five weeks.

आप खड़े हैं हम पूरी तरह से कुछ कह नहीं सकते। मुझे इस बात का अफसोस है कि इस मामले में ऐसा माना जा रहा है कि हम जो कुछ बोल रहे हैं वह हटीन बोल रहे हैं जबकि यह हटीन बात नहीं है। वो स्पेसिफिक बातें हैं जो इसमें से अराइज होती हैं। पहली बात यह है कि आज आपने एक बात अच्छी कही है कि आप को भी आर्डिनेंस पसन्द नहीं है।

SHRI BIPINPAL DAS (Assam): Sir, I am on a point of order.

SHRI LAL K. ADVANI: Sir, on this misbehaviour of the Government, you should admonish them and reprimand them very severely. Secondly, Sir, this position here will not satisfy us unless the Government gives us an assurance that hereafter they will not resort to this Ordinance-making in this routine manner and take us for granted.

श्री नागेश्वर प्रसाद शाही (उत्तर प्रदेश) : चेयरमैन साहब, मुझे आपसे यह निवेदन करना है कि आपको चूकि बार का अनुभव और तुजुर्बा है और आप काम कवेश्चन करते रहते हैं, इसलिए अगर आप हम सब लोगों को सुनने के बाद अपनी हलिंग दें और अपनी बात को कहें तो ज्यादा अच्छा होगा। हमारी जो परम्परा है, ट्रेडिशन है, ऐसे मसलों पर हम लोगों को मौका मिलता है अपनी बात को कहने का।

श्री सभापति : उसी के लिए तो मैं कह रहा हूँ। 6-6 खड़े हो कर बोलने लगे तो मैं क्या कर सकता हूँ। शाही जी खड़े हैं, आडवाणी जी ने बड़े निहायत तरीके से बात कही है मगर पीछे तो 6-6 खड़े हैं जो कर रहे हैं।

SHRI PILOO MODY: We are perfectly willing to take you as a Member of this House.

श्री हुक्मदेव नारायण यादव : यह जोर करते हैं तो हम शोर करते हैं।

श्री सभापति : बीच में आप न बोलिए। आप को बीच में बोलने की आदत है। शाही जी खड़े हैं उनको सुनिए।

SHRI PILOO MODY: You ask for it.

श्री कलराज मिश्र (उत्तर प्रदेश) : आडवाणी जी जब बोल रहे थे तो हलिंग पार्टी के सम्मानित सदस्य बोल रहे थे (Interruptions) हम खड़े हुए हैं तो हमको आपने कहना शुरू कर दिया है। मैं बहुत नम्रता से कहना चाहता हूँ कि जो हम से आप कह रहे हैं उनसे भी उसी प्रकार की बात कहें। यह मेरा आपसे विनम्र निवेदन है।

श्री सभापति : इनका शोर बजा है . . . (Interruptions) . . . आपके लिए वजा नहीं हैं।

श्री हुक्मदेव नारायण यादव : पहले आप उनकी बात सुन लीजिए . . . (Interruptions) जब लीडर आप अपोजिशन खड़े हों तो आपको भी नहीं बोलना चाहिए . . . (Interruptions)

श्री सभापति : अकल की बात तो यह है जब आपकी तरफ से आइसी बोल रहे हों तो आप उनको बोलने दें ।

श्री जी सी भट्टाचार्य : आप उनको बोलने दीजिए ।

श्री सभापति : ऊपर से डिस्टर्बेन्स तो वाजिब हैं क्योंकि वे आपके विरोध में हैं, मगर जो आपके मार्फिक हैं उनको आप काहे को डिस्टर्ब करते हैं ?

श्री नागेश्वर प्रसाद शाही : चैंबर-मैन साहब, प्रश्न इस बात का नहीं है कि सरकार को पेपर्स टेबल पर रखने दिया जाये या नहीं । इस पर विवाद नहीं है और किसी ने इस अधिकार को चैलेंज भी नहीं किया है । विवाद इस बात का है कि जब इस तरह की प्रेक्टिस सरकार एडाप्ट करे तो उस वक्त चैंबर का क्या कर्तव्य है । आप हमारे देश के और इस हाउस के स्पीकर ही नहीं हैं . . .

