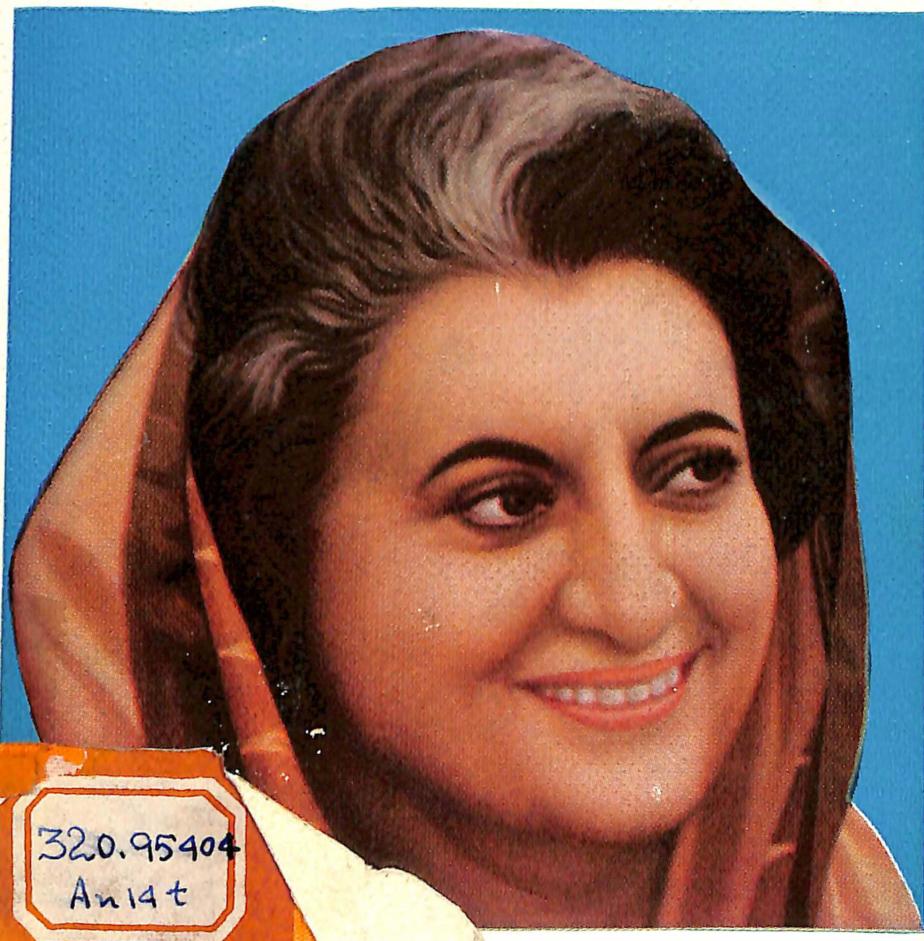


TRYST WITH DESTINY

M. ANANDAM
MEMBER OF PARLIAMENT



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M. ANANDAM

Member of Parliament



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PREFACE

I have read with interest “Tryst with Destiny” and in this book, Shri Anandam has made a forceful exposure of the events and activities that inevitably led to the present National Emergency. Most of the facts are known; they are part of recent history which, even as it unfolded itself, left its impact on the nation. But Shri Anandam has placed the facts in perspective and presented a succinct account which the reader would find instructive.

The Emergency is a *fait accompli* today. It came as a “painful necessity”. It is now for the nation to analyse the “pain” with a view to obviate its genus, so that this Emergency results in the ending of all Emergencies. In doing so lies the wisdom of the nation. I do hope that Shri Anandam’s book will contribute to the wisdom of the nation. I would like to compliment him on this timely effort.

P V. Narasimha Rao
General Secretary
All India Congress Committee

1. THE GENESIS

For those who have been following the political events in the country in the last two years, the painful decision taken by the Prime Minister, Mrs. Gandhi, to impose emergency will not have come as a surprise. For months on end, in several parts of the country, there has been large-scale violence leading to a big threat to law and order. There was an organised attempt to subvert democracy and democratic institutions by some of the opposition parties and this was being done in the name of democracy itself.

It all started in Gujarat. Here was a duly elected legislative assembly and a lawfully formed government. For some odd reason, the demand for the dismissal of the ministry and the chief minister was made. When there was no response on the part of the government, violence was resorted to supported by some leading opposition parties. The result—the resignation of the Ministry and imposition of President's rule. The matter did not end with this. The initial success gained by the opposition parties spurred them to further action.

The demand was now for the dissolution of the Assembly itself. For a long time, the Centre did not yield. Mrs. Gandhi saw no sense in the plea. Why should a regularly constituted Assembly, the members of which were elected according to the provisions of the law, be made to lose their right to represent the people in the Assembly which is precisely what would happen if the demand for dissolution was accepted. Mrs. Gandhi pleaded with the Opposition to see sense and refrain from doing anything which would set at nought the democratic processes enshrined in the Constitution and so assiduously built over the years since the country gained freedom from foreign yoke.

All this was of no avail. Some of the top leaders of the country joined the movement for dissolution and, ultimately, the Prime Minister accepted it as the lesser of two evils. For, the choice was between chaos and constitutional government. The government realised that no government however lawfully constituted would function if there was breakdown of law and order. The result was that Mrs. Gandhi opted for President's rule to save the State from the ravages of the opposition parties. When once this was done, the opposition parties felt greatly elated, little realising that they had only helped in the process of destruction, at least temporarily, of the proper functioning of the institutions of democracy. In the process, the people of the State—students not excluding—suffered untold

misery which was sought to be mitigated during the President's rule.

Did the opposition parties act in a democratic manner in securing the dismissal of the ministry and dissolution of the Assembly ? The answer is clear, and, who brought pressure on whom is also obvious. Mrs. Gandhi was dubbed as being unresponsive to the people's wishes, but it should have to be understood that in the Gujarat episode, the demand came from only interested sections and the masses were not involved in the process except that they suffered. What thus happened in Gujarat was only one instance of the high-handed and politically motivated behaviour of the opposition parties and the coercion used by them to gain their ends quite contrary to all democratic norms.

But a little after this happened in Gujarat, a movement was started in Bihar with similar objectives. The Sarvodaya leader, Mr. Jaya Prakash Narayan, led in a big way the agitation for the dissolution of the State Assembly. Though the agitation was started by some disgruntled political parties who did not see eye to eye with the Congress Chief Minister, Mr. Abdul Ghaffoor, it attained a great deal of respectability as it were since Mr. Narayan joined it. But soon it was apparent that Mr. J.P. Narayan fell a victim to the undemocratic forces operating in a clandestine manner in the State. J. P. was unable to wriggle out of it and, far from it, got himself so much en-

tangled that it became difficult for him to keep aloof. It would have been clear even to a casual observer of the political scene that the whole movement was intended to break the Congress rule. There was no genuine desire to have a government free from corruption. Mr. Ghaffoor was indeed striving hard to give the State a stable administration. He was absolutely uncorrupt but within his own party, he did not get the required support. The Congress dissidents were not wise enough to see the political game indulged by the opposition parties and it was only the farsightedness of the Prime Minister that prevented an ugly situation from developing in Bihar.

Mrs. Gandhi stoutly denied the plea for sacking Abdul Ghaffoor. Nor was she willing to get the Assembly dissolved just to please the opposition parties who had tasted blood in Gujarat. Strangely, the political parties that joined in the common agitation for removal of the chief minister and dissolution of the Assembly had absolutely nothing in common. The CPM and the Jan Sangh, the Organisation Congress and the Socialists who are poles apart came together to stop the functioning of democracy and yet they were crying hoarse that democracy was in danger.

It required a resolute will and a sagacious mind to withstand the onslaughts of the opposition led by J.P. and it is these qualities that Mrs. Gandhi exhibited in abundance. Though ultimately Mr.

Ghaffoor was asked to step down, this was done at his own behest. Mr. Ghaffoor was not the kind of man who would stick to office at any cost and when he found that in the interests of the party and the State, he should give way to a more acceptable leader, he offered to resign. But the Prime Minister was waiting for an appropriate time to effect the change. Meanwhile, the opposition parties came to realise that Mrs. Gandhi could not be hoodwinked and their agitation was slowly but steadily petering out. But in a bid to keep up the tempo, they were resorting to all kinds of tactics—mostly foul—to embarrass the government both at the Centre and in the States. They announced a plan to bring about what they called a total revolution led by J.P. which, in fact, meant substitution of radicalism with reactionary policies.

It was at this stage one of the most ghastly incidents took place in Bihar and which rocked the entire sub-continent. That was the dastardly murder of Mr. L.N. Mishra, Union Railway Minister, who had gone to Samastipur to inaugurate a new railway line. Here was a dynamic person who rose to the top almost from scratch. His life was one of dedicated service to the cause of the nation. He ruthlessly suppressed the railway strike which was actually designed to bring the whole Indian economy to a standstill. Here again, all the opposition parties which had nothing in common except to wreck the government joined hands but, Mr.

Mishra was a man of steel. He refused to budge and in the process created several enemies. A conspiracy was hatched to do away with him and at Samastipur, the plot succeeded. The nation lost a great man but not a tear was shed by the opposition parties, the leaders of which were only eager to come out with statements that they had nothing to do with the murder.

But, while it is not possible to blame any particular party, it is clear that it was the atmosphere of violence that they deliberately let loose all over the state that gave encouragement to extremist elements to pursue their terrorist activities and their policy of loot and murder. A little later, an attempt was made on the life of the Chief Justice of India and here again, it should have to be attributed to the failure of the opposition parties to respect law and order. No State can function when there is large-scale violence and incitement to murder, either direct or indirect. And when months later, Mrs. Gandhi decided to request the President to impose emergency, it was only logical and proper.

Let us forget for a moment Gujarat and Bihar to which we will revert later. The role of the opposition parties in making the functioning of parliament not only difficult but even impossible at times is amply proved by several instances and yet it is these leaders that have been talking loudly about preserving democratic traditions in the country. Taking one small instance: A huge gathering was waiting in

the Constitution club, the occasion being the death anniversary of Mr. D. Sanjiviah, who rose to eminent positions in public life inspite of the fact that he belonged to the Harijan community. It is, of course, a different story as to how the Prime Minister took important steps to upgrade the down-trodden community and the great encouragement she gave to Mr. Sanjiviah who proved his mettle in whatever position he was placed. The function was to be presided over by Mr. G. S. Dhillon, Speaker of the Lok Sabha. The Vice-President, Mr. B. D. Jatti, had already come and occupied his seat on the dias. The audience was somewhat disturbed by the fact that the Speaker had not arrived on time. Half hour passed thus, and then suddenly Mr. Dhillon was found rushing in.

What happened shows the part played by the Opposition parties in Parliament which prevented the Speaker from leaving the House to attend the meeting on time. Several opposition leaders left their seats in the Lok Sabha and offered "dharna" in front of the Speaker's chair demanding that the MISA amendment bill introduced by the Home Minister should be withdrawn. The government was not prepared to yield to this kind of unparliamentary practice. Nor was the Speaker willing to give any direction to the Treasury benches under such threat. The result was a stalemate. The proceedings came to a grinding halt much to the consternation of the ruling party members and the visitors who were

adorning the galleries on top. The opposition may have had their objections to certain clauses of the bill, but the proper way of getting redress was not by offering satyagraha inside the House. No parliament can function in this manner. Democracy cannot flourish if the opposition parties take resort to foul means to achieve objectives. While there should be no majority tyranny, the minority must also be willing to abide by the verdict of the majority. Democracy is not a one-way traffic. There is to be a give and take by both groups. There should be great political understanding and in a Parliament, decisions will have to be taken by debate and discussion. If the minority feels they are right, they cannot achieve their end by coercing the majority to do something which they are unwilling to do.

And, it is this that the opposition parties, who among all of them put together do not command more than even a fourth of the House, tried to do. Ultimately, the government had to yield not because what they did was wrong or what the opposition parties wanted was right. To save democracy and to preserve the functioning of parliamentary institutions, the opposition demand was finally accepted. The Prime Minister, if only she wanted to go ahead with the measure, could have had it passed because of the huge majority the congress party has in the House but this was not done. Which only shows the great consideration the ruling party and its leader has for the opposition inspite of the fact that

the latter has only a few members in the House. The Speaker, however, had to apologise to the audience for coming late to the function but the lesson that has to be learnt is that the Prime Minister has come out as the greatest democrat. And, yet, the opposition parties have been crying from house tops that the ruling party is getting dictatorial. It is the small minority that is trying to oppress the large majority and if this is allowed to continue, the country will only have democracy in the reverse.

Instances of this kind can be multiplied if only to prove how the Prime Minister has been showing a great deal of consideration for the opposition without which, of course, no democracy can function in any real sense of the term. But that very democracy will fail when the opposition tries to follow a policy of oppression to achieve their ends. Taking another instance—the Railway strike some sixteen months ago—it will become obvious how the opposition parties tried to employ extra-legal methods to subvert democracy. A strike was organised on the railways at a time when the country was passing through an economic crisis. By striking at the network of communications, the opposition parties thought they would bring the government to its knees. The strike began but the government tried its very best to save the nation from an impending disaster. The strike continued for several days and some of the demands made by the opposition parties

in the name of the railwaymen were indeed fantastic as pointed out by the Prime Minister in her talks with their leaders. It would cost the national exchequer enormous amount which the people cannot bear. But the Opposition leaders were in no mood to listen. They thought that they could paralyze the government by striking at the life line i.e. communications, but the government and the Prime Minister refused to budge. In the end, Opposition found that their undemocratic and unpatriotic methods would not serve the purpose.

All this raises certain basic issues about democracy. What exactly is democracy about which so much is said and written for hundreds of years now? The Greeks critically explored the concept of democracy and left to subsequent ages a theory and a doctrine that has never grown old. In India, in the ancient days, democracy was functioning in the form of village councils and several accounts are still existing of how democracy was practised. But the main point to be observed is that democracy is not just a form of government but a way of life. Democracy has a social aspect too and when the community or even a part of it behaves in an autocratic manner, democracy does not obviously exist. In other words, it is the content that matters and not mere form. Thus, a country could for all purposes have a democratic set-up and yet function in a most undemocratic manner. A seemingly undemocratic set-up may yet be most democratic when

the nation and every inch of it realises and respects the equal rights of others.

India opted for a democratic form of government soon after it attained independence. The British who held sway in the country for over two centuries and who dominated the political scene by subjugating the people to serve their interests also introduced certain democratic institutions in the country. The Acts of 1919 and 1935 activated assemblies and elections too were held to the legislative bodies. Provinces were given autonomy by stages and yet it would be a fallacy to say that democracy functioned in India. In form it may have been there, but as long as there has been oppression of the people at large, it will have been futile to insist that Britain gave democracy to this country. Thus, it would only be right and appropriate to draw a distinction between the form and substance of democracy.

This distinction becomes relevant when one analyses the role of the opposition parties in the country during recent years. The total membership in legislatures of all opposition parties put together would have been much less than that of a single party—the congress, and yet the opposition parties had been carrying on a campaign of vilification against the ruling party. This has vitiated the functioning of democracy in the country. The ugly scenes created in Parliament and assemblies by a handful of opposition members will reveal the true state of affairs. It would be wrong to call their

tactics democratic. That is why the Prime Minister rightly said that democracy has been derailed and it is now being sought to be put in order.

It is not as though this was all that the opposition parties have been doing in recent years. Having failed to retain power which they acquired after the 1967 elections, they have been trying to do everything in their means to unseat the Congress party and the main method adopted has been to defame the Prime Minister who, as the leader of the Congress party, has been able to restore the party to its original glory. People talked of the Indira wave in all the States, but, actually, what happened was that the people realised that it was the Congress party alone under the leadership of Mrs. Gandhi that would be able to deliver the goods. It was also recognised by the people that stability in administration which was so vital for the successful implementation of socialist policies could be brought about only when the Congress party was voted to power. The results of the mid-term poll to Parliament in 1971 clearly showed that the people had no faith in the opposition parties. The Congress was returned to power not with a mere majority, but with a constitutional majority which would enable the party even to amend the Constitution without support from other parties.

This was a great achievement of which any political party could legitimately be proud and this naturally irritated the opposition parties. Actually,

they formed into a grand alliance to ensure that the Congress party did not come back to power. But this alliance was an unholy one as became evident when the results were declared. The results left them in a bewildered state. They realised they were rejected by the people at large. But that did not silence them. Soon accusations were hurled at the Prime Minister that elections were rigged and the ruling party indulged in malpractices. They took the matter to court but they were not able to prove their allegations which were not only false but even malicious. And, when once this happened, the grand alliance broke up with each constituent blaming the other for the failure in the elections.

