

Shri Biswanath Das (Orissa: General): Mr. Vice-President, Sir, I stand to oppose article 277 as unnecessary in this Constitution. Sir, the emergency powers incorporated in this Constitution are more or less adapted on the lines of Section 93 of the Government of India Act, 1935, with certain modifications necessary from their point of view for the purpose. An analysis of the clauses reveals that it is classified under three heads, firstly, provisions relating to war emergencies, secondly, provisions relating to domestic violence and thirdly, provisions relating to any such violence and acts of violence which the President considers imminent and dangerous. A Government functioning under any constitution has always the right to take all necessary powers to deal with the situation has always the right to take all necessary powers to deal with the situation in cases of external aggression or war emergencies. To that extent, any restriction of the powers and privileges of the ordinary citizens may be allowed under the Constitution. I do not believe that any honourable Member of this House seriously object to that aspect of the question. It would be ridiculous to call it democracy if a party or a provincial Government goes on in its own way to take a course of action which is contradictory and conflicting with the best interests of the Union or its safety. Under these circumstances, any power reserved for the Centre in war time and war emergencies is welcome.

Sir, we come to the question of domestic violence and any acts of violence which according to the President are considered imminent and dangerous. These are different questions and have to be considered from a different point of view. As I have stated on many occasions, I repeat that we are contemplating party Government in a system of democracy. Party Government necessarily means different parties. In a federation with a Centre and Units there is no denying the fact that different political parties may be in charge, of the administration in the different units or even in the Centre. Under these circumstances, there is a possibility of misuse of these powers. Speaking personally, I have experience of this misuse. Recollecting my past experience of Madras and the Justice Party, I have seen how the District Boards and Municipalities were mercilessly superseded without rhyme or reason because the Government had the power kept to itself to supersede these municipalities. What has been done in Madras by a certain party with regard to district boards and municipalities may be repeated by the Centre. Therefore, I plead with the Honourable Members of this House that no more power need be left with the Centre or with the Governors who are practically the agents of the Centre to deal with any situation.

Any power that you reserve to yourself for war emergency is quite welcome. We do not oppose it. I concede the fact that the provisions contained in articles 275 to 277 and the rest are not as drastic as they are in the small Section 93 of the Government of India Act. I do realise that the framers of the Constitution (513) have not arrogated to the Governor all the executive and legislative powers that you have under Section 93. I also further concede the fact that you do not wipe off the High Court if and when it suits you. All that is conceded. Why should you have article 277 which is not even contemplated under Section 93? Section 93 does not suspend the allocation of grants from the Centre. Speaking from past experience, let me state that even in the war years (during the second world war), the provinces were getting their financial allocation from the Centre, even in the provinces where we had government under Section 93. I also feel that a responsible Government functioning at the Centre cannot afford to suspend the grants that

are given to the provinces to be utilised for nation building activities unless it wants to bury itself. There is also the possibility of a totalitarian party coming into power at the Centre. Under these circumstances, I do not see any reason why more powers should be reserved in the Centre under the Constitution for taking necessary action in such cases. Sir, this is giving autonomy with vengeance to the provinces. Therefore, I plead with the honourable Members of this House as also with the Drafting Committee that a reconsideration of this article is called for.

Again, I have to state that the reports, both of the Central Committee and the Provincial Committee, have not recommended such powers as are proposed to be given to the provinces under article 277. I do not see any reason why the Drafting Committee should have taken this course without any authority from this House or anything of the like contained or contemplated in the reports of the Provincial or Central Constitution Committees. With the proclamation of emergency under article 275, autonomy in the provinces is being suppressed and the powers practically vested in the provincial executive lapses more or less: into the Centre in the sense that the province has to be governed under the directions of the President. That being the position, why should you take a further step in refusing even the grants, suspending or reducing the grants which are allocated to the provinces not by the President, nor by the legislature, but by a non-political body that you yourself have constituted ?

Assuming for a minute that the grants are suspended, activities, connected with it for nation-building or administrative activities are suspended to that extent. What do you do with the money? Allocations have been made on a regular defined basis; each province gets its share while this money lies idle without being used for its legitimate purpose. Why should you create this discrimination among the provinces ? If power is taken under sub-clauses (b) and (c) as I have already stated for domestic violence or such acts of violence as the President considers imminent and dangerous in the province or provinces, why should you punish the people of the province as different from the Government which may be responsible for mishandling or for encouraging these unlawful and violent activities ? It may be enough if the provincial executive is suspended; it may be enough if the provincial legislature is also suspended. But, why should the people be punished for an act for which they are not in the least responsible Under these circumstances, I find neither reason nor justice in the article has been placed before the House for approval. I have no option but to oppose it.