(Interruptions)

श्री सभापति : मैं यह बात साफ अफाज में कह चुका हूँ कि I do not like Ordinances.

SHRI PILOO MODY: He also has the right to say that he does not like Ordinances. He is doing his duty as you are doing your duty. He also has got the right to say it. Please, therefore, allow him to say what he wants to say.

श्री नागेश्वर प्रसाद शाही : श्रीमन्, मैं कह रहा था कि इन आर्डिनेन्सेज के जारी होने के बाद जब संसद् बैठे तो हम लोगों का यह कर्तव्य होता है कि जब सभद के सदस्यों और उनके अधिकारों के ऊपर और संसद् की मर्यादाओं के खिलाफ जो काम सरकार करे उसकी ओर सरकार का, संसद् का और देश

का ध्यान आकर्षित करें । श्रीमन्, यह सवाल संसद् की मर्यादा का है और जो बातें अभी हमारे मित्र ने कही हैं मैं उन चीजों को रिपीट करना नहीं चाहता हूँ, लेकिन सवाल यह है कि क्या यह सरकार will govern by Ordinances or will govern by legislation.

हमारा संविधान यह कहता है कि the Government will govern by legislation.

मगर जब हम देखते हैं कि गवर्नमेंट ने आर्डिनेन्सेज से गवर्न करना शुरू कर दिया है तो उस समय यह मसला पैदा होता है और ऐसे ही अवसरों पर बार-बार अनेक स्पीकर्स ने कहा है . . .

(Interruptions)

श्री जे० के० जैन : यह आर्डिनेन्स गुण्डों और बदमाशों के लिए है । आप क्यों भड़कते हैं ।

श्री नागेश्वर प्रसाद शाही : मैं यह पूछना चाहता हूँ कि क्या मारति आर्डिनेन्स गुण्डों और बदमाशों के लिए जारी किया गया है ? . . . (Interruptions)

श्रीमन्, मैं यह कहना चाहता हूँ कि आप कांस्टिट्यूशन के कस्टोडियन हैं और संविधान के अनुसार आपका धर्म और कर्तव्य है कि जब कभी भी ऐसे मसले पैदा हों तो आप सरकार के एक्शन को रैप्रिजेंट करें और कन्डेम करें । मुझे खुशी है कि आपने इस बारे में कुछ कहा है ।

श्री सभापति : मैंने यह कहा है कि मैं आर्डिनेन्सेज को पसन्द नहीं करता हूँ और आर्डिनेन्सेज से हुकूमत नहीं चलती है । यह मैं कह चुका हूँ । मगर इस वक्त जो काम है वह यह है कि आर्डि-

[श्री सभापति]

नन्सेज को टेबल पर रखा जाये या न रखा जाये ।

SHRI PILOO MODY: That is not the issue at all.

श्री नागेश्वर प्रसाद शाही : इस पर हमें एतराज नहीं है कि अगर इस बात को सरकार बता दे कि भविष्य में यह सरकार देश को आर्डिनेन्स से गवर्न नहीं करेगी बकि लेजिस्लेशन से गवर्न करेगी ।

SHRI P. RAMAMURTI: Sir, the question which we have raised is not whether these Ordinances should be laid on the Table. They will be laid on the Table and there will be a discussion on them. This is not the question we are raising. When the Government of the country is by passing Parliament and imposing legislations by Ordinances and converting Parliament into a rubber stamp, where is the occasion for us to raise this question? Now, when the question comes up, we have to raise this and register our protest. I do not want to go into all the arguments which have been given by the previous speakers. You said you do not like Ordinances. It is not enough. The point is that, the time has come when the Chairman can tell the Government that they cannot by, pass Parliament of which you are the custodian and we have to tell the Government in firm words that they should stop this practice of governing by Ordinances. Within ten weeks, ten Ordinances have been issued. They could have summoned Parliament if they thought it necessary. Nothing prevented them from doing so. Taking over Maruti is a very important thing. Hence, you should tell them that they should come forward with an undertaking that they will not resort to this practice hereafterwards. You can tell

them. You can reprimand them. You can express your total displeasure over this. This is what we want and we want an assurance from the Government that hereafterwards, this practice of governing by Ordinances will be given up. This is what we want.