But the obvious fact which cannot be forgotten is that these parties were desperate units prepared to do anything to secure their only objective—the dislodging of the Congress party. Their approach was just negative. They had no positive programme which they would implement if they came to power. They, perhaps, were depending too much on the illiteracy that was prevailing in the country. But they forgot the fact that the average Indian, uneducated as he is, is a man of robust common sense capable of distinguishing right from wrong, good from bad, the deserving from the undeserving and, finally, the Congress party from other political hotchpotches. In the end, the Congress party which has promised democratic socialism years ago and has been trying to implement its programmes in an honest and faith-

ful manner was returned in the elections.

The tyranny of the minority has given place to the rule by the majority and this is what democracy means and implies. The nationalisation of banks, the abolition of privy purses and abrogation of special rights enjoyed by the former Indian civil servicemen are just a few instances in point to show that the country is proceeding well on the path of democratic socialism. But as the Prime Minister herself has been saying on and often, there is no short cut to banishment of poverty. This could be achieved only by hard work on the part of the whole nation. Mere governmental measures would be of no avail to achieve the goals. The Opposition parties, however, tried to ridicule the efforts of the Prime Minister and began propagating that instead of driving out poverty, she was driving out the poor. This was excellent as a slogan but its implications were not understood by the opposition parties. They were actually inciting the people to rebellion since other efforts by them to embarrass the Prime Minister failed. It was at this point of time that the Prime Minister, in the larger interests of the nation, decided that imposition of emergency was the only way to curb the anti-national activities of the opposition parties.

During the last four years or so, there have been innumerable occasions when the Prime Minister entered into dialogue with the opposition party leaders to secure their co-operation in ushering in a

new era of prosperity to the country. With the massive majority the Congress party commanded in Parliament, it was not really necessary for the Prime Minister to consult the opposition at all. Whether it was on the disastrous railway strike or steps to end defections or revival of the national integration council, she chose to hold discussions with prominent leaders of the opposition which only showed her keen desire to carry the whole nation with her on all important issues. If the opposition parties did not realise that tyranny by the minority did not help the functioning of democracy, Mrs. Gandhi was aware that majority oppression would not help either. It was unfortunate the opposition parties never realised the significance of the gestures made by Mrs. Gandhi on all crucial occasions, but pursued a path of obstructionism at every conceivable stage.

A favourite theme of the Opposition parties has been that the present system of elections in the country must change. This theory was put forward by them when they found to their horror that they were beaten hollow in successive elections at the Centre and in the States. Occasionally, the ruling Congress party has been defeated in by-elections but that did not mean anything. Having thus failed to strike a blow at the Congress party, a new theory was put forward by them that in the scheme of elections as existed today in the country, a party with a minority of vote could assume power. This looks a reasonable proposition on the surface but

when once the subject is studied a little deeper, it will become apparent that this slogan has been raised with a political motive. What is the position in a country like Britain or America—the world's most important and powerful democracies. Elections to legislative bodies are held in much the same manner and under a similar system as is prevalent in India. And, yet, none there has ever complained that it produced distortions. If that is so in countries where nearly every voter is educated, how could it be different in India ?

Election through the simply majority system is the most practical and yet desirable form of choosing representatives. The answer to the difficulties raised consists in the opposition parties themselves taking the initiative to prevent the growth of mushroom parties and function as a responsible group. On the other hand, at every election, it has been the practice of the opposition parties to form into alliances which make no impression on the people and when they fail to succeed in the elections, they blame the system. If the system is good for the Congress party, why could it not be so for the opposition parties. The answer is simple. The defect is not with the system but with the way opposition parties function. When people discard them, they have to do some inward searching and try to come up to their expectations.

Even so, the Prime Minister held a series of talks with the opposition parties to introduce changes in

the election system. But these talks never produced results since the opposition has not been able to present any workable alternative. Any system of PR will be a failure in India because of the large size of the electorate running to some 300 million, the illiteracy of the voters, multiplicity of political parties. the large number of independents that contest elections and finally the complicated procedure that it involves. And what will happen if PR system is introduced? It will result in instable governments since no party would be able to secure a majority in legislative bodies. In fact, this is the crux of the problem and it is this that gives a clue as to why the opposition parties have been asking for such a system. They want to break the Congress party and see that there are no stable governments anywhere in the country. Their motives are sinister and it has not been difficult for the Prime Minister to see through the game. And, that was the reason why she proclaimed that only marginal changes could be made and the basic character of the system of elections could not be altered in the country. For what is necessary is a stable government capable of being in 'office without the fear of being defeated so that the proclaimed socialist programmes could be ushered in.

The Opposition parties have thus failed to achieve their goal. They have become terribly frustrated. They have discovered that as long as Mrs. Gandhi is at the helm of affairs, nothing can be done to dis-

lodge the Congress party. And this brings one to the question as to whether anything is really wrong with the Congress party. The answer is that the Congress party is on solid foundations since it speaks for the people and works for them. The Congress party has always been at the forefront of any worthwhile struggle. But for the Congress party, the country would not have achieved freedom. If it were not for the Congress party which had at its helm such great personalities as Mr. Nehru, Govind Vallabh Pant and Sardar Patel, to mention only a few names, the country would still have been under foreign yoke. Mahatma Gandhi had been the guiding star of the party for years and he had given it a shape and a form which could not be mutilated even by the best efforts of the opposition parties. Mrs. Gandhi is now its undisputed leader, not because she chose to be so, but because the people placed her in that position. She has lived up to their expectations which is what gives her strength. She derives her power from the people and, naturally, the opposition parties have found that unless she is dethroned, the Congress cannot be unseated.

This epitomises in a nutshell the logic behind the activities of the opposition parties. It is unfortunate that leaders like Morarji Desai and J. P. Narayan fell a prey to the false propaganda carried on by the opposition parties. But for them, the game of the opposition parties would have stood exposed in the public eye long ago and there would have been

no need for the drastic measures now set in motion to protect the internal security of the country.

Mr. Desai's announcement that he would go on an indefinite fast to force the government to hold elections in Gujarat immediately came as a rude shock to the whole nation. For Gujarat was passing through one of the most severe droughts the state ever witnessed. The entire governmental apparatus was engaged in the task of relief operations and the masses were going through an ordeal unheard of in the history of the state. And what purpose would it serve to hold elections in the State when conditions were not propitious? The question was raised by the opposition parties both with the Prime Minister and the Union Home Minister and they gave the positive assurance that as soon as the State came back to normal, which it would after the monsoon, they would hold elections to the State Assembly. But this did not satisfy the opposition parties. It was these very parties that last year vigorously campaigned for the dissolution of the Assembly contrary to all democratic traditions. It now suited them to ask for elections because the Centre which was governing the State was facing an uphill task fighting the famine. The Opposition parties felt that if elections were held then, the Congress party which is the ruling party at the centre would not fare well in the poll and they could seize power. Thus their demand was politically motivated and it was not made with a genuine desire to restore the

Assembly.

The Centre was in a fix. The Prime Minister could easily see the real reason and stoutly resisted all demands for holding elections. The people, in fact, would not be able to exercise their franchise and any election held under those circumstances would only be undemocratic. In fact, if only the government had taken the initiative to hold elections under those conditions, the Opposition would have been the first to castigate the Prime Minister. And when the opposition parties realised that the Prime Minister was not prepared to oblige them, they persuaded Mr. Desai to go on fast. The Union Cabinet which considered the issue in the light of Mr. Desai's fast felt that they should not yield to coercive tactics. They fully supported the Prime Minister's stand.

When, however, the condition of Mr. Desai became precarious, the Prime Minister finally decided to accept his demand. All the opposition parties felt greatly elated at their success but they failed to see the fact that it was more to save the life of Mr. Desai that the Prime Minister yielded and not merely to please the opposition. It was indeed a hard decision for the Prime Minister to make. But true to democratic traditions and ideals, the Prime Minister agreed to the opposition demand and plunged wholeheartedly to make the election a success.

Mrs. Gandhi and her party had to face a formid-

able opposition as in the name of the Janata Front, all the leading opposition parties set up candidates against the Congress party. The campaign by both sides was vigorous. The results clearly showed that the Congress was still the most popular one inspite of the campaign of hatred let loose against it and its leader, Mrs. Gandhi. The Prime Minister's meetings were disturbed by unruly elements but undaunted she carried on her campaign almost single-handed. The result was the Congress party came out as the largest single party. It could have easily formed a government in the State but once again in the name of democracy, the Congress leader agreed to sit in the opposition. The Janata Front is a conglomeration of highly divergent groups and it is yet to be seen how long they would be able to carry on the administration. But the Prime Minister has decided not to do anything which would disturb the state ministry. This is real democracy but the Opposition is still not tired of maligning the Congress party and Mrs. Gandhi.

All this fades into insignificance when one notes what the opposition has decided to do soon after the Allahabad judgment on the Prime Minister's election was delivered. The judge had pronounced his verdict in the case but gave a stay for three weeks. She was to appeal to the Supreme Court. But, meanwhile, all the opposition leaders ganged up to demand the resignation of the Prime Minister. The fact to be noted here is that

the judgment of the High court is not final. The Prime Minister has every right to appeal against the judgment of the High court and it is only when the Supreme court pronounces its verdict that a seal of finality is set. This is a right which every citizen in the country has and there is no reason why it should be denied to Mrs. Gandhi just because she happens to be the Prime Minister.

The whole country opposed the demand of the opposition leaders. Different sections of the people rose as one man insisting that Mrs. Gandhi should continue in office. Inspite of this, the opposition leaders went about making declarations that the Prime Minister had no right to stay in office. A great deal of false propaganda was set in motion that Mrs. Gandhi wanted to continue in office even after the verdict of the court. But the truth was suppressed and that was that the judgment of the High court was not final. When it came to be known that Mrs. Gandhi was not willing to resign since she was not obliged to do so, the opposition leaders met the President of India and advised him to remove the Prime Minister from office. Mr. Fakhruddin Ali Ahmed counselled patience but this fell on deaf ears. The next step was for the opposition parties to organise a mass movement to force the Prime Minister to quit. But any such movement cannot be otherwise than violent. And, the basic question still remained unanswered and that was as to why Mrs. Gandhi should resign.

It was soon realised by the Prime Minister that if this movement was allowed to take birth, it would create complete chaos and confusion in the country. It was not merely a question of her survival as Prime Minister. As Mrs. Gandhi herself said, it mattered little whether she continued as Prime Minister or not. The institution of Prime Ministership, which is enshrined in the Constitution, is involved and it is the right of every Indian to preserve it. If the opposition was allowed to have their way, this would be destroyed and that too not before the country is plunged into complete disorder affecting lives of millions of people. The Prime Minister had, therefore, the onerous task of doing something that would prevent any such grave occurrence. She moved swiftly and took resort to the only means available to save the country from disaster. Some of the opposition leaders who mattered and whose presence would only incite the masses to rebellion were detained. Of course, the number of such political arrests was not high and this step was followed by the declaration of the emergency.

It is not clear as to how long the emergency would last, but the Prime Minister has made it known that it would not continue even a day longer than it is necessary. She has also clarified that this does not mean that democracy has been brought to a halt. On the other hand, the summoning of Parliament to approve the Emergency as

required by the Constitution clearly demonstrates that the entire operation has been conducted within the four walls of the constitution. The why of Emergency has been appropriately described by Mr. Deokanth Barooah, Congress President. And it is worth quoting his statement in full. Mr. Barooah said:

“Once again the Prime Minister Shrimati Indira Gandhi has shown her unflinching determination to save this country from external as well as internal dangers. The promulgation of internal emergency and the actions taken in pursuance thereof show that the nation’s interests are safe under her wise, courageous and determined leadership. I appeal to all patriotic, democratic and progressive forces and organisations in our country, specially, the farmers, workers, middle classes, intellectuals and youth to stand solidly as a rock behind the steps taken by Shrimati Indira Gandhi. I specially urge the youth to rise to the occasion, reject all attempts to divert their energies in destructive and anti-national channels. The nation expects them to prepare themselves for building a strong India and a new society for our people. These steps have been taken after the people’s patience was exhausted because of the reckless and irresponsible behaviour of individuals and parties who were doing their worst to undermine the stability and unity of the country and its democratic constitution. The call given by reactionary parties and their self-appointed messiahs to

paralyse the life of the nation and more specially attempts to incite the army and the police were acts of grave provocation against national interest. Of course, as the Prime Minister has said our army and police, with their glorious, patriotic tradition and deep sense of discipline, have and will ignore such gimmicks. But no Government or people can ignore such provocations.

“The Prime Minister in her broadcast to the nation has said that she would soon announce steps for ameliorating the living conditions of poor and fixed income groups. It is the duty of every patriotic individual to ensure the speedy and effective implementation of the steps she is going to announce.

“A special responsibility is cast upon all Congressmen in this hour of national emergency. True to the highest and noblest traditions of our Party which led the country to independence and gave to our people a democratic policy every Congressman and woman today is a soldier in the defence of stability and unity of India and our values of democracy, secularism and socialism. Like disciplined and dedicated fighters, they must ensure that miscreants are not allowed to disrupt the peaceful life of citizens, that the wheels of production in farms and factories are kept running uninterruptedly with greater vigour and that all steps taken so far and to be announced in future in the interest of our vast masses are implemented with speed and without vascillation. Our educational institutions

should continue to function without any dislocation. Intellectual development of our younger generation and scientific and technological development of our country will come to a grinding halt if seats of learning were allowed to be over-run by disruptive elements. This should not be allowed under any circumstances by the students and the teaching community.

“I have no doubt that the entire country and all the patriotic sections of our people will demonstrate what is now established as a fact that India stands solidly with Indira.”

How has the nation responded to the Emergency? It would be no exaggeration to say that the people have welcomed it if only for the brisk manner in which governmental machinery is moving and the quickness with which decisions of far reaching consequence are being taken. The decline in prices of essential commodities and the general availability of goods which usually were going underground have also led the people to come to the conclusion that the Emergency is being put to the right use. It is true that under the Emergency, certain fundamental rights are put in abeyance, but the survival of the nation is involved in the present context and, as such, any restrictions placed on the citizen should be understood in the wider perspective. The Prime Minister has hinted that it would not be possible to say when these restrictions would be removed but has made it clear that what is

needed in the country is a responsible and responsive opposition. The moment the opposition parties give evidence of their desire to play the part expected of them, Emergency is bound to be lifted.

Weeks later, when the Congress Working Committee met to take stock of things following the declaration of Emergency, it expressed its happiness at the tremendous support the people had given to the Prime Minister. It also welcomed the 21-point economic programme enunciated by Mrs. Gandhi. The following are the two resolutions passed by the Committee.

1. On 26 June, the Prime Minister made the epoch-making statement on the proclamation of internal emergency in the country. At first, many people did not grasp its significance and the background in which this action was taken. But since the facts and circumstances necessitating the proclamation began to unfold themselves, the support for this move has been growing and in fact, many people now wonder why this action was not taken earlier.

2. The Working Committee wishes to emphasise that the proclamation of emergency became unavoidable in view of the serious developments that had been taking place for some time in our country in the background of a difficult and complex economic situation. The world-wide inflationary situation leading to a steep increase in the prices of various raw materials and manufactured goods was followed by what is now generally known as the

energy crisis and the hike in oil prices. This threw the international economy into disarray and India could not but be affected by these global developments. There were internal factors also which put the Indian economy under great strain. To begin with we had the Bangladesh crisis and conflict with Pakistan in 1971 followed by unprecedented drought for two continuous years. The Government had to take many hard decisions and legislative measures in order to meet the challenge and to save the country's economy from impending disaster.

3. In such a situation a united effort was called for on all fronts. Instead, some opposition parties began a systematic campaign of obstruction and vilification. Parliament was utilised to hurl baseless charges of corruption and no one was spared in that process of planned character assassination. Parliamentary proceedings were brought to a standstill almost every day, setting at naught not only parliamentary rules and procedures but all codes of decency and orderly behaviour.

4. Trade unions under the influence of certain opposition parties, taking advantage of the economic stress and strain, organised strikes, go slow movements by Government employees, Railway employees and industrial employees. They also organised on many occasions acts of sabotage paralysing the Railway and communication systems. The vested interests were induced to declare lock-outs on flimsy grounds. All these activities ham-

pered production, which naturally accentuated the already difficult situation. In this process, respect for public property suffered a set-back; it was burnt or destroyed on the slightest excuse.

5. Even the younger generation was not spared in this misadventure of these opposition parties. Several educational institutions of learning had to be closed down indefinitely due to student agitations and indiscipline. In many places, examinations could not be held and the future of millions of young boys and girls was put in jeopardy. In this situation, discipline became a casualty.

6. All this got reflected in the general deterioration of law and order in the country, with anti-social elements having a field day whenever there was any trouble on any front. In spite of these persistent obstacles, the Government was making every effort to improve the economy and to bring about a better order in the community.

7. Then came the so-called 'Total Revolution' movement. Under this banner, attempts were made to bring together extreme elements of the right reaction and left adventurism. These elements tried to use this platform to bring down the Government established by the will of the people and particularly to remove Mrs Indira Gandhi from Prime Ministership. Attempts were made to whip up agitations in many parts of India but fortunately people saw through this game and particularly noted that all the reactionary interests from within and outside the

country and known corrupt elements were found to be in the vanguard of the movement.

