

MR. SPEAKER: I am satisfied and I will talk to you. No problem.

[Translation]

We will see in the forth coming session.

[English]

SHRI V. KISHORE CHANDRA S. DEO (Parvathi Puram): What about my privilege notice against the Indian Express?

MR. SPEAKER: Deputy Speaker will look after that.

SHRI V. KISHORE CHANDRA S. DEO: Sir today is the last day and they are publishing all.

MR. SPEAKER: I told you that because it concerns me so, I did not do it. I am only answerable to you.

SHRI SHANTARAM NAIK (Panaji): I have given a notice of breach of privilege against Mr. kishore Chandra Deo for casting aspersions on the Privilege Committee. To quote his own words, he said that the "Privileges Committee ran away" ... So, you kindly take action.

[Translation]

MR. SPEAKER: It has come just now what can be done Now, Shri Rajiv Gandhi.

11.27 hrs

[English]

CONSTITUTION (SIXTY-FOURTH AMENDMENT) BILL\*

THE PRIME MINISTER (SHRI RAJIV GANDHI): Mr. Speaker, Sir, I beg to move for leave to introduce a Bill to further amend the Constitution of India.

Sir, democracy was the greatest gift of

our freedom struggle to the people of India. Independence made the nation free. Democracy made our people free. A free people are a people who choose their own representatives. A free people are a people who are governed by their will and ruled with their consent. A free people are a people who participate in decisions affecting their lives and their destinies.

Gandhiji believed that democratic freedoms have to be founded in institutions of self-government in every village of India. He drew his inspiration and his vision from the 'Panchayats', the traditional village republics of India. Panditji established the institutions of Panchayati Raj as the primary instrument for bringing development to the doorstep of rural India. Indiraji stressed the need for the people's participation in the processes of economic and social transformation.

Yet, there is no denying that in most parts of the country we have failed to fulfil the high hopes we had vested 30 years ago in the institution of Panchayati Raj. Elections have been irregular. They are of ten unnecessarily delayed and frequently postponed.

This is not a matter of political will. The best record of regular elections to Panchayati Raj institutions is of two State Governments which since the inception of Panchayati Raj have almost continuously been ruled by the Congress Party. Gujarat and Maharashtra (Interruptions)

In recent times. (Interruptions)

SHRI AMAL DATTA: (Diamond Harbour): What is the record of U.P.?

(Interruptions)

SHRI RAJIV GANDHI: You hear the next sentence.....(Interruptions)

Sir, in recent times, some State Governments run by the Opposition Parties, such as, the CPI (M) in West Bengal and the Telugu Desam Party in Andhra and the Janata

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Party in Karnataka have held regular elections. In other States.

SOME HON. MEMBERS: Say Tripura also.

SHRI RAJIV GANDHI: In other States, the record of non-Congress parties and coalitions has not been much better than that of Congress run State Governments. This is not a matter of political parties.

The essence of democracy is elections. Elections to panchayati Raj institutions have been woefully irregular and uncertain. A mandatory provision in the Constitution is sacrosanct. A statutory provision in the State law does not have quite the same sanctity. We propose through this Bill to enshrine in the Constitution regular, periodic elections to Panchayati Raj institutions.

We also propose through this Bill to end the other sickness which has overtaken Panchayati Raj in many parts of the country, that is, the sickness of unending suspensions and dissolutions. In the absence of any compelling provision to re-constitute Panchayats within a reasonable period of time by democratic elections, suspended Panchayats have remained suspended for years on end and dissolved Panchayats have remained dissolved for up to a decade or more. In the existing municipal law on the subject State Legislatures have given the executive authority such wide powers to abort the institutions of Panchayati Raj and delay reconstituting them that these institutions have been leached of their ability to stand on their own as representative forums of the people's will. Their existence has depended less on the mandate of the people than on the whims of State Governments.

Our Bill leaves it to the States to determine the grounds and conditions on which the Panchayats may be suspended or dissolved. We expect State legislatures to specify the grounds on which the Governor may suspend or dissolve a Panchayat. That is a matter for the Governor acting, in accordance with the Constitution, on the aid and

advice of the State Government. Our concern is with ensuring that a dissolved Panchayat is reconstituted within a reasonable period of time. Our Bill would make it mandatory through the Constitution for all Panchayats dissolved before the expiry of their term of office to be reconstituted through democratic elections based on adult suffrage within six months of the dissolution to complete the remaining term.

No more will Panchayats remain the playthings of the arbitrary exercise of executive power. It is the people who will determine within a matter of months the profile of the reconstituted panchayat. It is the Constitution which ensures that the Lok Sabha and the State Assemblies are constituted by the vote of the people on the basis of universal adult suffrage. It is the Constitution which ensures that if an Assembly is dissolved, it is reconstituted by a procedure and within a time frame specified in the Constitution itself. These are essential safeguards to ensure the strength and vitality of democratic institutions. The institutions of Panchayati Raj have lacked strength and vitality precisely because they have lacked Constitutional safeguards. Our Bill will ensure that Panchayati Raj has a democratic character similar to the Lok Sabha and the State Assemblies and Constitutional protection for their functioning as representative institutions of the people.

The single greatest event in the evolution of democracy in India was the enactment of the Constitution which established democracy in Parliament and in the State Legislatures. This historic revolutionary Bill takes its place along side that great event as the enshrinement in the Constitution of democracy at the grassroots.

Till now, there have been weaknesses in the structure of our democracy because although the superstructure is strong, the foundation has been weak. Putting together both Houses of Parliament and all the State Legislatures, we have only about five thousand to six thousand persons representing a population of nearly 800 million. This has

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had two serious consequences.