(Interruptions)

DR. RAFIQ ZAKARIA (Maharashtra): I would also like you to find out from Mr. Ramamurti, how many Ordinances the Kerala Government and the West Bengal Government have issued. This issuing of Ordinances is not confined to the Centre only.

(Interruptions)

SHRI PILOO MODY: Sir, I would request Mr. Zakaria to become a Member of the West Bengal and Kerala Assemblies simultaneously and leave us in peace over here. (Interruptions).

MR. CHAIRMAN: Mr. Mavalankar, you should have noticed, wrote a letter. Mr. Dhillon only said that he agreed with what Mr. Mavalankar had said. I have also said. I do not like Ordinances and Government by Ordinances. I have also said . . .

SHRI LAL K. ADVANI: Now, the second part remains. Let the Government assure us that they will not do it again.

MR. CHAIRMAN: It is not a question of ten Ordinances. Some Ordinances may be good. Some Ordinances may be bad. Some Ordinances may be justified. Some Ordinances may not be justified. But there are ten Ordinances. They have not been laid on the Table of the House here. (Interruptions)

SHRI BHUPESH GUPTA: May I have my say? Our case today is not that you have the power to prevent the Government from laying these Ordinances on the Table of the House. Nor do I get up ... (Interruptions).

MR. CHAIRMAN: Under what law?

SHRI BHUPESH GUPTA: I have not said you can stop. You can lay the thing.

MR. CHAIRMAN: I have misheard you. I am very sorry. The article says that it shall be laid on the Table.

SHRI BHUPESH GUPTA: This is not the point at issue. Let us not start arguing over a point which is not relevant at least in my case. My point is not that all. I rise here today on this occasion to lodge my strongest protest on moral grounds, on political grounds, on Constitutional grounds and on the ground of fidelity to Parliamentary institutions. On this basis, I will make a few submissions here. Hence, let me take the debate to that plane, as has been suggested. Sir, why are we so sensitive about Ordinances in this country, not today, but for many years? If the Ordinance is good, brings happiness to the people, is a good thing for the nation, have you heard anybody, any sensible person in the opposition or in the Government side, objecting to it? That is not habit. That is not our way of life. That is not our norm. We are opposed to Ordinances when they are intended to subvert parliamentary democracy, democratic rights and liberties or to give police extraordinary powers to attack the people at will and by pass the law; then we are opposed to it. (*Interruptions*). This is a kind of whispering. I admire you in this whispering capacity. (*Interruptions*). Sir, you have displayed many capacities, many wonderful capacities, but today after a few years, one important capacity has been revealed—your sweet whispering capacity.

MR. CHAIRMAN: No, no, it is a persuading capacity.

SHRI BHUPESH GUPTA: Sir, persuasion; when it goes in whisper, we do not know what kind of persuasion takes place. Some people feel seduction is taking place because we are told seduction takes place in whispering. (*Interruptions*)

MR. CHAIRMAN: It is very difficult to reach you even with a loud voice. I have found it difficult to reach you even with a loud voice when you have taken off your ear-aid. I asked him only this much: Is anybody wanting to speak from your side? And he said he might say a few words. There is no secret about it.

SHRI BHUPESH GUPTA: I am not casting any reflection on you. Only I am intrigued to find that you have ears as sensitive as lover's ears receiving whispers when you cannot hear loud things.

MR. CHAIRMAN: I cannot shout from here.

SHRI BHUPESH GUPTA: Therefore, Sir, may God bless your lovers ears. Let me proceed. (*Interruptions*). Why are we sensitive, please understand me. My friends are sitting there. They are there. Maybe, some day they will be here also and we may not be in this planet. (*Interruptions*). Is it that God has sent you only to sit in the Treasury Benches? (*Interruptions*). All right, remain there, for the present. Why are we so sensitive? It is our national tradition, tradition inherited from the freedom struggle, specially in matters like these repressive measures. I remember of 1930, when the Bengal Ordinance was issued to promulgate the law for detention without trial, and it was with the *fait accompli*; they came to the Assembly later and got it passed as the Bengal Criminal Law Amendment Act, under which they arrested so many people. I was also a victim of that Act in the 1930s.