8. The monopoly press also had been playing its insidious part in all these attempts to bring down the Government and to indulge in vilification of its leaders. Thus the conflict between vested interests and the interests of the masses of the people got reflected in all sectors of national activity.

9. It is in this situation that the Allahabad election verdict came. The Working Committee do not wish to go into the merits of the case. But it should be pointed out that the very elements who sang the praise of the judiciary and respect for judicial decisions refused to recognise the absolute stay order granted by the very same Allahabad High Court. Then there was the order of the Supreme Court Judge who categorically declared that there was no legal impediment to Mrs Gandhi continuing as Prime Minister and in his order countered all arguments of false evidence and "coming with unclean hands". Meanwhile, the Congress Parliamentary Party met and with thunderous unanimity expressed confidence in Mrs Gandhi's leadership and wanted her to continue as Prime Minister. But the opposition would not take note either of the judicial pronouncement or of the expression of the will of the vast majority of the elected representatives of the people in Parliament. They resolved to organise a countrywide movement to remove the Prime Minister by unconstitutional and

anti-democratic methods, including violent methods. In blatant terms they called upon the Army and the Police to revolt, the Government servants to refuse to function, workers to resort to strikes and sabotage and students to come out of their educational institutions to back up the movement. They also did their worst in fanning communal hatred and creating tensions. Apart from the open instigation to revolt brisk secret preparations were made by the militant sections like the R.S.S., Naxalites, Anand Marg, Jamaat-e-Islami and their front organisations etc. to strike at strategic points and paralyse the life of the nation. The Working Committee welcomes the banning of these bodies.

10. It is in the face of this formidable challenge that the President had to invoke the emergency provisions of the Constitution in order to forestall the subversive attempts referred to above. The Working Committee notes with satisfaction the splendid response from the people of India to this timely and determined step. The committee also expresses its appreciation of the sincere support given by the socialist and nonaligned countries. The committee calls upon the people to be vigilant and to continue to lend their full support and cooperation to the Government in their determined efforts to deal firmly with these evil and anti-democratic forces so that the course of democratic and socialist transformation is rendered smooth and safe for the teeming millions of India.

The following is the text of the resolution on the economic programme:

The Working Committee notes with satisfaction that the economic programme announced by the Prime Minister on 1 July, 1975 has been universally welcomed by the people of the country. The Working Committee is glad to note that since the announcement of the programme, there has been a decline in the prices of many essential goods. Supply position has also considerably eased.

The administration at the Centre and the States is being geared up to implement the programme effectively. Stringent action is being taken against those who indulge in economic offences. While the offenders should be dealt with severely, it is necessary to ensure that there is no harassment of the innocent.

The Working Committee calls upon every Congressman to dedicate himself whole-heartedly to the effective implementation of the programme. The programme needs the cooperation of the people particularly in the case of measures relating to the rural poor and the urban consumer, such as—

- (i) Procurement and public distribution of essential commodities;
- (ii) Land reforms (especially record of rights and distribution of surplus land);
- (iii) Acceleration of provision of house-sites for landless;
- (iv) Moratorium on rural indebtedness to money

fenders;

(v) Minimum wages for agricultural labour, etc.

The Working Committee fervently appeals to the people to lend their full support and cooperation in the implementation of these programmes, so that their benefits may accrue to the poor masses at the earliest.

2. THE SUPREME COURT ORDER

The Supreme Court's order pronounced on June 24 makes it clear that "the restrictions set out in the usual stay order cannot and will not detract from the appellant being entitled to exercise such rights as she has, including addressing Parliament and drawing salary in her capacity as Prime Minister". The order has said in so many words that "there will thus be no legal embargo on Mrs. Gandhi holding the office of Prime Minister". It is therefore not clear as to what the opposition parties have been trying to impress on the public. All that they were aiming at was to secure the ouster of the Prime Minister even after the Supreme Court had categorically said that she could function as such legally and constitutionally. The following is the text of the Supreme Court order delivered by Mr. V. R. Krishna Iyer.

Right at the beginning, I must record appreciation of the valuable assistance given by counsel

on both sides to the Court in clarifying the twilit aspects and unravelling the latent facets of what, viewed in typically isolated legal perspective, untuned to the national wave-length and unclouded by the dust-storms of politics, is a humdrum case. Having regard to the obstreperous environs and mounting tensions surrounding the events following upon the judgment of the Allahabad High Court, it must be stated to the credit of Shri Palkhiwala and Shri Shanti Bhushan that in their suave submissions they have shown how sound and fury only help thwart the thought-ways of law and extra-legal tumults can be walled off from the Court hall. The arguments have been largely legal and their merits have to be weighed in judicial scales, What, perhaps in a certain view, are not strictly pertinent to the say proceedings have, however, been adverted to at the bar, inevitably and understandably, but within marginal limits, if I may say so, because the proceedings in the Halls of Justice must be informed, to some extent, by the great verity that the broad sweep of human history is guided by sociological forces beyond the ken of the noisy hour or the quirk of legal nicety. Life is larger than law. Now I proceed to discuss the merits of the matter.

The appellant has moved this Court challenging the 'unseating' verdict against her by the High Court. She has also sought 'absolute stay' of the judgment and order under appeal. Entering a

caveat, the respondent has also appeared through counsel and opposed the grant of stay.

While the right to appeal is statutory, the power to stay is discretionary. But judicial discretion—indeed, even executive discretion cannot run riot. The former, though plenary, is governed in its exercise by sound guidelines, and courts look for light, *inter alia*, from practice and precedent, without however being hide-bound mechanically by the past alone. After all, judicial power is dynamic, forward-looking and socially lucent and aware. I mention this dimension of judge-power because the industry and ingenuity of both lawyers have unearthed prior instances zigzagging now and then but substantially striking the same note. A few orders from the debris of old records have been brought up which seem to suggest variations in the type of stay granted by the higher courts. I shall have occasion to dilate on them a little later. Suffice it to note that the power of the court must rise to the occasion, if justice, in its larger connotation, is the goal and it is.

Having regard to the historic power-stakes involved in this election appeal and stay proceeding, vigorous arguments, marked by strokes of heat and flashes of light, have been heard in this application for stay and the time consumed at the bar has been considerably more than when like matters have been routinely dealt with by this Court. Let it be plainly understood that the Court decides forensic ques-

tions without getting embroiled in non-legal disputes working as it does in a sound-proof system of sorts. Moreover, notwithstanding the unusual, though natural, excitement and importance surrounding the case, the Court is the quiet of the storm centre and views, with an equal eye, the claims on each side, taking judicial note of the high issues and balance of convenience in the wider context. Arguments about public sentiment, political propriety and moral compulsion, though touched upon at the bar and relevant at other levels, fall beyond the conventional judicial orbit and have to be discriminately sifted. Nevertheless, Shri Palkhivala has pressed before me the propriety and urgency of the Court taking into consideration the national situation even while exercising its discretionary power. As a counterweight to this submission, Shri Shanti Bhushan has claimed that no republic can surrender its democratic destiny to a single soul without being guilty of overpowering the parliamentary process by a personality cult. This brings to the fore an activist interrogation about the cognisibility of such considerations by a court. Do the judicial process and its traditional methodology sometimes make the Judicature look archaic, with eyes open on law and closed on society, forgetting the integral yoga of law and society ? If national crises and democratic considerations, and not mere balance of convenience and interests of 'justice' were to be major inputs in the Judge's exercise of discretion,

systemic changes and shifts in judicial attitudes may perhaps be needed. Sitting in time-honoured forensic surroundings, I am constrained to judge the issues before me by the canons sanctified by the usage of this Court.

Now to the points urged before me. More or less by way of preliminary objection, Shri Shanti Bhushan asserted that the petitioner, having come with unclean hands, was not entitled to seek the equitable relief of stay. How were her hands unclean? Because, the argument runs, her advocate induced the High Court into granting a stay by misrepresenting that if the judgment came into immediate effect, the national government would be paralysed for want of a Prime Minister and so time was needed for the ruling party to elect a new leader to head the Government. Taken in by this alleged critical need of the democratic process, the learned Judge granted 20 days' stay. This spell ingeniously secured, was perverted to consolidate her leadership, not to find a successor. If this version of the respondent were veracious, the petitioner's conduct were dubious and this Court would not condone such 'solemn mockery'. But Shri Shanti Bhushan's submission loses its sting if Shri Palkhiwala were to be heeded. For, according to the latter, all in a hurry a stay was moved by the Allahabad advocate praying for stay stating both the need to elect *a leader* (not, another leader) and to enable filing of an appeal. The Congress Parliamentary Party was since con-

voked, but there was a thunderously unanimous vote reaffirming faith in the petitioner as leader and Prime Minister. If her party so fullbloodedly plumped in favour of her remaining in office as Prime Minister and guiding the Party as its one and only leader, the petitioner could not be faulted as having played false to the Court. She could only call a meeting of the Party but not coerce the members to elect anyone other than the one they had set their hearts upon. Whether that Party's leadership resources were too inadequate to secure an alternative chief may be an interesting question, but the Court does not peer into that penumbral area. Moreover, the stay order does not state that it was to enable the election of a different leader that time was granted. I have no good reason to reject the petitioner's plea that the choice of an alternative leader was left to her Party, that she did what she could in the spirit of the representation to Court and did not what she could not viz., to force her partymen to push her aside for the nonce for the Court's satisfaction. In these matters one has to go by *prima facie* materials and probabilities. I over-rule the 'unclean hands' objection.

Counsel for the petitioner, after dealing with the *ex facie* untenability of the judgment under appeal which I have just disposed of, moved on to what he called justice between the parties. This is not an ordinary lis, where even after stepping down from office, the petitioner can, if and after she wins

the appeal, step back into office. In politics 'red in tooth and claw,' power lost is not necessarily followed, after legal victory, by power regained. The Court cannot, in that sense, restore the parties to their original position as in ordinary cases. Moreover, the respondent suffers no prejudice by the continuance of the petitioner as Parliament Member and Prime Minister. To cap it all there is hardly a run of a little over half-a-year for the full term of this Parliament to expire. So, he pressed for continuance of the *status quo* which had gone on for a few years now during the pendency of the Election Petition.

The respondent's counsel retorted that the question of justice between two private persons was alien to election litigation and cited a ruling to emphasize what is obvious. In an election case, the whole constituency is, in an invisible but real sense, before the court and justice to the electoral system which is the paramount consideration is best done by safeguarding the purity of the polls regardless of the little rights of individual combatants.

At the first flush I was disposed to prolong the 'absolute stay' granted by the High Court, moved not only by what Shri Palkhivala had urged but by another weighty time factor that the appeal itself, in the light of the directions I have already given yesterday, may well be decided in two or three months. But on fuller reflection I have hesitated to take that course. After all, the High Court's finding,

until upset, holds good, however weak it may ultimately prove. The nature of the invalidatory grounds upheld by the High Court, I agree, does not involve the petitioner in any of the graver electoral vices set out in Section 123 of the Act. Maybe they are only venial deviations but the law, as it stands, visits a returned candidate with the same consequence of invalidation. Supposing a candidate has transported one voter contrary to the legal prohibition and even though he has won by a huge plurality of votes his election is set aside. Draconian laws do not cease to be law in court but must alert a wakeful and quick-acting legislature. So it follows that I cannot, at this preliminary stage, lightly dismiss the illegality of the election as held by the High Court. But more importantly, I am disinclined to set store by Shri Palkhivala's 'private justice' submission (to borrow his own phrase) because the ultimate order I propose to make, if I may even here anticipate, substantially preserves the position of the petitioner as Member of Parliament and does not adversely affect her legal status as Prime Minister.

Shri Palkhivala, for the petitioner, contended that an unconditional stay was appropriate and essential because (a) it was sanctioned by some precedent; (b) there were momentous consequences disastrous to the country if anything less than the total suspension of the order under appeal were made; (c) the adverse holding of the High Court on

two counts hardly exceeded, even on its face, technical violations unworthy of being visited by an *ad interim* embargo on Parliament membership during the pendency of the appeal apart from being palpably perverse and (d) the nation was solidly behind the petitioner as Prime Minister. Minimal justice, public interest and balance of convenience concurred in his favour. Shri Shanti Bhushan, on the contrary, joined issue on these pleas and asserted that (a) the appellant must be treated like any other party; (b) that an absolute stay was unprecedented; (c) that the democratic process would take care of itself even if the petitioner stepped aside for a while; (d) the corrupt practices were corrupt in law and fact, fully proved and could not be glossed over by a court of law as technical and (e) the alleged solid support by party minions mean little since similar phenomena could be organized by any strategist in top office and the rule of law cannot be drowned by the drums and shouts of numbers. In his submission, public interest and balance of convenience as also justice to the High Court judgment demanded that an illegally elected member did not continue longer as Prime Minister under the umbrella of a stay order from this Court, without jeopardizing the credibility of the country abroad.

Shri Palkhivala assailed, in his opening submissions, the two findings recorded against the appellant holding her guilty of corrupt practice. Indeed, he was at pains to convince me that his client had

a strong *prima facie* case on the merits, in the sense that the judgment, on its face, was perverse and legally untenable. Although I listened at some length to these arguments and, to an extent, to the counter-submissions made by Shri Shanti Bhushan in his endeavour to establish that the holdings were sound, I made it fairly clear in the course of the hearing that at this stage when I was considering whether a stay should be granted or not, it was premature and perhaps unwise to pronounce on the merits of the appeal itself except where the judgment contained grotesque errors, absurd conclusions or grossly erroneous propositions of law. Having considered the submissions on this basis, I do not think I should express any opinion one way or the other on the merits of the findings. Nor do I regard it just for counsel for the respondent to say that every discrepancy in the petitioner's evidence or other incorrectness in testimony can be called false. Not to accept a witness's evidence may be due to many grounds of probability not always because of unveracity or unreliability. These aspects will surely be examined at the hearing of the appeal, not now.

In another facet of the same argument Shri Palkhivala urged that, after all, the petitioner had been held 'technically' guilty of 'corrupt practice' and that the grounds set out by the learned Judge were too flimsy to stand scrutiny at the appellate level. Therefore, the 'justice' of the case demanded continuance of the 'absolute stay' granted by the

trial Judge himself. Shri Shanti Bhushan, on the other side, refuted this submission as specious. His argument is this, 'Corrupt practice' could not be dismissed as 'technical' if one had any respect for the law of the land as laid down by Parliament. Once the law has defined 'corrupt practice', commission thereof cannot be condoned as 'technical'. That is defiance of the law and challenge to the wisdom of Parliament. It is one thing to amend the law, but it is another to disregard it on a ground unknown to law that it is only a nominal deviance. I am afraid it is premature and presumptuous for me, at this stage, to pronounce upon the relative worth of the findings of the High Court. The offence may be light or grave. But that is for the Bench which hears the appeal *in extenso* to hold, one way or the other. Before me are findings of contravention of the election law and I cannot take the *prima facie* view that the justice of the case justifies indifference to those findings. In short, I am not influenced by this aspect of Shri Palkhivala's argument.

Leaving aside the injury to private rights as of lesser consequence in election disputes, let me look at the customary factors courts are prone to probe in stay matters where the discretion vests in court.

What has been the prior practice of this Court in such case? What, if any, are the special circumstances compelling departure in favour of the petitioner? What is the balance of convenience? What does the public justice of the case dictate? Which

way does public interest lie? These are the socio-legal considerations which are relevant to the grant or refusal of stay and the terms to be imposed on the petitioner in the event of grant. Stay pending appeal has been usually granted but hemmed in by conditions. The respondent himself has filed a sheaf of orders of conditional stay granted by this Court, suggesting by implication that these conditions should be attached to any stay the Court may be inclined to issue. The terms in which such limited stay orders have been couched, the legal implications thereof, the right surviving under them and the impact thereof on the office of Prime Minister of the petitioner will be scanned more closely later in this order. Suffice it to say for the present that for around two decades there has rarely been what Shri Palkhivala calls an 'absolute stay' issued by this Court in election cases where a Member has been unseated by the High Court for corrupt practice.

There was reference at the bar to political compulsions like the swell of the tidal wave in favour of the petitioner which even if true (though controverted by the other side), cannot breach the legal dykes to force a stay where precedentially it has not been granted. Nor can the national crisis, conjured up by counsel for the petitioner, in the event of her exit from office, be a valid legal consideration, even if it may perhaps have weight in other spheres. Shri Shanti Bhushan urges that moreover one cannot

readily accept that the nation will come to a grinding halt if one person is not available to fill the office of Prime Minister. I make no comments on these rival presentations for it is difficult for the Judge to gauge with his traditional court room apparatus the reality and extent of the circumstances or national magnitude the parties have dwelt upon.