And who protested against it? The protest came from Shri Jawaharlal Nehru, Mahatma Gandhi and other national leaders. So long as our freedom struggle was on, all the time we made it a moral point, rightly so, that Ordinances of such a type must not be allowed. Pandit Jawaharlal Nehru went on record in his inimitable language that those Governments have no right to rule, otherwise have no right to rule. These utterances were

made. Today what we find, instead of leaving behind that horrid past, dark and dismal past, the present Government is indulging in promulgating Ordinances—an ordinance like the National Security Ordinance. We in the Opposition, you will have noted, have been repeatedly accused by the Prime Minister indiscriminately and sweepingly. Even today I find we have been accused about our participation in the National Integration Council. On the one hand, she wants cooperation from us. All right, one can understand that. But why no discussion took place? If the national security was so endangered, have we come by the guptters and the drains that none here should be consulted consulted by the Prime Minister, Shrimati Indira Gandhi, to discuss the question of the security of the nation, in order to see whether an ordinance of this type is called for or not? No, it was not done. It was done beyond the back of the Parliament, notwithstanding Mavalankar's statement. The so-called National Security Ordinance was issued to revive Misa. Why did she not tell the nation in 1980 January elections that should she be elected, she would promulgate the National Security Ordinance to detain people without trial? Why was that not made a part of the Congress (I) election manifesto? It is a violation of the mandate of the people, also a breach of faith with the people. That is why we are sensitive—not because of technicalities or rules.

We know ordinances will be misused. Such laws are misused, this in the very nature of them. The P.D. Act was passed when Vallabhbhai Patel was there. He came in 1950. In the provisional Parliament he said: "Give me this law and I will put the Communists in jail". Very well, he was a blunt man. He took it and put many of us in jail. Here is a subterfuge. She says: "I want this to deal with criminals. Give me preventive detention for this purpose" and then puts political workers and others in prison. It has been my experience here, Sir, that every time when the preventive detention was sought to be renewed, an assurance was given from those benches

that the law would not be used against political parties, trade unions and others. And every time this was used against them.

Only when Shrimati Indira Gandhi lost her majority in the Lok Sabha—it became 222 in 1969 after the split in the Congress—we forced her not to renew the preventive detention. For one year and three months there was no P.D. Act. The moment she got elected in the mid-term poll, an ordinance was again promulgated in May, 1971, and the preventive detention law was made permanent and harsher. We have the repetition of the same now in the National Security Ordinance.

Well, Sir, you say you have expressed your disapproval. But who cares for you? They are people who do not care for Indian Parliament. Here we represent an overwhelming majority of the electorate. Maybe, we are divided; maybe, our divisions are very serious. But the fact remains that the people who sit on our side in this House and in that House represent 57 per cent of the electorate and the ruling party represents 43 per cent of the electorate in the Lok Sabha. Was it not necessary for the Government to take that factor into account as to what the various political parties in the Opposition feel at least about their proposal to promulgate an ordinance? Nothing was done. Shame on the Government. This Government can never rule without this kind of lawless law. This has been condemned on all hands by various politicians, jurists and statesmen and it is a shame and blot on our country.

I was abroad then. When I heard it, I was in Sofia. I heard that the National Security Ordinance had been issued. I read in the Western and other papers. There we saw that Mrs. Gandhi cannot rule without such laws. Well, does it give you a sense of pride or put you to shame? I should like to know. These are the reasons why we are opposing. As far as the other thing is concerned, I do not say. The only thing I should like to say is, did you see the Constituent Assembly debates? He has

given a lot of instances from the book. If you go through the proceedings of the debates in the Constituent Assembly, you will find that Ordinance-making power is not to be used in the manner in which it is being used. Dr. Ambedkar and others got up again and again to give an assurance of that kind. It is an extraordinary power. There was strong opinion against Ordinance-making power in the Constituent Assembly. Feelings were somewhat assuaged that way by saying that it would be only in an exceptional case, a rare case and a case of extreme national urgency. Where have these gone? Somebody has to say, Mr. Antulay has to declare, "Issue an Ordinance" and an Ordinance comes. Of course, we are not surprised. When the Chief Minister of Maharashtra demands scrapping of parliamentry democracy, preaches morality in our country and wants to make Shrimati Indira Gandhi all but a queen, is it to be wondered that they would like Ordinances to be issued in this manner? That is the style of tyrants, that is the style of despots, that is the style of those who usurp power, that is the style of those who subvert parliamentary democracy and run amok. This is why we are objecting.

Sir, I hope you will kindly get up and bring your jurisprudence, your knowledge of law, your integrity as a former Judge, your eminence as a public man and make your voice also to be heard. In your wisdom...

MR. CHAIRMAN: Mr. Bhupesh Gupta,...

SHRI BHUPESH GUPTA: Sir, I am very glad I have inspired you. I am very glad you are so responsive to me. Here, as far as this little Maruti business is concerned, I want to say that it is a monumental scandal. The scandal has been compounded by nationalisation. Maruti, as junk, has been bought with money by the plunder of the Treasury. They could not wait even. Tell me, what would have happened? Would have Maruti tried to fly away, run away, held in detention in some factory, if the Ordinance had not been

issued? But Maruti could not run all those years, it could never take to roads. But now Maruti is so and it had to be expedited—this take-over. Everybody knows where the funds will go—the compensation money. (*Interruptions*) To benamidars, certain persons, certain caucus elements and others it will go. I demand an inquiry. Why, Sir, the Gupta Commission Report was not discussed in this House? It is a matter of shame, and that also you will take note of. The Gupta Commission Report was laid on the Table of the House and it has given very startling, shocking revelations about the Maruti affairs, but we have not had a chance of discussing this Report. At the same time, Maruti is bought for four crores and thirty lakhs of rupees by an Ordinance.

श्री रामानन्द यादव : इनका यह चार्ज ठीक नहीं है ।

श्री अरविन्द गणेश कुलकर्णी : आप कृपा करके बटिए ।

MR. CHAIRMAN: Please finish now.

SHRI BHUPESH GUPTA: Therefore, this is not a question of constitutional and political points. We are speaking for morality in public life. (*Interruptions*) We are speaking for democratic rights and liberties. We are speaking for national traditions. We are speaking for common decency in public life. This is what we are doing.

May I, Sir, in the end, before I sit down, request you, joining with my friends, that you shall be well-advised, that your image and stature will rise higher in the big-domed hall if you come out with a forthright condemnation of the Government in a language, in your idiom—but powerful idiom—which will put this Government seeking tyrannical, despotic power, to shame? It will give us courage and encouragement and the country will know that at least in the Chair one man who presided over the Supreme Court upheld this case of justice. Here is another man who holds balance of justice and democracy. Condemn this action. (*Interruptions*)

MR. CHAIRMAN: Just a minute. (*Interruptions*) I am standing. Please sit down. (*Interruptions*) Please sit down. You do not have to exhort me to do the right thing. I have never been afraid of doing the right thing and ...

SHRI BHUPESH GUPTA: Show your courage.

MR. CHAIRMAN: ... I am just here to first hear the Leader of House before I say anything.

SHRI N. K. P. SALVE: (Maharashtra): Sir,...

MR. CHAIRMAN: Would you like to come here?

SHRI G. C. BHATTACHARYA: We want to speak. I will take just two minutes.

MR. CHAIRMAN: DO you want a debate on it?

SHRI G. C. BHATTACHARYA: Not a debate.

श्री भोला पासवान शास्त्री : हम थोड़ा सा इसके बारे में निवेदन करना चाहते हैं. . .

श्री सभापति : मैं आप में पूछना चाहता हूँ... (*Interruptions*) ... ठहर जाइए, कौन सी बात बची जो शास्त्री जी, आडवाणी जी, पीलू मोदी साहब, शाही जी, मिस्टर भूपेश गुप्त ने नहीं कही है। हाँ, यह बात जरूर है कि आप अपने अल्फाज में गवर्नमेंट को क्रिटि-साइज करेंगे। लेकिन जो बात कहने की—सही बातें थीं—सब हो चुकीं।

श्री भोला पासवान शास्त्री : काफी बहस हो चुकी है। जो आपने कहा हमको पसंद आया, कि इस आर्डिनेन्स को टेबल पर रखने से कोई कानून रोक नहीं सकता है... (*Interruptions*) ... गवर्नमेंट का जवाब तो होगा ही कि...