So we come to the next criterion which is commonplace in this jurisdiction viz., the balance of convenience. Here, counsel for the petitioner has addressed an attractive argument repeating in some measure what, under a different head, he had urged, that if the appeal itself were disposed of early, the continuance of the *status quo* would go a long way to preserve and promote administrative stability and policy continuity, having regard to the fact that the petitioner in this case was more than a Member of Parliament but was the Prime Minister and leader of the ruling Party. In a democracy, the Prime Minister is the central figure who decides crucial internal and international policy, directs measures of great economic moment and is responsible and accountable to the Parliament and the nation for the performance of the Administration. Of course, collective Cabinet responsibility is of the essence of the democratic process, but the Council of Ministers is virtually chosen by the President in accordance with the wishes of the Prime Minister. The broad guidance of the Party in power notwithstanding, the personality of a Prime Minister has a telling effect

on democratic government. If, therefore, the appeal itself will be disposed of in some months, as it is likely to be, the balance of convenience will be in favour of continuance of the same team which is animated by the presence of the key personality within the Council of Ministers. Again, the short spell of the pendency of the appeal—a case of this climacteric pitch deserves to be disposed of with quick dispatch and I have already given some directions to facilitate it—is a strong factor for non-disturbance of the petitioner's position, having regard to the traumatic effect on and grievous consequences to the petitioner. Of course, these are components of a wider concept of balance of convenience and not altogether forbidden ground in dealing with discretionary exercise. Maybe there is some force in the plea that there should be a stay of operation of the judgment and order in such manner that upsetting the Ministry in office should be obviated. Ordinarily, even with the same Party ruling, when a Prime Minister resigns the whole team is ushered out leaving it free for the new leader to choose his new set.

Shri Shanti Bhushan has countered this argument by reliance on the practice in the parliamentary system where within the ruling Party a leader is changed or ceases to be available and a new leader is elected, so that the democratic process finds smooth expression. This he said, has happened in India, as elsewhere and no plea of balance of con-

venience can be built on what in fact is a desire to remain in office. The judicial approach, as already pointed out by me, is to shy away from political thickets and view problems with institutionalized blinkers on, so long as the court methodology remains what it is. So no comments again. But the balance of convenience, widely or limitedly connoted, is reasonably taken care of in the shape of the conditional stay granted at the conclusion of this judgment.

Shri Palkhivala drew my attention to a few vintage instances of what he calls *absolute stay*. These are cases of long ago and the argument based on them stems from an insufficient comprehension about the anatomy of the pre-1956 Representation of the People Act, 1956 (Act XLIII of 1951). The Court speaks for to-day, based on current practice and present law.

In this context it is necessary to remember that in the Act as it originally stood, Election Tribunals tried election disputes and s.107 provided:

An order of Tribunal under section 98 or section 99 shall not take effect until it is published in the Gazette of India under section 106.”

Indeed, there was no right of appeal provided in the Act and the aggrieved parties had to approach the High Court or the Supreme Court under the provisions of the Constitution. The higher Courts in such situations merely stayed the publication in the Gazette, the consequence being that the order

of the Tribunal did not come into effect at all. The question, therefore, of an absolute stay or a qualified stay of the unseating verdict did not and could not arise. To rely upon orders passed under the then law merely staying publication of the order of the Tribunal in the Gazette as tantamount to absolute stay of an order which took effect would be untenable.

In 1956 a major change in the law was made whereby the order of the Election Tribunal appointed under s.66 'shall take effect as soon as it is pronounced by the Tribunal' (vide s.107, as amended by Act XXVII of 1956). By the same amended Act, an appeal was provided from orders of Election Tribunal to the High Court of the State and s.116A (4) clothed the High Courts with power to stay operation of the order appealed from and if stay was granted 'the order shall be deemed never to have taken effect'. Of course, against appellate orders of the High Court the disappointed party could come to this Court under the provisions of the Constitution (Arts. 133 or 136).

Still later by amending Act No. LXVII of 1966, the High Court was conferred original jurisdiction to try election petitions and it was provided in s.107 that the order of the High court 'shall take effect as soon as it is pronounced...' While a limited power to stay operation of the order of the High Court was conferred by s.116B (1) on the High Court itself, the statutory right of appeal to the

Supreme Court was provided for by s.116A. However, by virtue of s.116B(2) it was enacted:

“116B(2). Where an appeal has been preferred against an order made under section 98 or section 99, the Supreme Court may, on sufficient cause being shown and on such terms and conditions as it may think fit, stay the operation of the order appealed from.”

Thus, for the first time, it was in 1966 that a statutory right of appeal to this Court was created and a plenary power to grant stay, conditional or otherwise, was vested in this Court, independently of constitutional remedies.

This narration of the historical background regarding the pre-1966 statutory position is sufficient to distinguish old examples of the pattern of stay granted by this Court. Today there is no case of prohibition of publication in the Gazette. Above all the type-design, if I may use such an expression, of stay orders made by this Court under the present law has, with marginal variations, acquired a standardized form. Naturally, this *curses curiae* is more persuasive for adoption, unless exceptional legal or other grounds for deviation are made out for grant of absolute stay.

Even on the basis of the post-1966 law, Shri Palkhivala has argued that taking legitimate cognizance of the peerless position of the appellant as Prime Minister of the country, judicial discretion must least disturb not merely her seat in Parliament

but her office in Government.

I proceed to take a close-up of the 'sample orders' made by this Court during the last many years, dissect them in the back-ground of the judgments under appeal where such orders were passed and mould my order deriving support therefrom. So I turn the focus on the implications and effect of the stay orders in the cases covered by Annexure A filed by the respondent which are in consonance with the usual orders passed by this Court in election appeals.

It is evident on its face that the orders are dichotomous in character. The two limbs stand out clearly and they are: (a) that 'the operation of the Judgment and Order of the High Court be and is hereby stayed' and (b) the petitioner shall abide by certain enumerated terms viz., (i) he will be entitled to attend the Sessions of the Legislature and sign the Register: (ii) he shall not take part in the proceedings of the House or vote or draw any remuneration as such Member. In the instances I have examined the appeals are against orders 'unseating' the returned candidate on the ground of corrupt practice and disqualifying him for the statutory six-year period prescribed in s.8A. If corrupt practice is found, disqualification follows, although sometimes the trial Court expressly writes it into the order itself, as in the present case. If the finding of corrupt practice does not come into effect, the sequel of disqualification also does not come

into effect. If the biopsy of the stay order inevitably shows that the finding of corrupt practice is suspended and is not operative, the electoral disqualification automatically stands eclipsed. Section 8A being the necessary follow-up of the judgment under s.100, what is the legal effect of an order by this Court suspending the operation of the judgment and order of the High Court? By sheer force of the first limb of this Court's stay order, the judgment and order of the High Court is nullified for the nonce i.e., till the appeal is disposed of. Consequently, the disqualification also *ipso jure* remains in abeyance.

What then is the import of the conditions imposed in the stay order? They inhibit the elected member, who otherwise by virtue of the stay of the judgment, will be entitled to exercise all his rights and privileges as Member, from doing certain things expressly tabooed, viz., (a) participating in the proceedings; (b) voting or drawing remuneration. For all other purposes, the voiding judgment being suspended, he continues as Member. Indeed, the very direction that he attend the House and sign in the Register as *Member* to avoid disqualification under Art. 101 of the Constitution postulates that he is a *Member* and is not disqualified under s.8A of the Act. For, if the disqualification under s.8A operates and he ceases to be a *Member*, there is no need to veto his drawing remuneration, voting or participating in the proceedings. It would be a

curious contradiction to say that a person is disqualified to be chosen as or being a Member and yet be allowed to sign the Register *as Member*. Can the Court, without stultifying itself and usurping power, permit a non-Member to sit in the House instead of or even in the Visitor's gallery, unless it necessarily reads into the order of stay of judgment a suspension of the disqualification also? There are a number of other privileges for a Member of Parliament which are left untouched by this Court's prior stay orders. Moreover, the specific direction suspending the judgment and order under appeal, read in its plenitude, also suspends the finding of corrupt practice. So much so, the disqualification also shares the fate. I have no doubt that the reasonable effect of a stay order is that there is a plenary eclipse of the High Court's judgment and order during the pendency of the appeal, subject to the few restraints clamped down on an appellant. These restraints are the second limb of the stay order and are explicit enough.

The essential point to note is that by necessary implication the disqualification imposed on every appellant also stands suspended in all cases of conditional stay. The stay is complete, but carved out of it are but three limitations. For all other purposes, the appellant, in all such cases, continues a Member. For instance, if he is prevented from entering the Legislature, a breach of privilege arises. I have gone at length into these ramifications to

remove recondite doubts. The typical stay restores to the appellant during its operation, the full status of a Member of a Legislature *minus* the right to participate in debates, including voting and drawing of remuneration as a legislator.

For these reasons I purpose to direct a stay, substantially on the same lines as have been made in earlier similar cases, modified by the compulsive necessities of this case.

What would be the legal impact of an order of this type on the Prime Ministership of the petitioner? The question canvassed about the office of the Prime Minister and its involvement in the present case has exercised counsel on both sides and it is but proper to dissolve the mists of possible misunderstanding by an explicit statement. This appeal, it is plain, relates solely to the Lok Sabha. Membership of the appellant and the subject matter of her office *qua* Prime Minister is not directly before this Court in this litigation. Indeed, that office and its functions are regulated carefully by a separate fasciculus of Articles in the Constitution. There is some link between Membership of one of the two Houses of Parliament and Ministership (Art. 75) but once the stay order is made, as has been indicated above, the disqualification regarding Membership is in suspended animation and does not operate. Likewise, the appellant's Membership of the Lok Sabha remains in force so long as the stay lasts. However, there will be a limitation regarding

the appellant's participation in the proceedings of the Lok Sabha in her capacity as Member thereof, but, independently of the Membership, a Minister and, a fortiori, the Prime Minister, has the right to address both Houses of Parliament (without right to vote, though) and has other functions to fulfil (Arts. 74, 75, 78 and 88 are illustrative). In short, the restrictions set out in the usual stay order cannot and will not detract from the appellant being entitled to exercise such rights as she has, including addressing Parliament and drawing salary, *in her capacity as Prime Minister*. There will thus be no legal embargo on her holding the office of Prime Minister. However, this legal sequitur of the situation arising from the stay of the judgment and order of the High Court, including the suspension of the disqualification under s.8A, has nothing to do with extra-legal considerations. Legality is within the Court's province to pronounce upon, but canons of political propriety and democratic dharma are polemical issues on which judicial silence is the golden rule.

It is true that between an absolute stay as sought and the stay as granted there is practically little difference when the petitioner is a Minister. Moreover when the House is not in session as now, even the restrictions set out in sub-para III of para 31 of this order hardly have any operation. In this view, the dispute between the parties one asking for an absolute stay (as if it were a magic formula)

and the other citing heaps of orders of conditional stay for adoption (as if much difference would be made in practical effect) appears to be shadow-boxing, as pointed out by me even during the arguments.

Maybe, brevity which is usual in this Court in orders of stay of this sort might well have sufficed here also but, the overall desirability to dispel possible ambiguity warrants a hopefully longer speaking order.

Let me sum up the terms of the operative order I hereby pass:

I. Subject to para III below, there will be a stay of the operation of the judgment and order of the High Court under appeal.

II. Consequently the disqualification imposed upon the appellant as a statutory sequel under s.8A of the Act and as forming part of the judgment and order impugned will also stand suspended. That is to say, the petitioner will remain a Member of the Lok Sabha for all purposes except to the extent restricted by para III so long as the stay order lasts.

III. The appellant-petitioner, *qua* Lok Sabha Member, will be entitled to sign the register kept in the House for that purpose and attend the Sessions of the Lok Sabha, but she will neither participate in the proceedings in the Lok Sabha nor vote nor draw remuneration in her capacity as *Member of the Lok Sabha*.

IV. Independently of the restrictions under para III on her Membership of the Lok Sabha, her rights as Prime Minister or Minister so long as she fills that office, to speak in and otherwise to take part in the proceedings of either House of Parliament or a joint sitting of the Houses (without right to vote) and to discharge other functions such as are laid down in Articles 74, 75, 78, 88 etc., or under any other law, and to draw her salary as Prime Minister, shall not be affected or detracted from on account of the conditions in this stay order.

This order, by me sitting single as Vacation Judge, is being delivered with a sense of hurry, although after careful consideration of arguments heard till last evening. Now the Parliament is not in session and the veto on the right to vote is currently academic. Situations may develop, circumstances may change and this order itself, like any interlocutory order, is provisional. If new events like the convening of Parliament take place or fresh considerations crop up warranting the review of the restrictions in this stay order, the petitioner-appellant will be at liberty to move a Division Bench of this Court again to modify the restrictions or pray for an unconditional stay. Likewise the respondent may also, if justifying considerations appear anew, move for variation of the conditions in this stay order.

New Delhi
June 24, 1975

V. R. Krishna Iyer,
Vacation Judge

3. DECLARATION OF EMERGENCY AND AFTER

After what the opposition parties belonging to the extreme right and extreme left decided, namely, to start a mass campaign against the Prime Minister though what she was doing was only in consonance with the basic tenets of democracy, Mrs. Gandhi was left with no other alternative than to advise the President to declare an emergency. The point that has to be noted is that the opposition parties that had joined together to embarrass the Prime Minister had nothing in common—either politically or programme-wise—and it is this that has proved in an ample measure that the forces of right reaction and left adventurism were out to create chaos and confusion in the country.

The Proclamation issued by the President on June 25 said: In exercise of the powers conferred by clause (1) of Article 352 of the Constitution, I, Fakhruddin Ali Ahmed, President of India, by this proclamation declare that a grave emergency exists whereby the security of India is threatened by internal disturbance.

This declaration was followed by a stirring broadcast by the Prime Minister to the nation assuring the people that there was nothing to panic about and this was done only to put down conspiracy brewing in the country against the progressive measures adopted by her.

The following is the text of the broadcast :

The President has proclaimed Emergency. This is nothing to panic about.

I am sure you are all conscious of the deep and widespread conspiracy which has been brewing ever since I began to introduce certain progressive measures of benefit to the common man and woman of India. In the name of democracy it has been sought to negate the very functioning of democracy. Duly elected governments have not been allowed to function and in some cases force has been used to compel members to resign in order to dissolve lawfully elected assemblies, Agitations have surcharged the atmosphere leading to violent incidents. The whole country was shocked at the brutal murder of my cabinet colleague, Shri L.N. Mishra. We also deeply deplore the dastardly attack on the Chief Justice of India.

Certain persons have gone to the length of inciting our Armed Forces to mutiny and our police to rebel. The fact that our defence forces and the police are disciplined and deeply patriotic and

therefore will not be taken in, does not mitigate the seriousness of the provocation.

The forces of disintegration are in full play and communal passions are being aroused, threatening our unity.

All manner of false allegations have been hurled at me. The Indian people have known me since my childhood. All my life has been in the service of our people. This is not a personal matter. It is not important whether I remain Prime Minister or not. However, the institution of the Prime Minister is important and the deliberate political attempts to denigrate it is not in the interest of democracy or of the nation.

We have watched these developments with utmost patience for long. Now we learn of new programmes challenging law and order throughout the country with a view to disrupt normal functioning. How can any government worth the name stand by and allow the country's stability to be imperilled? The actions of a few are endangering the rights of the vast majority. Any situation which weakens the capacity of the national government to act decisively inside the country, is bound to encourage dangers from outside. It is our paramount duty to safeguard unity and stability. The nation's integrity demands firm action.

The threat to internal stability also affects production and prospects of economic improvement. In the last few months the determined action we

have taken has succeeded in largely checking the price rise. We have been actively considering further measures to strengthen the economy and to relieve the hardship of various sections, particularly the poor and vulnerable, and those with fixed incomes. I shall announce them soon.

I should like to assure you that the new Emergency Proclamation will in no way affect the rights of law-abiding citizens. I am sure that internal conditions will speedily improve to enable us to dispense with this Proclamation as soon as possible.

I have been overwhelmed by the messages of goodwill from all parts of India and all sections of the people.

May I appeal for your continued cooperation and trust in the days ahead ?

Follow-up Measures

When once the emergency was declared, the entire Cabinet moved swiftly to create in the country and among the people a sense of purpose and unity. The Prime Minister set the tone for the new approach when she met the senior officials of the Union government a couple of days after the emergency was declared and urged them to work speedily for the welfare of the people.

The Prime Minister told the officials that she firmly believed in democracy, but she was distressed to find that democracy was being put to a slow

and languishing death by some groups. This had to be prevented. The Emergency had been proclaimed within the framework of the Indian Constitution and had constitutional sanction.

She said she firmly believed in democracy. But in a democracy once a Government was elected by majority, it should be allowed to function. The fundamental right of freedom of association did not mean that the minority should band itself together to bring an elected Government down by the use of extra-Parliamentary methods.