श्री रामानन्द यादव : आप हमारे लीडर प्रणब बाबू को बोलने देना नहीं चाहते हैं ? उनको क्यों नहीं सुनते हैं ?

श्री भोला पासवान शास्त्री : ठीक है।

SHRI PRANAB MUKHERJEE: I will complete within five minutes. Why don't you listen to me? (*Interruptions*) Sir, let him listen to me, just as I had listened to him. I had not disturbed him.

श्री रामानन्द यादव : य लोग मंत्री जी को सुनना नहीं चाहते हैं ?

SHRI G. C. BHATTACHARYA: Sir, two minutes only. (*Interruptions*)

PROF. SOURENDRA BHATTACHARJEE (West Bengal): We also protest ... (*Interruptions*)

SHRI G. C. BHATTACHARYA: I am not given time to speak, I tear these Ordinances.

SHRI PRANAB MUKHERJEE: Sir, Mr. Bhattacharya should have listen to me. While I was speaking, he should have waited and taken his chance. As I have said, the leading political parties are free to have their views. When they speak, we shall have to listen to them. Similarly they are expected to listen to our views. They may accept them or they may not accept them. That is a different matter. The limited question is whether the papers are to be laid on the Table of the House.

SOME HON. MEMBERS: No.

SHRI PRANAB MUKHERJEE: Mr. Advani, I am coming to the other aspect. (*Interruptions*) Mr. Kulkarni, would you please listen to me? I am saying that there are two aspects of the question. One aspect of the question is whether it is proper on the part of the Government to issue Ordinances before the Parliament session. Another

aspect is that you have raised a technicality and you are opposing to its laying on the Table of the House.

SOME HON. MEMBERS: No.

SHRI PRANAB MUKHERJEE: Otherwise, as per the Business...

SHRI PILOO MODY: Nobody has objected to it.

SHRI PRANAB MUKHERJEE: Then should I presume that you have no objection to its being laid on the Table of the House?

SHRI PILOO MODY: Yes, you can assume that. We never objected to its being laid on the Table. But we shall not be a witness to it. So we will walk out.

[At this stage, some hon. Members left the Chamber]

SHRI PRANAB MUKHERJEE: Sir, my point is, if they want to walk out, I do not want to waste my time... (Interruptions) It is not possible.

श्री नगेश्वर प्रसाद शाही : अध्यक्ष जी, इन की सरकार भविष्य में आर्डिनेन्स को इस प्रकार से इश्यू नहीं करने का आश्वासन नहीं दे रही है इस लिए हम लोग वाक आऊट कर रहे हैं।

[At this stage, the hon. Member left the Chamber]

SHRI PRANAB MUKHERJEE: If they want to walk out, let them do so. Otherwise, my point is that it is not possible for any Government to give any blanket assurance that there would be no ordinances.

SHRI LAL K. ADVANI: No one has said that there should be no ordinances.

SHRI PRANAB MUKHERJEE: Whether the ordinances are justified or not, every argument will be placed on the floor of the House when the ordinances will be translated into Bills,

and it is the prerogative and privilege of the House to move a counter-resolution disapproving the ordinances. (Interruptions) Mr. Advani has said that there should be no ordinances. May I ask him whether when he was in the Government as the Leader of the House, there was a single session of the House when he did not bring at least one ordinance? (Interruptions)

SHRI LAL K. ADVANI: Not 19.

SHRI PRANAB MUKHERJEE: Mr. Ramamurti says that there should not be any ordinances. They are in Kerala and West Bengal. Is there no necessity to issue ordinances between two sessions? Therefore, this is not proper. Whether they agree with the merit of the ordinances or not, it is for them to decide. When Government issues an ordinance, Government finds it absolutely necessary to issue that ordinance, and when Government replies to the debate it points out what the urgency of the ordinance was and what the reasons were which compelled the Government not to wait till the session of Parliament to start. Therefore, Sir, I do feel what we have done is absolutely Constitutional. The merit of every ordinance will be discussed, and it is not possible for me to give any kind of assurance. (Interruptions)

SHRI NAGESHWAR PRASAD SHAHI: Is the Government justifying? We are walking out.