The Prime Minister said that the forces at work for the destruction of our democracy, were similar to Nazism. Nazism did not only mean the use of Police or Army. Nazism functioned through small groups which infiltrated into various sections of national life creating misunderstanding and confusion. Sometimes it made a scapegoat of a minority in the country like Germany where the Nazis made a scapegoat of the Jews and exterminated them in millions.

This was the method of the RSS which was an important wing of the Jan Sangh. Mrs. Gandhi said that Mr. Jaya Prakash Narayan had given respectability to all kinds of forces—including the RSS, the Naxalites, the Marxist Communists. She suspected that this movement received encouragement from outside the country. Attempts were being made to infiltrate the Defence Services and the Police. On the evening before the declara-

tion of the Emergency, there was an open call to the people to revolt and to the Army and the Police not to obey orders which they considered wrong. In her opinion, it was dangerous to split the concept of military discipline in this way. The Army had to carry out the orders of the Government of the day. If each soldier were made judge of what was right or what was wrong, that would be the end of discipline.

Several newspapers had joined in the game. Tendentious and one-sided news and comments were being published. Letters seeking to correct false allegations or putting forward the opposite point of view were seldom given publicity.

The Prime Minister said that it was after deep consideration that she had taken this step. It was not to suppress democracy but to save it. She was not so much worried about other groups but she sensed the greatest peril to democracy from extremists of the right and left. She was convinced that the Government of this country should keep a Central position if the unity and stability of the country were to be preserved.

Coming to tasks before the Secretaries, the Prime Minister stressed the need for discipline in offices. There was a great deal of laxity in observing office hours. Secretaries should therefore come to work punctually and enforce punctual attendance by others. They should attend to cleanliness in their Ministries and try to improve

the working environment of their staff. These were little things but in her experience those who could not tackle such small problems could not also tackle bigger problems effectively. Secretaries should keep in personal touch with officers and staff in their Ministries, try to solve at least some of the ordinary and mundane problems which affected their morale and zest for work.

The Ministries should not live in a closed world of their own, shutting out advice or expertise from outsiders. In many areas of work, it might be useful to have the advantage of non-government experts. Ministries should consider inducting small groups of experts from outside to assist them in their work.

Civil servants had complete freedom to express their views to their Ministers and differ with them on policy or implementation. But once the Minister had taken a decision, it was their duty to carry it out. There should be no backsliding or attempt to defeat ministerial decisions by slowing down on implementation.

Discipline should not be in deed alone but also in word. She had heard reports that some civil servants tended to indulge in loose talk either in their own conclaves or at Embassy receptions. This was a reprehensible habit which had to be put down.

Civil servants who were abroad on various deputations should be able to speak with know-

ledge and authority about the achievements of their country.

The Prime Minister cautioned against the tendency for each Ministry to be an empire itself. There was a vast area of inter-ministerial inter-dependence. The actions of one Ministry had repercussions on others and sometimes the entire area of administration. Inter-ministerial consultation and coordination was therefore extremely important for efficient administration. Mrs Gandhi hoped that the Emergency would be of short duration. Fortunately, the public reaction was not adverse. And except in Gujarat, the country was calm and peaceful. The Prime Minister stressed again that the proclamation of the emergency was not an anti-democratic step. It was an effort to put democracy back on the rails again.

4. MAINTENANCE OF SECURITY

It was apparent that for achieving the purposes for which the Emergency was imposed, it was necessary to detain certain persons who posed a threat to peace and internal security. It was precisely for this reason that the President issued on June 29 an ordinance amending the Maintenance of Internal Security Act 1971.

Under the Ordinance it will be necessary for the authorities issuing the order of detention, to make a declaration to the effect that the detention of the person concerned is necessary for dealing effectively with the emergency. A copy of the declaration shall be communicated to the person concerned. Where the declaration is issued by an authority lower than the State Government the declaration shall be reviewed by the State Government within 15 days from the making of the declaration. Such declaration shall cease to have effect unless it is confirmed by State Government after such review. The question whether the detention of

the person is necessary to be continued shall be reconsidered by the appropriate Government within four months from the date of such declaration and thereafter at intervals not exceeding four months. The Ordinance inserts a new provision in the principal Act whereby the amended provisions shall have effect during the period of operation of the proclamation of emergency but not exceeding a period of 12 months.

The following is the full text of the ordinance:—

The Maintenance of Internal Security (Amendment Ordinance, 1975).

Promulgated by the President in the Twentysixth Year of the Republic of India.

An Ordinance further to amend the Maintenance of Internal Security Act, 1971.

Whereas a grave emergency exists whereby the security of India is threatened by external aggression and internal disturbance;

And whereas Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, therefore, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance :—

Short title and commencement.

1. This Ordinance may be called the Maintenance of Internal Security (Amendment) Ordinance, 1975.

Act 26 of 1971 to be temporarily amended.

2. During the period of operation of this Ordinance, the Maintenance of Internal Security Act, 1971 (hereinafter referred to as the principal Act), shall have effect subject to the amendments specified in sections 3, 4 and 5.

Amendments of section 14.

In section 14 of the principal Act, for sub-section (2), the following subsection shall be substituted, namely:—

“(2) The revocation of a detention order shall not bar the making of another detention order under section 3 against the same person.”

Amendment of section 15.

In section 15 of the principal Act, after sub-section (5), the following subsection shall be inserted, namely:—

“(6) Notwithstanding anything contained in any other law and save as otherwise provided under this section, no person against whom a detention order made under this Act is in force shall be released whether on bail or bail bond or otherwise.”

Insertion of new section 16A.

After section 16 of the principal Act, the following section shall be inserted, namely :—

Special provisions for dealing with emergency.

“16A. (1) Notwithstanding anything contained in this Act or any rules of natural justice, the provisions of this section shall have effect during the period of operation of the Proclamation of Emergency issued under clause (1) of article 352 of the Constitution on the 3rd day of December, 1971 or the Proclamation of Emergency issued under that clause on the 25th day of June, 1975, or a period of twelve months from the 25th day of June, 1975, whichever period is the shortest.

(2) The case of every person against whom an order of detention was made on or after the 25th day of June, 1975, but before the commencement of the Maintenance of Internal Security (Amendment) Ordinance, 1975, shall, unless such person is sooner released from detention, be reviewed within fifteen days from such commencement by the appropriate Government for the purpose of determining whether the detention of such person under this Act is necessary for dealing effectively with the emergency in respect of which the Proclamations referred to in sub-section (1) have been issued (hereafter in this section referred to as the emergency) and if, on such review, the appropriate

Government is satisfied that it is necessary to detain such person for effectively dealing with the emergency, that Government may make a declaration to that effect and communicate a copy of the declaration to the person concerned.

(3) When making an order of detention under this Act against any person after the commencement of the Maintenance of Internal Security (Amendment) Ordinance, 1975, the Central Government or the State Government or, as the case may be, the officer making the order of detention shall consider whether the detention of such person under this Act is necessary for dealing effectively with the emergency and if, on such consideration, the Central Government or, as the case may be, the State Government or the officer is satisfied that it is necessary to detain such person for effectively dealing with the emergency, that Government or officer may make a declaration to that effect and communicate a copy of the declaration to the person concerned:

Provided that where such declaration is made by an officer, it shall be reviewed by the State Government to which such officer is subordinate within fifteen days from the date of making of the declaration and such declaration shall cease to have effect unless it is confirmed by the State Government, after such review, within the said period of fifteen days.

(4) The question whether the detention of any

person in respect of whom a declaration has been made under sub-section (2) or sub-section (3) continues to be necessary for effectively dealing with the emergency shall be reconsidered by the appropriate Government within four months from the date of such declaration and thereafter at intervals not exceeding four months, and if, on such reconsideration, it appears to the appropriate Government that the detention of the person is no longer necessary for effectively dealing with the emergency, that Government may revoke the declaration.

(5) In making any review, consideration or reconsideration under sub-section (2), (3) or (4), the appropriate Government or officer may, if such Government or officer considers it to be against the public interest to do otherwise, act on the basis of the information and materials in its or his possession without disclosing the facts or giving an opportunity of making a representation to the person concerned.

(6) It shall not be necessary—

(a) to disclose to any person detained under a detention order to which the provisions of sub-section (2) apply the grounds on which the order has been made during the period within which his case may be reviewed under that sub-section and where, on such review, a declaration has been made in respect of such person under that sub-section; also

- during the period when such declaration is in force;
- (b) to disclose to any person detained under a detention order to which the provisions of sub-section (3) apply, the grounds on which the order has been made during the period the declaration made in respect of such person under that sub-section is in force, and, accordingly, such periods shall not be taken into account for the purposes of section 8.

(7) In the case of every person detained under a detention order to which the provisions of sub-section (2) or sub-section (3) apply, and in respect of whom a declaration has been made thereunder, the period during which such declaration is in force shall not be taken into account for the purpose of computing the periods mentioned in section 10 or section 11."

Right to Move Court Suspended

As a logical corollary to the new Ordinance on Internal Security, the President issued an order suspending a citizen's right to move courts for enforcement of the fundamental rights under Articles 14, 21 and 22 of the Constitution.

The order by the President has been issued under Article 359 of the Constitution. It applies to foreigners inside India also.

Article 14 of the Constitution guarantees equality

before law and the equal protection of the laws within India.

Article 21 protects the life and property of a citizen which it says can only be taken according to procedure established by law.

Article 22 provides protection against arrest and detention without being informed of the grounds for such arrest. It also enjoins the arresting authority to produce the arrested person before a magistrate within 24 hours of his arrest.

Following is the text of the order:

In exercise of the powers conferred by clause (1) of Article 359 of the Constitution, the President hereby declares that the right of any person (including a foreigner) to move any court for the enforcement of the rights conferred by Article 14, Article 21 and Article 22 of the Constitution and all proceedings pending in any court for the enforcement of the above mentioned rights shall remain suspended for the period during which the proclamations of emergency made under clause (1) of Article 352 of Constitution, on the 3rd December, 1971 and on the 25th June, 1975 are both in force.

“This order shall extend to the whole of the territory of India except the State of Jammu and Kashmir.

“This order shall be in addition to and not in derogation of any order made before the date of this order under clause (1) of Article 359 of the Constitution”.

Further tightening of MISA

A few days later on July 16, the President issued another ordinance amending the MISA so as to leave no legal loophole for a person, including a foreigner, detained under this act during the present emergency to claim any right to personal liberty by virtue of natural law or common law if any or on grounds of natural justice. The following is the text of the ordinance :

Whereas a grave Emergency exists whereby the security of India is threatened by external aggression and internal dissension;

And whereas Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, therefore, in exercise of the powers conferred by Clause (1) of Article 123 of the Constitution the President is pleased to promulgate the following Ordinance :

1. (1) This Ordinance may be called the Maintenance of Internal Security (second Amendment) Ordinance, 1975.

(2) Section 6 shall be deemed to have come into force on the 25th day of June 1975 and the remaining provisions of this Ordinance shall be deemed to have come into force on the 28th day of June, 1975.

2. In Section 4 of the Maintenance of Internal Security Act 1971 (hereinafter referred to as the

principal Act), for the words and figures “Code of Criminal Procedure, 1898”, the words and figures “Code of Criminal Procedure, 1973” shall be substituted.

3. In section 7 of the principal Act :

(A) In Clause (A) of sub-section (1), for the words and figures ‘Presidency Magistrate or a Magistrate of the First Class having jurisdiction in the place where the said person ordinarily resides, and thereupon the provisions of Sections 87, 88 and 89 of the Code of Criminal Procedure, 1898”, the words, figures and brackets “Metropolitan Magistrate or a Judicial Magistrate of the First Class having jurisdiction in the place where the said person ordinarily resides, and thereupon the provisions of Sections 82 to 86 (both inclusive) of the Code of Criminal Procedure, 1973” shall be substituted.

(B) In sub-section (2) for the words and figures “Code of Criminal Procedure 1898”, the words and figures “Code of Criminal Procedure, 1973” shall be substituted.

4. In Section 15 of the principal Act, after sub-section (3), the following sub-section shall be inserted, namely: “(3A). If the appropriate Government has reason to believe that any person who has failed to surrender himself in the manner specified in sub-section (3) has absconded or is concealing himself, that Government may make a report in writing of the fact to a Metropolitan Magistrate or

a Judicial Magistrate of the First Class having jurisdiction in the place where the said person ordinarily resides and thereupon the provisions of Sections 82 to 86 (both inclusive) of the Code of Criminal Procedure, 1973 shall apply in relation to such person as they apply in relation to a person who has absconded or is concealing himself so that warrant issued by the Magistrate cannot be executed”.

5. In Section 16A of the principal Act, inserted therein by the Maintenance of Internal Security (amendment) Ordinance, 1975:

(A) In sub-section (2), for the words “every person against whom an order of detention was made.” the words and brackets “every person including a foreigner) against whom an order of detention was made under this Act” shall be substituted.

(B) In sub-section (3), after the words “an order of detention under this Act against any person” the brackets and words (including a foreigner) shall be inserted.

(C) For sub-sections (6) and (7), the following sub-sections shall be substituted, namely :

(6) In the case of every person detained under a detention order to which the provisions of sub-section (2) apply, being a person the review of whose case is pending under that sub-section or in respect of whom a declaration has been made under that sub-section.

(i) Section 8 to 12 shall not apply, and
(ii) Section 13 shall apply subject to the modification that the words and figures, “which has been confirmed under Section 12” shall be omitted.

(7) In the case of every person detained under a detention order to which the provisions of sub-section (3) apply, being a person in respect of whom a declaration has been made under that sub-section,

(1) Section 3 shall apply subject to the modification that for sub-sections (3) and (4) thereof, the following sub-section shall be substituted, namely;

“(3) when any order of detention is made by a State Government or by an officer subordinate to it, the State Government shall within 20 days, forward to the Central Government a report in respect of the order.”

(ii) Section 8 to 12 shall not apply, and

(iii) Section 13 shall apply subject to the modification that the words and figures “which has been confirmed under Section 12” shall be omitted.

6. Section 18 of the principal Act shall be re-numbered as Section 19 thereof and before that section as so re-numbered, the following section shall be inserted, namely:

“18. No person (including a foreigner) detained under the Act shall have any right to personal liberty by virtue of natural law or common law, if any.”

7. Anything done or any action taken under the principal Act, as amended by the Maintenance of Internal Security (Amendment) Ordinance, 1975, shall be deemed to have been done or taken under the principal Act as amended by that ordinance and this ordinance.

5. *WHY EMERGENCY? P.M. OUTLINES NEW DEAL*

Mrs. Gandhi once again broadcast to the nation on June 27 explaining the reasons for the emergency and assuring the people that a new economic deal would be announced a couple of days later. Mrs. Gandhi said :

A climate of violence and hatred had been created which resulted in the assassination of a Cabinet Minister and an attempt on the life of the Chief Justice. The Opposition parties had chalked out a programme of country-wide bundhs, gheraoes, agitations, disruption and incitement to industrial workers, police and Defence Forces in an attempt wholly to paralyse the Central Government. One of them went to the extent of saying that the Armed Forces should not carry out orders which they considered wrong. This programme was to begin from the 29th of this month. We had no doubt that such a programme would have resulted in grave threat to public order and damage to economy beyond repair. This had to be prevented. The kind of

programme envisaged by some of the Opposition groups is not compatible with democracy, is anti-national by any test and could not be allowed.

Since the proclamation, there is normalcy all over the country, except for partial hartal and minor incidents in Gujarat. This sense of normalcy must be maintained. And there should be realisation that even in a democracy there are limits which cannot be crossed. Violent action and senseless satyagrahas will pull down the whole edifice, which has been built over the years with such labour and hope. I trust it will be possible to lift the Emergency soon.

You know that I have always believed in freedom of the press, and I still do, but like all freedoms it has to be exercised with responsibility and restraint. In situations of internal disturbance, whether language or communal riots, grave mischief has been done by irresponsible writing. We had to prevent such a situation. For some time several newspapers have deliberately distorted news and made malicious and provocative comments. The entire purpose is to bring about a situation of calmness and stability. The purpose of censorship is to restore a climate of trust. There has been delay in news from the AIR and newspapers. It took time to make all the necessary legal and administrative arrangements.

In the meantime, rumour mongers and anti-social elements have had a field day and have spread stories of all kinds. I want to assure you that the leaders under arrest are being extended all courtesy

and consideration.

Similarly, wild conjectures are circulating about impending nationalisation of industries, etc. and drastic new controls. We have no such plans.

Our purpose is to increase production, which will bring about greater employment and better distribution. One of the immediate needs is to supply power to agriculture and industry. We must alleviate the hardships of the poorer sections and middle classes. This morning I had a meeting with the Secretaries to the Government of India and stressed the importance of making the administration more alert so that work is done more speedily and more efficiently.

This is a time for unity and discipline. I am fully confident that with each day the situation will improve and that in this task our people, in towns and villages, will give us their full support, so that the country will be strengthened.

Economic Programme

True to her promise. Mrs. Gandhi announced a 21-point economic programme which would go a long way to improve the condition of the masses. Pragmatic as she is, she made it clear that there is no magic remedy to poverty and only hard work on the part of the people would achieve the needful. The following is the text of the broadcast :

I am going to speak to you today about some economic programmes which the Government pro-

poses to follow. Some of them are new. Others were set forth earlier, but require to be pursued with greater vigour and determination. Please do not expect magic remedies and dramatic results. There is only one magic which can remove poverty and that is, hard work sustained by clear vision, iron-will and the strictest discipline. Each one of us in our place should determine to do more for our fellow citizens, not only for ourselves. There must be greater respect for State property. Its destruction will be visited by punitive fines. We also need to follow a far stricter code of austerity all around.

Government has its duty to curb conspicuous consumption but citizens also have a responsibility. That is the only way to better the life of the nation.

The campaign of law breaking, paralysing national activity and inciting our Security Forces to indiscipline and disobedience could have led to economic chaos and collapse, and our country would have become vulnerable to fissiparous tendencies and external danger. With the fumes of hatred having cleared somewhat, we can see our economic goals with greater clarity and urgency. The Emergency provides us a new opportunity to go ahead with our economic tasks.

The first and foremost challenge is on the price front. In the last five days, the prices of many articles have shown a downward trend. This trend

will have to be maintained.

To this end, Government will take a series of steps to stimulate production, speed up procurement and streamline the distribution of essential commodities. Stay orders have prevented procurement of paddy in West Bengal and Orissa. Our outlook in regard to foreign exchange resources is reasonably satisfactory. Therefore where necessary, imports will be arranged so that supplies are sufficient. State Governments have already been asked to advise dealers to display lists of prices and statements of stocks. Hoarders and those who violate the rules will be severely punished. This anti-inflation strategy has to be continued.

Credit must be carefully regulated on a selective basis. Government departments and public enterprises have new orders to cut out inessential expenditure.

The vast majority of our people live in the rural areas. We must implement ceiling laws and distribute surplus land among the landless with redoubled zeal. We want the help of the local people in completing land records. Special care will be taken to ensure that tribal people are not deprived of their land.

The programme of providing house sites in rural areas will be vastly expanded. Laws will be introduced to confer ownership rights on landless labourers who have been in occupation of house sites of their landlords over a certain period. Resort to

evictions will be sternly dealt with.

The practice of bonded labour is barbarous and will be abolished. All contracts or other arrangements under which services of such bonded labour are now secured will be declared illegal.

We propose to take action by stages to liquidate rural indebtedness. While new schemes will be drawn up to devise alternative agencies to provide institutional credit to landless labourers, rural artisans, and small and marginal farmers, who own less than two hectares, there will be a moratorium on suits and execution of decrees for recovery of debts from such groups. Debts from co-operatives, commercial banks and governments will be excluded from this scheme.

Agricultural labour is among the worst exploited sections of our society. A review of the existing legislation on minimum wages for agricultural labour will be undertaken and action will be initiated for suitable enhancement of minimum wages, wherever necessary.

We must go all out to increase production. Water and power hold the key to higher agricultural and industrial output. Steps are being taken to bring under irrigation at least another five million hectares of land.

Proven underground water resources will be immediately harnessed and further surveys taken up for irrigation and for the provision of drinking water especially in drought-prone areas.

The power position has somewhat improved. Action is being taken to generate further 2,600 megawatts. Adequate funds are being provided to implement power projects. For long term needs, super-thermal power stations under the Central Government are being planned. State Electricity Boards are being streamlined.

The handloom industry is next only to agriculture in the number of people employed. Supplies of inputs will be ensured to weavers at reasonable prices. A separate Development Commissioner for handloom is being appointed. The policy of reservation for handloom is being rationalised to give greater protection to weavers.

In the mill sector, the controlled cloth scheme is being improved, so that dhotis, saris and cloth will be of better quality and are sold through a larger number of outlets in rural and urban areas.

Fortunes have been made out of urban land at the nation's expense. Speculation in land and the concentration of urban property have led to glaring inequalities and to a great deal of haphazard urban growth.

Legislation is being initiated to impose ceilings on the ownership and possession of vacant land, to acquire excess land, to restrict the plinth area of new dwelling units and to socialise urban and urbanisable land.

Tax evasion is a crime. A great deal of black money so evaded goes into luxury housing. Urban

property is grossly undervalued. Special squads will be set up forthwith to take up property valuation. Punishments will be stern. We are thinking of summary trials.

Our campaign against smugglers will be intensified. It was thwarted by their release on technical points. In some cases they even got anticipatory bail. The properties of smugglers will be confiscated whether held in their own name or benami.

The licensing procedures have come in the way of new investment, causing delay. These will be simplified. The investment limit of those industries which need no imports or governmental help will be raised.

At the same time, I must point out that licences are being misused. Import-export regulations are being amended. There will be speedy trials, and penalties for breaking rules will include the confiscation of goods.

Schemes for workers' participation in the industries, particularly at the shop floor level and production programmes, will be introduced.

The movement of foodgrains, coal, steel and cement by railways has improved in the last few months. Constraints on the movement of goods by trucks will also be removed, and for this purpose, we are introducing a system of national permits.

People with fixed incomes have suffered severe hardships in the last few years. They need immediate relief. The minimum exemption limit for

income tax will be raised from Rs. 6,000 to Rs. 8,000.

Students from poor families face special difficulties if they pursue higher studies away from their homes. To help them, essential commodities will be supplied at controlled prices to all hostels and approved lodging houses.

Another important measure in the educational field will be to ensure that text-books and stationery are available at reasonable prices to all school, college and university students. Prices will be strictly controlled and book banks established.

As one of the measures to increase employment opportunities for educated young people, the Apprenticeship Act will be suitably amended so that managements in the organised sectors of our economy take a larger number of apprentices for a specified period. Special care will be taken to ensure a fair deal to Scheduled Castes and Tribes, minorities and handicapped persons in the recruitment of apprentices.

I have only briefly outlined various parts of the new programme which will be taken up in the coming weeks. Other matters are being looked into and further measures will be announced from time to time.

I have no doubt that together they will make a difference to the country's economic outlook. What is most urgent is that collectively we should shake off any sense of helplessness. The worst feature of

the crisis which was building over the last few months was that it spread cynicism and sapped national self-confidence. There is a chance now to regain the nation's spirit of adventure. Let us get on with the job. Jai Hind.

6. DEATH-BLOW TO VIOLENCE

It did not take long for the government to realise that all the steps they might take to alleviate the sufferings of the common man and maintain internal security and peace would be of no avail unless some militant organisations in the country which had been functioning without any let or hindrance were banned. The Home Minister issued an order banning the RSS, the Jamaat-I-Islami, the Ananda Marg and the Communist party of India (Marxist-Leninist). The ban was imposed under Rules 33(1) of the Defence and Internal Security of India rules and covered 26 organisations which included groups allied to the Ananda Marg and the various factions of the CPI (ML) and other splinter elements vowed to the overthrow of the Constitution by extra-constitutional methods.

In a broadcast interview Mr. K. Brahma-nanda Reddi, Home Minister, explained the reasons for imposing the ban. The following is the text of the broadcast :

Question

The Government has banned organisations like the RSS, the Jamaat-e-Islami, the Anand Marg and CPI(ML). Why was it necessary to ban these organisations?

Answer

The RSS and Jamaat-e-Islami-e-Hind have long been prejudicing the maintenance of cordial relations among different religious communities. Their philosophies and day-to-day activities have been responsible for the growth of communalism. There is no room for such communal activities in our secular democracy. Of late, RSS has been increasingly active in militant agitations and systematically seeking to subvert Government servants. Anand Marg is bent on creating conditions of violence and chaos in the country. It had been resorting to murder to suppress dissent and terrorise Government. We have reliable information that Anand Marg had hatched plans to assassinate prominent leaders. It has a large number of front organisations to give a cloak of responsibility to its activities which are wholly criminal, sinister and designed to foment regional and linguistic passions. The CPI(ML) and its various factions have been responsible for a large number of political murders and violent incidents. None of these organisations have anything common amongst themselves nor can their activities be at all called political in a legitimate sense. There has been an overwhelming

opinion in favour of banning the activities of these organisations.

Question

How have the people responded to the proclamation of Emergency? Has any occasion arisen calling for the use of police force or of army?

Answer

The people in different walks of life have welcomed the bold steps taken by the Prime Minister to prevent the threatened dislocation of their normal activities. There is overwhelming support to the measures taken by Government to frustrate the conspiracy to launch widespread disturbances which under our present conditions would have brought untold hardship and miseries to the common man. During the last few days, law and order has been completely under control and life is going on in a peaceful manner. There has not been a single instance of firing or use of other force. There has been no occasion to call the army in aid of civil power anywhere in the country.

Question

Have sufficient precautions been taken to see that MISA is not misused?

Answer

Measures taken by the State Governments are

designed to maintain law and order and prevent threats to internal security. It would be against this policy to arrest persons who do not pose any such threat. Provision has been made for review of all cases of detention at the level of the State Government. The initial review by the State Government of any order passed by the other authorities has to be made within a period of fifteen days. A fresh review is also required to be carried out by the State Government within four months. This should prevent misuse.

Question

What would you like to say to the public in general on this occasion?

Answer

As our Prime Minister, Shrimati Indira Gandhi, has said in her broadcast, the Emergency has been proclaimed to frustrate the conspiracy hatched to create conditions of disorder in the country. It imposes a duty on each one of us and also on the nation collectively to remain vigilant and not allow the forces of reaction and anarchy to disturb normal life. We should as a people and each as an individual rededicate overselves to the task of nation building, to the task of improving the lot of weaker sections, and to bring about a sense of discipline, orderliness and decorum in our daily lives.

7. *GETTING DOWN TO BRASS TACKS*

Mrs. Gandhi and her colleagues soon began a series of discussions with industrialists and top executives both in the public and private sector on problems of production and distribution. This was followed by a clear enunciation of the economic programme by Mr. Subramaniam, Union Finance Minister in the course of a television interview followed by a press interview by the Prime Minister.

Mr. Subramaniam made it clear that the new programme ordered did not mean that our social objectives had changed. They remained the same—establishment of a socialist society, eradication of poverty and the provision of the minimum needs of the large mass of the people and the removal of the disparities, the glaring disparities, that exist in our society today.

The following is the text of the interview : First of all, we have had the experience, particularly

during the last few years, in the implementation of our various policies, of various obstacles coming in the way, obstacles in the very democratic process, obstacles in the judicial approach to the various problems. When I say judicial, (I mean) judiciary's approach to the problem. And even we have the administrative problems. Now this emergency provides us an opportunity to remove these obstacles first. And we have been removing some of these obstacles by various ordinances and various administrative measures. This is one aspect.

Then we have also new approaches, for example in dealing with economic offences. And here also we are taking various measures for the purpose of dealing with smugglers, dealing with tax evasion etc. And more than that, apart from the approach itself, a speedier implementation of these various measures. Then also we are conceiving new instruments to bring about this thing. For example, take the socialisation of urban and urbanisable land. This has far reaching social consequences and only if it is properly implemented, not only there will be proper use of land but this itself may perhaps generate resources for the purpose of solving many of the problems in the field of our urban housing, poor housing etc. So this is where the new approach comes.

Question

So, if I may sum up, it is really both a new ap-

proach in certain areas, secondly it is making the old approach work better.

Answer

That is right.

Question

The problem closest to the heart of the common man in normal times is the price level and he is very much more concerned about that than anything else and in recent weeks we have found that the prices indeed have been behaving rather well and some prices are coming down, even of essential goods. Would you say that this new trend will get strengthened and will continue?

Answer

Certainly yes. As a matter of fact the Prime Minister herself has given the highest priority to holding the price line. This is unfortunately, a world phenomenon, this phenomenon of inflation, and unprecedented.

And even in some developed countries we find today the inflation going at the rate of 30 per cent, 40 per cent, even 50 per cent.

Question

We are lucky that way now.

Answer

Yes, it is not mere luck that is there, but hard measures that we took during the last year and which are bearing fruits now. And in statistical term if we take the week-ending June 14th we find that 1.9 per cent is the annual rate of increase.

Question

Really?

Answer

Yes, And as a matter of fact this has been appreciated—of course we all appreciated because we enjoy the benefits, but more appreciation has come from international finance institutions, in international conferences which I attended recently. Therefore, this is an achievement no doubt, but what is important is we should not be complacent about it. We have to stabilise this trend and if that stabilisation has to take place, very many more hard measures we have to take. It is not merely holding the price line that is important but making available to the people sufficient supplies at this reasonable level, This would mean production and supply aspect of it and production and supply of particularly the essential commodities which has to be given the highest priority and it is not merely the supply position becoming more convenient, but distribution also taking place in a proper manner and in this the Prime Minister has given the em-

phasis to public distribution system of the essential commodities, but in the short run certainly we cannot cover the entire population by the public distribution system. Therefore, the private trade also has to play a role in this and if they have to play a role in this, then they will have to be disciplined to fall in line with this object and the Emergency gives us the opportunity to do it and what we have got to bear in mind is it is not the crash of prices at an uneconomic level which itself will create many other problems, that is important but what is important is to stabilise our prices at a reasonable level taking into account the cost of production and even in the cost of production, to avoid various wastages that take place. But in all these things we find it is not the cost of production which increases the price, but it is the intermediaries, the distribution system itself which comes. Therefore this will have to be controlled and various measures now are in the offing and I am sure you would have seen even in the press various figures given. Now we are not only at the wholesale level, at the retail level also prices are coming down step by step. I hope we will be able to maintain this tempo of failing prices, steadily falling prices and reach a level where we should stabilise the prices at that point.

Question

What is the latest thing which is definitely new in

the programme? I refer to the rural indebtedness question which really amounts to the flow of credit in one direction and flow of wealth in the other direction. What would you propose to stop the latter flow, that is, you don't suppose to make any payments, nobody will be forced to do so under moratorium? But I think this does require that one needs credit whether it is the production purposes or consumption purposes the latter being not less important for the poor people, that there would be alternative means from which credit would be available? Would you care to elaborate on this aspect?

Answer

As a matter of fact this should be looked at from the general perspective of the removal of poverty. Eighty per cent of our population is in the villages and out of that 70 per cent of the population is engaged in agriculture and that the large masses of poor people are found there—they are agricultural labour—than the small and marginal farmers. So, if you talk in terms of removal of poverty, then the measure of that will have to be got reflected in the standard of life of these people to perceptible increase. And how can it increase, how can it improve?

Answer

Take the case of marginal farmers and small far-

mers who form the bulk of the agricultural population. Even though the land held by them may not be very high, but the numbers involved are very many, and unless their standard of living improves, you cannot talk in terms of removal of poverty. Therefore, now it is a question of improving the productivity of these farmers so that they may be able to get from what they own higher levels of production and therefore higher incomes, and that should get reflected in the wages of the agricultural labour also. This is how we look at it. And from that point of view, the provision of credit is one of the most important things today, because if we want to apply the new agricultural technology available, which is fortunately neutral to the size of the farm, then we have to provide them with necessary means to invest—in new seeds, in fertiliser, in new chemicals, in having new implements for this purpose. In the case of subsistence agriculture, this sort of investment is not necessary but in the new agriculture based on science and technology, this investment forms part of the production process and today the small farmers are not able to adopt this new technology because they do not have capacity to invest. Therefore, for production purposes, unless credit is made available to them, you will not be able to change their productivity and you will not be able to improve their standard of living.

Till now, particularly in the rural sector, it is the

private money-lender who was playing a prominent role, and you know private money-lenders what methods they adopt and on what terms they lend. That is why you find generation after generation of farmers had to sell off their land and become landless agricultural labour. Therefore, now the question is how to provide the credit to these people in an organised manner. As a matter of fact, one of the objectives of the nationalisation of banks was to achieve this objective. But we missed the point that the existing commercial banks' structure is urban-oriented, The persons operating them are urban-oriented; their training has been urban-oriented.

Question

The practices are also.

Answer

Yes. Therefore, if you expect these commercial banks to provide the needs, even though they have made some effort for this purpose and achieved some success also. but they have not been able to tackle the problem in its entirety. Therefore, a completely new approach is called for and hence we are thinking in terms of 50 or a little more than 50 regional banks, each bank with their branches serving a population of one crore of rural population and the structuring of the bank and the salary structure should also be in harmony

with the rural surroundings. If you transplant now the existing banks' salary structure, then you will find a peon will be getting much more than the headmaster of the school there, or, as a matter of fact, the peon may be even richer than the ordinary landlord there. This will create new tensions in the rural economy. And, therefore, the salary structure should be in harmony with the social atmosphere, the economic surroundings there. And, therefore, all this will have to be taken into account and a new training and new approach will have to be given to those who are functioning there so that they know agriculture, they know what are the problems of landless labour, they will know what are the requirements of an average artisan. Then on that basis, they will be able to purvey credit. And it is not merely just purveying credit, it is providing the supplies necessary for agricultural operation, or the operation of small artisan industries. And then we will have to provide the services to utilise these. And then it will have to be linked with marketing also. Unless all these are combined together, you will not be able to solve the problem of providing credit for these purposes. This is the new approach which we are...