[At this stage, some hon. Members left the Chamber]

SHRI LAL K. ADVANI: We are walking out.

[At this stage, some hon. Members left the Chamber]

श्री भोला पासवान शास्त्री : सभापति जी, हम को यह कहना है कि गवर्नमेंट की तरफ से कहा गया है कि यह आर्डिनेन्स हमारी तरफ से टेबिल पर नहीं रखने दिया जा रहा है। अभी

अभी तमाम मिनिस्टर्स ने तमाम पेपर्स को टेबिल पर रखा है। अगर उन का यह भाव है कि अपोजीशन यह ख्याल रखता है कि इन पेपर्स को टेबिल पर नहीं रखा जाना चाहिए, ऐसी कोई बात नहीं है। लेकिन यह एक खास आर्डिनेंस है जिस पर हम लोगों ने आब्जेक्शन किया है। यह नेशनल सेक्योरिटी आर्डिनेंस है। हम ने शुरू में ही कहा था कि उम में पावर्स का मिसयूज हो रहा है। उस का दुरुपयोग किया जा रहा है। उसी के बारे में हम लोग कह रहे हैं और उसी के लिए हमारा एतराज भी है और हमारा अपना ख्याल है कि उस के द्वारा ला बनने के पहले ही पावर्स का मिसयूज हो रहा है और वह मिविल राइट्स की गारंटी पर ही अटैक कर रहा है। यह एक तरह का डेकोनियन ला है इस लिए हम चाहते हैं कि यह आर्डिनेंस टेबिल पर न रखा जा सके। सरकार रख रही है और सरकार को पावर्स हैं और आप भी कहते हैं कि उस को कांस्टीट्यूशनल पावर है इस लिए इस के प्रोटेस्ट में हमारी पार्टी वाक आउट करती है।

[At this stage, some hon. Members left the Chamber].

Ordinances under Article 123 of the Constitution

श्री संताराम केशरव : श्रीमन्, संविधान के अनुच्छेद 123 के खंड (2) के उपखंड (क) के अधीन निम्न-लिखित अध्यादेशों की एक-एक प्रति (अंग्रेजी तथा हिन्दी में) सभा पटल पर रखता हूँ —

(i) बोनस संदाय (संशोधन) अध्यादेश, 1980 (1980 का सं० 10)

(ii) राष्ट्रीय सुरक्षा अध्यादेश, 1980 (1980 का सं० 11)

(iii) दंड प्रक्रिया संहिता (संशोधन) अध्यादेश, 1980 (1980 का सं० 12)

(iv) मारुति लिमिटेड (उपक्रम का अर्जन तथा अन्तरण) अध्यादेश, 1980 (1980 का सं० 13)

(v) एकाधिकार तथा अवरोधक व्यापारिक व्यवहार (संशोधन) अध्यादेश, 1980 (1980 का सं० 14)

(vi) चाय (संशोधन) अध्यादेश, 1980 (1980 का सं० 15)

(vii) हिन्द साइकिल्स लिमिटेड तथा सेन-रैले लिमिटेड (राष्ट्रीयकरण) अध्यादेश, 1980 (1980 का सं० 16)

(viii) वन संरक्षण अध्यादेश, 1980 (1980 का सं० 17)

(ix) बर्ड एण्ड कम्पनी लिमिटेड (उपक्रमों और अन्य सम्पत्तियों का अर्जन तथा अन्तरण) अध्यादेश, 1980 (1980 का सं० 18)

(x) औरोविले (आपात उपबन्ध) अध्यादेश, 1980 (1980 का सं० 19)

[Placed in Library. See No. LT1 1295/80 for (i) to (X)].

MR. CHAIRMAN: We now meet at quarter past two.

The House then adjourned for lunch at twenty-four minutes past one of the clock.

The House reassembled after lunch at seventeen minutes past two of the clock, Mr. Deputy Chairman in the Chair.

INTRODUCTION OF MINISTERS— contd.

THE PRIME MINISTER (SHRIMATI INDIRA GANDHI): Sir, I have the