Question

It is very interesting.

Answer

My own target date is, on October 2—Gandhi Jayanti day—we should be able to have inauguration of these new banks.

Question

There would of course be some change in the general approach—about security and so on and so forth, about credit worthiness and all that.

Answer

Yes, you see, what is creditworthiness? Creditworthiness is capacity to repay. Now we think the capacity to repay depends upon the assets he owns or the wealth he owns. That is coming to the stage when we will be able to sell those assets. This is completely a negative approach. Credit will have to depend upon the potential for greater production and therefore, he gets the capacity to repay it and today you find the village moneylender charges 30 per cent and even much more sometimes and he does repay and the village moneylender has got his own system of extracting the money and therefore if he is in a position to pay this much to the moneylender, certainly if you are able to give them credit on more reasonable terms, I won't see why they should not be able to repay it.

Question

Basing on presumptions?

Answer

Yes, and apart from the presumption, our experience has shown, as a matter of fact, the smaller man is interested in repaying the loan much more honestly because he has to depend on this loan, whereas the bigger man, he can ignore it and get the credit somewhere else. Therefore, all these motivations will have to be made use of for the purpose of building up a new system of credit,

Question

Will there be any room for consumption loans in this at all, or...?

Answer

I think there should be some provision for it because whether we like it or not the social customs have not changed and they won't change overnight. So, we will have to provide while the educational process should go on, that they should not waste these moneys on funeral ceremonies or marriage ceremonies or various other ceremonies which come in the way. But still it will have to be, in my view, a long-term process—this transformation process. So in the transitional period we would provide for these consumption loans also taking care to see that this is minimised as

far as possible.

Question

It is very interesting indeed, Hon'ble Minister, but would I take you to the natural selective credit that has been also mentioned, which is not really new because it has been there? What would you say would be sufficient change that might be brought out? What is your reckoning on its impact on production.

Answer

As you said, this is not new, as we introduced it a year back or even a little earlier than that. But when we introduced it for the first time, we really contravened all the implications of that. Therefore, when we found the new credit policy just six months back, then we took into account on the basis of the experience how this should be organised. This is not credit squeeze as it is called, it is credit planning as a matter of fact. We don't want to increase the money supply beyond a certain level because that itself causes inflation. Therefore, if limited resources will have to be used, then the priorities will have to be fixed and according to those priorities, the credit should be given for the purpose of seeing that the production does not fall. There is a general complaint that this credit squeeze has brought down or is bringing down the industrial figures. But unfortunately the facts are otherwise. In 1973-74 when there was a liberal credit policy

where we allowed the money expansion to go to the extent of 16 per cent, the industrial growth was only less than one per cent, whereas, in 1974-75 when we had the tight money policy it has been 3.5 per cent. Therefore, it is a question of using whatever resources are available in the most efficient and effective way instead of getting credit for one purpose and diverting it for other speculative purpose. This is what we are trying to prevent in this process of credit planning so that when we provide credit for certain productive purposes, credit is used for that purpose and what level this credit would be required is a matter which will have to be judged properly and this credit planning is another instrument which we are using for the purpose of enforcing priorities.

Question

May I ask you the last question because we are running out of time? And that is, in your view how would the emergency help you in implementing not the new programmes but the ones that are already there?

Answer

This is where we have to look at our experience during the past 25 or 27 years. It is not as if we were not clear with regard to our social objectives. It is not as if we did not know what we have got to do to achieve those objectives. But if you see the

process of implementation, there has been a series of obstacles, there is a series of slackness and there has been, what I would call, an approach of soft society. They refuse to take hard decisions which are necessary for certain purposes.

Question

Like discipline.

Answer

Yes. As a matter of fact, one of the assessments with regard to our failures was that we have become, we are becoming more and more a soft society, and on that basis, either in Parliament or legislature or in administration, we are not prepared to take those hard decisions which are necessary. Compulsions are brought to make those softer decisions. Certainly this will not yield results. This required a shock as a matter of fact and in my view this emergency provides that shock, so that we may get awakened from this slumber, if I may say so. This is one aspect of it.

The second aspect is, we talk in terms of democracy. Now what do you mean by democracy? As far as I am concerned, I would put it this way. We want to bring about a social transformation. This can be brought about by violent means. This is not democracy. But we are able to bring about this transformation by peaceful, evolutionary methods, that is the democratic process, by consensus etc.

Therefore, whatever stands in the way of this transformation of the society is undemocratic. Therefore, even though we claim to have been functioning in a democratic system, when these obstacles have cropped up, these impediments have come in the way of implementing these things, to that extent, it has become undemocratic. Therefore, those will have to be weeded away. And if we are able to speed up this process of peaceful transformation, to that extent, we would have strengthened the democratic process. And in the name of functioning in a democratic way, if you slow down the process of transformation, then to that extent, in my view, you are becoming undemocratic. Therefore, this emergency is going to provide us, if you use it in proper manner opportunity to strengthen democratic processes and this gives us new instruments also and new approaches also. For example, we are able to arrest all those smugglers today who had been released by the courts.

Question

And who need to be arrested.

Answer

They have been arrested. It has already been announced on the radio and perhaps Press will announce it tomorrow. In the same way, tax evaders too. We want to confiscate the properties of the smugglers and other ill-gotten wealth. If it is not

possible to do by the ordinary process and if emergency gives you the occasion and opportunity to do it, I would say this is a much better democratic process than anything else. Therefore, you will have to look at it from this point of view. And the emergency, if it is properly used—I am again emphasising 'properly used'—this would be new opportunity for us all and it is here that I would like to again repeat what the Prime Minister, Shrimati Indira Gandhi has stressed, there can be no miracles. What is needed today is hard work, disciplined work and work according to the plans we have laid down for ourselves. And the Emergency has given us the opportunity, to take hold of the situation and move forward and show to our people by peaceful, evolutionary democratic methods that we would be able to achieve social objectives which are absolutely necessary—that is removal of poverty without which it will become the most explosive situation and no democracy can function in such a situation.

Question

Thank you very much, Hon'ble Minister, it has been very useful background and commentary on the programme that the Prime Minister gave to us last night. Thank you very much.

How Opposition Blocked Progress

The Prime Minister, however, dispelled the feeling that in view of the over-whelming majority of

the Congress in Parliament, the opposition could not have blocked the government's economic measures.

The Prime Minister said in a press interview: Anti-Congress parties were obstructing not only economic development but all normal functioning of the administration and economy. There were frequent calls to stop all work. Farmers were asked not to sell their produce to the government. Non-payment of taxes was preached. Last year, in Bihar, when hoarded stocks were seized in some villages, students of the Sangharsh Samiti beat up the officials and took back the grain. The railway strike last year, at a time when many parts of the country faced acute distress and movement of food was of paramount importance, was another example of how little the opposition cared for the true interest of the people. They tried to persuade workers not to work but to agitate. This is not the kind of climate in which any nation can prosper or even survive.

For example, during the April-December, 1974, there were 38 major strikes in Bihar. These included eight by miners, 17 by metal and engineering workers, three by road transport workers, five by state government employees, two by local bodies employees, two by teachers and one miscellaneous strike.

The loss of man-days in the public sector was 8,00,353 and in the private sector 7,24,642.

Similarly, the loss during the railway strike and sporadic agitations in different parts of the country in 1973 and 1974 was estimated at Rs. 124 crores. The loss to national economy, if anything, was ten times more than this.

As if this were not enough, they even attempted to undermine the loyalty of the police and military. Would any country tolerate a call to the armed forces to revolt? It is rather strange we did not find condemnation of such incitement in most of our newspapers.

The aim of the opposition parties was obvious: to paralyse the government and indeed all national activity and thus walk to power over the body of the nation. The situation had come to such a pass that a few more steps would have led to disintegration, which would also have exposed us to foreign danger.

You have asked about the majority enjoyed by the Congress in Parliament. New legislation could and can be passed with this majority. But most opposition people did not seem to be interested in legislation but were intent on using their presence in Parliament to wreck the system itself. They used obstructive tactics to delay and block many important measures.

Their entire aim is to set aside, through their extra-constitutional activity, the results of democratically-held elections.

Question

There is a view that some recent restrictions, including the one on the Press, may disturb the delicate checks and balances so vital to the functioning of any democracy? Do you agree ?

Prime Minister

What is the essence of democracy? Democracy is a way of life. Decisions should be openly arrived at, that people should have a right to choose and change governments peacefully, that political activity be conducted in accordance with constitutional provisions. Resorting every now and then to the so-called ultimate weapon of satyagraha is not democracy nor is forcing, through intimidation or coercion, duly-elected legislators to resign. There is freedom of expression and debate in democracy but can systematic and virulent character assassination without any basis in fact be indulged in the name of democracy ? A campaign of hatred and calumny was unleashed against me in 1969. But most of our Press did not protest at all. There was no comment when effigies of the Chief Justice were burnt by opposition parties some time ago or when they decided to accept only a part of the court's order. The tremendous and unscrupulous pressures which were brought to bear from all sides can hardly be believed. Anyone who might be thought to be on our side was subjected to intimidation. Some of the Press deliberately blocked out

anything that went in favour of the Congress and gave undue prominence to even exaggerated news about anything that was against us.

There are parties like the RSS, strongly anti-Muslim and anti-Christian, which function in the twilight and have secret constitution. They try to exploit democratic freedom only to further their own sinister aims. Those whose ideology is violence and disruption cannot be democratic. For them to take the name of democracy is like the teenager who killed his parents but pleaded for mercy on the ground that he was an orphan.

This was an extraordinary situation. If the opposition front had been allowed to carry out its plan of paralysing the nation, there would have been a serious breakdown. The same foreign news-papers which are now shedding tears over our firm steps would then have gloated over our weakness. After all, do not forget that they are great supporters and admirers of regimes that get results but do not even claim to have democracy. For them, some countries can do no wrong but India can do nothing right. Even in the last three or four days they have spread baseless rumours without any effort to check the truth.

I am not happy that we have had to impose regulations on newspapers. But some journals had shed all objectivity and independence and allied themselves totally with the opposition front and did everything to spread doom and defeatism.

With all these restrictions, I think we are still one of the most relaxed nations in the world. We are not a police state. Nor is it a one-party state. Three states have non-Congress governments. In Gujarat, there is a government run by parties politically opposed to us and it is functioning. The Tamil Nadu and Goa governments have been functioning normally for years. I do not think the basic structure of our nation has in any way been changed.

We have always accepted the verdict of the electorate but some opposition parties adopt double-standards. If they lose, they talk of secret ink, rigged elections and so on. If the percentage of our votes is low, there is tremendous publicity. But in Gujarat we got 41 per cent. whereas all the different parties forming the Janata Front together got 34.6 per cent. So there is no mention of percentage now.

Our meetings in Gujarat were far bigger than those of the opposition. Yet every one of them was disturbed by a handful of children or students. Many speakers were hurt by stones, including Mr. Jagjivan Ram. One of our candidates was shut up in a house and barely escaped the attempt to burn him alive. None of these events got much publicity. Is this the meaning of freedom and fairness of the press?

Question

Are you aware of the fact that unfavourable

things have been mentioned about your personal wealth?

Prime Minister

Some of our own and the foreign Press are highlighting baseless charges of corruption. We have always looked into such matters and shall deal with them strictly. Those who know me have seen how simply my family and I live. I have given away my ancestral home and its extensive grounds. Were these the actions of a person who was interested in making money?

What about the supporters of these agitations? It is known that a very large amount has been spent. Where has this come from? The association of businessmen and others with this movement is not hidden and people are well aware of their reputation. In fact, this is why some of these politicians were rejected by the public.

Question

Would you like to dispel the impression in a section of the people that the internal difficulties of the Congress Party had something to do with the declaration of the national emergency.

Prime Minister

Who could have such a preposterous notion? The emergency is not proposed for the convenience of individuals or groups. The emergency is the

direct consequence of various factors and the opposition front's announced designs to paralyse the government and the open and hidden preparations they were making.

It has been part of the psychological warfare of the opposition to go on suggesting that the Congress is ready to fall apart. It has been trying its hardest to split our party but without any success. Only about five persons were trouble-makers and that too because of our tolerance. There has been no time when there was no dissent within the Congress. There were sharp differences of opinion between Gandhiji and Netaji Subhash Bose, between my father and Sardar Patel. Splinter groups have broken off from time to time. In fact, I remember that Mahatma Gandhi was most upset at J.P.'s advocacy of violence in 1942.

Question

There is a feeling that the system itself had failed to withstand the stresses and strains of new social challenges. To what extent modifications or reforms are desirable and possible?

Prime Minister

If there are groups intent only on weakening the system by any unfair means, the system cannot be blamed. Democracy implies an implicit acceptance of certain higher objectives: the government can be opposed but not national interests. The opposition

front displayed an utter lack of understanding of this distinction. Their anger against me and the Congress obscured consideration of the nation's welfare. Democratic liberty does not include licence to undermine democracy itself. Even in democracy there are limits which cannot be crossed. Instant satyagrahas, as I said earlier, certainly cannot be part of democratic functioning. When they win, they are for the system, when they lose, they decry and attack it. We on our part, have accepted our setbacks at the polls. They have the same double-standards in regard to the judiciary. In spite of the court decision, they openly declared that they would not allow Parliament to function. There is scope to improve every system. Reforms to correct deficiencies and abuses of the electoral system were in fact under discussion. But the opposition front was interested not in reform but in wreckage. It tried to make a pre-emptive strike.

Question

Some of the states where the Congress is not in power may not see eye to eye with the Centre on the declaration of emergency. Do you anticipate any difficulty on this account?

Prime Minister

I do hope that the states where non-Congress governments are in power will co-operate with the Centre and will direct all their energies to the imple-

mentation of the economic programmes which we have just announced. It is a national programme, a programme to benefit all the people, and is wholly non-partisan.

Question

You have often said that you would like to create an India of your dreams?

Prime Minister

It would require a long answer since it touches many levels. Briefly, we would like to reduce the economic burden on the common people. Poverty cannot be totally removed but it can be considerably reduced.

Industrialisation, as it has developed in the West, has taught people to keep asking for the things they want. We would like our people to get and to give. They should have a sense of participation and a sense of responsibility.

All these things could be achieved either through force as it is being done in some other countries or voluntarily. India has its own personality. It has its own traditions. We should not throw these away.

Question

One last question. As a guessing game it has often been asked who your advisers are?

Prime Minister

I consult a lot of people but I take my own decisions.

Cabinet Committee Set-up

As part of the follow-up measures a Cabinet Committee on Anti-smuggling Measures consisting of Mr. Om Mehta, Minister of State in the Ministry of Home Affairs, Mr. Pranab Kumar Mukherjee, Minister of State in the Ministry of Finance and Dr. (Smt.) Sarojini Mahishi, Minister of State in the Ministry of Law, Justice and Company Affairs among others was formed. Its first meeting was attended by the Cabinet Secretary, Home Secretary, Finance Secretary, Law Secretary, Secretary, Department of Personnel and Administrative Reforms, Director, CBI and Chairman, Central Board of Excise and Customs.

The Committee gave the following directions:

- (a) A number of smugglers who were ordered to be detained are absconding. Urgent action is necessary to trace and arrest them. Appropriate instructions should be issued to the State Governments. The photographs of proclaimed absconders should be published and orders for the attachment of their property issued.
- (b) State Governments should be asked to take particular care to see that the treatment of

smugglers while in jail is strictly in accordance with prescribed instructions and that no unauthorised concessions are allowed to them.

- (c) Confiscated boats should be put to immediate use for undertaking anti-smuggling operations. Sanction for recruitment of the requisite crew should be given promptly.

Control of Prices

Since the declaration of the emergency various steps were taken by the Government to control prices and ensure increased availability of essential commodities especially to the weaker sections of the population, and to extend and strengthen the public distribution system of essential commodities.

State Governments have evolved machinery to maintain vigilance on prices and availability of essential commodities. The public distribution system is being extended to vulnerable areas including deficit districts in rural areas and industrial, mining, plantation and other labour complexes.

Advance action has already been initiated to ensure that there is sufficient availability of essential commodities, especially foodgrains and sugar during the ensuing loan seasons from July to September. Increased allocations of food grains from the Central Pool, especially of rice and wheat, have been provided for the month of July. In respect of sugar, the allocation of free sale and levy sugar which was 1.80 lakh tonnes in the month of May, has been

raised to 3.10 lakh tonnes for July comprising 2.20 lakh tonnes for levy sugar and 90,000 tonnes for free sale sugar.

Prices of vanaspati and edible oils which showed a rising trend in May have now begun to show a marked fall mainly because of various remedial steps, including releases of imported palm oil by the STC. Such remedial action is being further intensified.

Increased production of soft coke and its movement by rail has been ensured and action initiated for location of coal dumps at strategic points especially in the northern region. The coal dump at Delhi is already functioning. Special steps have also been taken to arrange for increased production and movement of salt, cement, cultural paper, soap, baby food, matches, tyres and tubes and soda ash.

In respect of controlled cloth, special steps have been taken to provide increased finance. Cooperative retail outlets in the cooperative sector for controlled cloth have been increased during the last few months, achieving 68 per cent of total cloth distribution in the rural areas through 21,000 retail outlets. Improved quality cloth according to revised specifications is being distributed in accordance with consumer needs, especially of the weaker sections of the population. The production of sarees and dhoties has also been increased.

The apex level Cooperative organisations, namely, National Agriculture Cooperative Market-

ing Federation (NAFED) and National Cooperative Consumers Federation (NCCF) have been strengthened to provide market intervention especially in respect of foodgrains, coarse grains and pulses so that open market prices of essential commodities outside the public distribution system continue to remain under control.

Wholesale prices have declined by 0.3 per cent in the week ending May 31, 1975. Between April 5 and May 31, the actual increase was only 2 per cent as compared to 6.2 per cent during the corresponding period of 1974. The annual rate of inflation in the year ending May 31, 1975 has been brought down to 2.8 per cent as against 28.5 per cent for the year ending May 31, 1974.

As a result of action taken by State Governments in the last few days, there has been an appreciable fall in retail prices of open market wheat and sugar. The retail prices of edible oils have also declined. Reports have also been received of de-hoarding of stocks.

Machinery Streamlined

The Government of India also streamlined its machinery in the Department of Civil Supplies to monitor the availability and prices of essential commodities all over the country. The State Governments have also been instructed to gear up their own machinery to ensure that shortages of any kind do not appear anywhere and that prices are not

raised artificially. They have been asked to take sternest action possible under the Essential Commodities Act, the Defence of India Rules or the Maintenance of Internal Security Act against hoarders and blackmarketeers.

The Government has also issued an order making it obligatory for traders to display the prices and stocks of essential commodities at all shops selling these articles. The trade has been given three days to comply with these orders. Failure to comply with the order will attract legal action. The State Governments have been instructed to enforce the orders strictly.

Complaint Cell

The Ministry of Petroleum & Chemicals have established a Complaints Cell which will receive complaints from public or State Governments in case of any temporary or local shortages or any other difficulty regarding availability of petroleum products and will ensure that immediate action is taken to rectify the situation in co-ordination with the marketing oil companies.

Availability of all petroleum products is at present adequate and consumers demands are being met satisfactorily. Adequate stocks of all products have been kept at major consuming centres all over the country.

The cell in the Ministry will not only ensure adequate supplies through oil companies but will also

get in touch with the State Governments where any difficulty may arise out of distribution arrangements under the control of the State Governments.

Shortage of any petroleum product, particularly diesel, kerosene, or cooking gas refills can be reported to the cell by consumers directly. Similarly the State Governments can also contact the cell directly for prompt action. The cell operates on all weekdays from 10 A.M. to 5 P.M. under the direct supervision of a Joint Director in the Ministry in Shastri Bhavan, New Delhi. The Joint Director can be contacted on telephone no. 382495.

8. AS OTHERS SEE IT

The Ministry of Home Affairs issued a White Paper reviewing the scope and nature of the challenge that had been thrown up and to describe the conditions that impelled the Government to take action under Article 352 to withstand the calculated onslaught on the Country's political institutions and economic progress, The following is a chapter from it giving the views of the Press and others.

Commenting on the Bihar agitation the "Hindu" of Madras in an editorial in its issue of June 11, 1974 observed :

"...the real question now is whether a duly elected legislature should be dissolved just because a students agitation, however eminently led, demands it. Mr. Narayan, who had so far chosen to remain outside the mainstream of politics and thus shirked his responsibility to shape it and the country's affairs on what he deems to be sound lines, now seeks to enter the house by the wrong door and even bring it down on the heads of everybody. That a similar agitation got away with it in Gujarat and got the Assembly dissolved is

no justification for another such attempt in Bihar. In Gujarat too, fight against high prices and war on corruption in high places were the most prominent slogans. It is doubtful if either battle has been won since the dissolution, though the Ministers are no longer there to be charged with responsibility for them. Is it Mr. Narayan's "democratic" aim that popular Ministries should be replaced by President's Rule until such time the national character undergoes a seachange and produces a new set of highly ethical and able legislators? If corruption and maladministration are what he is up against, one would expect him to lead his followers to unearth hoarded grain and expose corrupt and incompetent men in office through the appropriate or established forums. He may well ask where such forums are that will help him achieve his objective. That might be a tough question to answer. But by bringing down the present elected legislature through demonstrations in the streets, does he expect that a successor legislature, elected in due course, would be free of the ills he wants to eliminate?

"Bihar has had perhaps more mid-term elections than any other State in India and governments too of various kinds, both led by the Congress and united fronts of the Opposition parties and all of them have been notorious for the same ills, because the people of Bihar by and large vote on the basis of caste and manage to return more or

less the same set of caste-minded legislators, many of whom do not think twice about crossing the floor or plotting against their elected party leaders, for personal benefit. A repetition of the mixture as before can hardly be ruled out in yet another election.

“It is being said in defence of Mr. Narayan’s unhappy adventure that one of his aims in launching the agitation is to educate the people politically so that they will learn to beware of the self-seeking and the corrupt, when they go to the polls next time. What seems more likely is that he may be educating the Biharis in anarchy. His call to the people not to pay taxes and the police to disobey official orders amounts to nothing less. What kind of democracy, of the partyless variety or any other, can he hope to usher in when the people and the officials are taught or asked to run berserk. If Mr. Narayan’s objective is to show the powers that be that he is still a political force to reckon with, he may have demonstrated it by the one lakh crowd that he was able to mobilise for his recent Patna procession. But if he is keen about rescuing Bihar’s or the country’s politics from its depths and re-shape it to meet the country’s needs, the public would expect him to fight the elections, get the people’s mandate for whatever constructive programme he has to offer and show that the State and the country could be governed better.

“From the following that counter-demonstrations to his own could muster, it is clear that even the bulk of the Biharis is not entirely behind his toppling move. It is also clear that what inhibits the Government’s firmer handling of the situation created by him is Mr. Narayan’s undoubted stature as a Gandhian and an upright man. Should he virtually exploit such public standing to usher in what are disorder and disrespect for law and order and the democratic set-up as a whole.”

The “Pioneer” of Lucknow, in an editorial in its issue of June 6, 1974, said:

“Good intentions are no substitutes for rational behaviour. Sarvodaya leader Jayaprakash Narayan is really playing with explosives. The movement that he is spearheading to oust the ministry, gherao the legislators, to spread disaffection in the ranks of the police forces against the Government and to plunge the State into a tumultuous ‘no-tax’ campaign may trigger off violence on an epochal scale much earlier than apprehended. Ostensibly he is aiming at purging the government of all that is evil. But the methods he is advocating are frankly coercive and undemocratic.”

The “Free Press Journal” of Bombay, writing in an editorial in its issue of June 4, 1974, said:

“Politics, it is said, is the art of the possible. If politicians set out to achieve what is not feasible in a given situation, the result can be disastrous.”

One has every reason to fear that the movement in Bihar led by Mr. Jayaprakash Narayan to get the State Assembly dissolved may well turn out to be a negative exercise of this kind.”

Writing earlier in another editorial on February 16, 1974, the same paper had observed:

“However, to call for a youth revolution, as JP did on the highly explosive Ahmedabad grounds, is tantamount to open incitement of a most volatile section of society. Taking to the streets by students is no answer to the problems confronting the country. It is easy to rouse the passions of the youth, but most difficult to contain them. It is unfortunate that a balanced well-meaning man like JP thought it fit to issue such an appeal.”

In another editorial on June 8, 1974, the “Free Press Journal” wrote:

“JP’s idea of a partyless democracy may be very attractive to some idealistic individuals in the country, but in practical terms what does it imply? Will it not open the floodgates of a more insidious corruption at the individual level since there will be no organization to instil any discipline or socio-economic programme? What guarantee is there that in partyless democracy national character, which perhaps has reached its lowest point, will automatically flower out? There

is also an inherent contradiction in Mr. Narayan's thesis when he assumes that only educated people with high moral integrity will find a place in the power structure under his system. Does he deny the right to every individual in the country, irrespective of his caste, education and social status, to have an equal right to stand for elections? In fact, what Mr. Narayan has been expounding for some years now has the seeds of an autocratic rule of a set of individuals. The logical corollary would be a kind of totalitarian rule, having seeds of its own propagation, by whatever name one may like to call it. Is this the scenario Mr. Narayan has in view?"

The "Deccan Herald" of Bangalore, writing in an editorial of June 12, 1974, observed:

It is puzzling that Mr. Jaya Prakash Narayan, who has so far stood and fought for moralising politics, has apparently chosen to ignore the dangerous implications of some of his directives to his own followers and exhortations to the services. He has called for a no-tax campaign, prevention of members from attending the legislature knowing full well that such an effort must needs call for a species of violence, and above all appealed to the police to disobey their superiors' orders. It is a call for organised law-breaking as well as one for indulgence in indiscipline by the services; in other words, a call for chaos, not only

in Bihar but throughout the country. Obviously, Mr. Narayan's remedy will only kill and not cure the patient. If a student agitation succeeded in Gujarat, it does not mean a similar movement will succeed in another State where the situation is qualitatively different, a difference which Mr. Narayan has intriguingly chosen to ignore. The public is now forced to suspect that Mr. Jayaprakash Narayan has unwittingly allowed himself to be the front man of interest and influences cunningly playing upon what stands out as his own ferocious sense of egotism. At any rate even the moral basis of his revolt such as is claimed for it, has been knocked out by the supreme Sarvodaya leader Acharya Bhave's repudiation of what the distinguished disciple Mr. Narayan is now doing, which not only legally but, even more than that, morally fortifies the Government in all it does to ensure the total defeat of Mr. Narayan's agitation and revolt."

The "National Herald" of New Delhi, in an editorial on June 24, in 1974 wrote:

"In the course of the last few weeks Jayaprakash Narayan has hardly behaved like a believer in democracy of any kind. His seven-day ultimatum to Bihar legislators to quit the assembly, which has largely been ignored, was surely not a democratic move. He is engaged in organising coercion in a bid to undermine democratic institutions and

values and the identity of his most prominent backers, including a section of the big business press, creates serious doubt about the aim of his 'movement'. He has condemned all parties as power-oriented, and is sore with those Opposition MLAs who did not carry out his peremptory order to resign. He has said in Allahabad, that he does not find any political party in the country capable of leading a revolution. He sees himself as the only one capable of it, although he does talk of the 'movement' throwing up its own leadership.....His 'invitation' is to chaos,"

The following are excerpts from an article under the title 'The National Scene' written by Shri Sham Lal in the "Times of India", New Delhi of May 29, 1975:

"It all began with a demand for the dissolution of the Bihar Assembly. But neither J.P. nor the opposition parties could develop sufficient sanction to back it up. In fact the parties could not persuade their own members to vacate their seats in the assembly. Taking courage from what had happened earlier in Gujarat, J.P. thought that students would be the best people to lead the 'total revolution'. So he implored them to leave their schools and colleges for one year. Some of them did so, but they got bored in a few weeks and went back to their classrooms. In any case they were more interested in passing examinations

without doing their homework than in overhauling the system. The sponsors of the revolution then launched a no-tax campaign to deprive the government of its revenues. But few among the tax-paying gentry were keen to court arrest—and the government went on merrily collecting its dues.

“The opposition parties have a vested interest in keeping the balloons of bloated rhetoric afloat. They will go on talking of a ‘total revolution’ so long as it serves their ends.”

According to a report (by its Staff Reporter) published in the “Amrit Bazar Patrika”, Calcutta of April 27, 1975:

“Artists, intellectuals and literateurs, who met in the University Institute Hall on Saturday, expressed concern at the call of ‘total revolution’ given by Mr. Jayaprakash Narayan and asked the people of the State to realize the real nature and significance of the JP-led movement and to fight it to a finish.

“The meeting, which was presided over by Dr. S.N. Sen, Vice-Chancellor, Calcutta University, was addressed, among others, by Mr. Premendra Mitra, Prof. Hiren Mukherji, MP, Mr. Amiya Das Gupta, Mr. Saugata Rau and Mr. Satindranath Chakravorty.

“A resolution adopted at the meeting stated that Mr. Narayan had been giving leadership to the

forces of extreme left and right to introduce the politics of destabilization in the country at a time when imperialism was fighting a battle for its very existence in Asia. Capitalising on the present discontent among the people, the reactionary forces are now out to seize power with the ultimate objective of introducing neofascism in the country, the resolution said.”

According to a report in the “Indian Express”,

New Delhi of April 28, 1975:

“Dr. P. B. Gajendragadkar, former Chief Justice of India hit out at Mr. Jayaprakash Narayan for making an appeal to the members of the armed forces and constabulary to refuse to obey orders which they felt were either immoral or inspired by partisan motives.

“This would lead to ‘chaos’ if each member of the armed forces and constabulary was called upon to decide whether he should obey a particular order or not, he said, in a speech highly critical of Mr. Jayaprakash Narayan, at the concluding session of the All-India Lawyers’ Conference on freedom, democracy and socialism here.

“The former Chief Justice said that Mr. Jayaprakash Narayan, it appeared, was very angry with the overall position in the country as he saw it and was impatient and determined to bring about what he (Mr. Narayan) called a total revolution in a non-violent and democratic manner.

“But, with respect, may I point out that, according to Bhagawat Gita, uncontrolled anger and impatience are sometimes apt to part company with reason and may in the result lead to confusion and chaos and thereby defeat the very purpose which the movement of dissent has in view? Let us all remember that Gandhiji was profoundly right when he insisted that means are as important as the ends,’ he said.”

EPILOGUE TO THE WHITE PAPER

The Constitution of India has embodied in it a parliamentary system. The most abiding characteristic of this system is responsible government through an elected Parliament. Parliamentary government, as is well-known, works by interaction of four essential factors : the principle of majority rule, the willingness of the minority for the time being to accept the decisions of the majority, the existence of great political parties divided by broad issues of policy rather than by sectional interests; and finally the existence of a mobile body of political opinion. owing no permanent allegiance to any party and, therefore, able, by its instinctive reaction against extravagant movements one side or the other, to keep the vessel on an even keel. (*—Joint Parliamentary Committee on Indian Constitutional Reform*). It is through our firm adherence to this system that India has gained political stability, and her unity and integrity not only safeguarded but strengthened.

The events in Gujarat of early 1974, the Bihar agitation which followed Gujarat, the concerned efforts by certain Opposition parties under the inspiration and leadership of Shri Jayaprakash Narayan

to spread the *movement* to other parts of the country, the plans and programmes of the national Coordination Committee of peoples' Struggle culminating in the decisions taken by them in their Delhi meetings of June 1975, were all deliberately aimed at undermining the Constitution and destroying the very institutions through whose instrumentality a democracy can flourish. They expose in all their nakedness the deep and widespread conspiracy which has been brewing against the Prime Minister and the Government led by her. In the name of democracy, it had been sought to negate the very functioning of democracy. Duly chosen governments were not allowed to function, and force was used to compel members to resign in order to dissolve duly elected Legislative Assemblies. A systematic campaign of hatred, vilification and calumny had been let loose by these Opposition parties to spread disaffection among the people and disrupt law and order throughout the country on a wide scale. The actions of a few were endangering the rights of a vast majority.

It has been well said :

"A democratic set up presumes more boldly than any other the good faith of those who work it. The understandings and habits by which the Constitution functions are bound up with the growth of mutual confidence between the great parties in the State, transcending the political differences of the people.

“One should not forget that it is the basic democratic principle that the appeal of the respective parties to the electorate determines the composition of the Legislature, and the party composition of the Legislature determines the formation of the Government. The Government rests upon its party support in the Legislature, and the party strength lies in the fact that it has successfully appealed to the electorate. A democratic government demands not only a parliamentary majority but also a parliamentary minority.

The parliamentary system would become unworkable if the opposition were not to accept the majority rule. Government is by consent and opposition is by agreement. Mutual forbearance and fair play in public life are essential to the working of a democratic system. But it has to be accepted that all parties have to accept the necessary conditions of democracy. They have to accept the principle that majority may govern. Government and opposition alike have to assume the honesty of the other.”

A situation has arisen where these basic precepts of democratic functioning have been forgotten by these Opposition parties. If they are allowed to go on, the result will be sapping the confidence of the nation in its cherished institutions; and instead of “democracy” we will have chaos and anarchy. No Government worth the name could stand by all this and allow the country’s security, stability and

economy to be imperilled. The nation's interests demanded firm and decisive action.