First, the number of persons holding elective office in well-founded institutions of democracy has been far too small in relation to the size of our electorate. Once we accord to democracy in the Panchayats the same sanctity now enjoyed by Parliament and the State Legislatures, we will be opening the doors to the participation in democratic institutions of something like seven lakh elected representatives. The people's stake in democracy will be increased by a factor of approximately 115.

There is a second deleterious consequence of the vast chasm that separates the general body of the electorate from the small number of its elected representatives. This gap has been occupied by the power brokers, the middle-man, the vested interests. For the minutest municipal function, the people have had to run around, finding persons with the right connection, who would intercede for them with the distant sources of power. The system has been captured by the power-brokers. It is being operated in the interest of the power brokers. It is being protected by the power-brokers. The power brokers have established their vice-like grip only because democracy has not functioned at the grass-roots. The only way of breaking their stranglehold is for democracy to fill the vacuum, which the power brokers have occupied. Once the people have their own elected representatives from electorates as small as a hundred to five hundred persons, the source of power will lie only as far away as the Panchayat Ghar: not some distant State capital or the even more distant capital of the country. To end any role for power brokers in the system, the Bill provides for the direct election of members to Panchayats at all levels.

Every voter will have his own representative in the Gram Panchayat, in the mid-level Panchayat and in the Zila Panchayat. That representative will be responsible to a small and well recognised electorate. If he

fulfils the mandate of the people, he will be re-elected; if he fails, the people will throw him out of office. The power of the vote will become the power of enforcement. The will of the people will render the power broker superfluous.

Today, opportunity for democratic elected leadership is confined to the few thousands who succeed in entering the portals of the State Legislatures and parliament. Once this Bill becomes an integral part of the Constitution, a huge country-wide reservoir of leadership potential will be created. At each Panchayat election approximately half a crore men and women, most of them young, will present themselves to the electorate seeking the people's mandate. Some will succeed and some will fall by the wayside. Those who do not succeed will get another opportunity five years later.

There is a vast uncultivated field of talent lying fallow in rural India. It is that fallow field, we now propose to seed. That field will be watered by the votes of the Members of this House and of our colleagues in the Rajya Sabha. The crop of talent you raise will give us the bountiful harvest to take our nation forward to a prosperous, glorious future.

There is no country richer than ours in the most precious asset of humankind, the human resource. We in India, have not flourished, as we should because we have not nurtured our greatest resource. This Bill makes it possible for the bulk of the nation's talent to be given opportunity. Throughout the country there will be a ferment. In every one of our 600,000 villages, in every one of our 5,000 blocks, in every one of our 400 districts, democracy will groom the men and women whose experience will subsequently become available to legislatures at the State level and to the Parliament of the Union of India.

Our proposed Constitutional amendment lays the Constitutional injunction upon the State legislatures. It is for the State legislatures to enact the appropriate law... (*Interruptions*)

A quite unnecessary controversy has been raised about the role of the Governor in the proposed Panchayati Raj system. The Constitution is unambiguous on this point. Article 154 (1) states that "The executive power of the State shall be vested in the Governor" Article 163 (1) clarifies that "There shall be a Council of Minister with the Chief Minister at the head to aid and advise the Governor in the exercise of his functions " And, therefore, the word Governor in the Constitution refers to the Governor exercising his executive powers only and exclusively on the aid and advice of the Council of Ministers, with one exception. The exception is provided for in the remainder of clause (1) of Article 163 (*Interruptions*) which reads: "except in so far as the Governor is....." (*Interruptions*)

MR. SPEAKER: Order, order.

(*Interruptions*)

SHRI RAJIV GANDHI: Sir, I quote

"except in so far as he is by or under this Constitution required to exercise his functions or any of them in his discretion."

The distinction between the expression "the Governor" and the expression "the Governor in his discretion" is such a well known matter of Constitutional law that it is amazing that there should be any confusion on this point. After all, the expression, "the Governor" appears at scores of places throughout the Constitution, and has nowhere been misconstrued, or misinterpreted.

We are confident that in this parliament, acting in the exercise of its inherent constituent powers, there will be no confusion between the functions of a Governor acting in accordance with the aid and advice of his Council of Ministers, and of a Governor acting in his discretion wherever the Constitution requires him to do so,

In establishing the institutions of democracy in Parliament and in the State leg-

islatures, our founding fathers gave particular recognition to the disabilities suffered by the Scheduled Castes and the Scheduled Tribes. Provision was made for the reservation of seats for them in accordance with the proportion of their population in the total electorate. This is principal which has not been incorporated in most of the Panchayati Raj legislation enacted by the State legislatures.

In my discussions with Panchayati Raj representatives, both during my extensive tours of rural India and in the numerous Panchayati Raj sammelans we have held, it was brought home to me most forcefully that the democratic rights of the Scheduled Castes and Scheduled Tribes cannot be secured by good intentions alone. At this stage, it has to be secured, in the first instance, by reservations in Panchayati Raj institutions on the same basis as reservations are given in the Lok Sabha and in the State Assemblies.

I see that a certain section of the House is not at all happy about this.....(*Interruptions*)

THE MINISTER OF HOME AFFAIRS (S. BUTA SINGH): They are not even concerned. (*Interruptions*) They are not even concerned. (*Interruptions*)

SHRI RAJIV GANDHI: There is a widespread and justified apprehension on the part of the Scheduled Castes and the Scheduled Tribes that if their due representation in these bodies is not ensured, Panchayati Raj could become an instrument of oppression in the hands of the rural elite. Experience in different parts of the country....(*Interruptions*)

SHRI M. RAGHUMA REDDY (Nalgonda): What were you doing all these years? (*Interruptions*)

SHRI RAJIV GANDHI: We are waking you up; that is what we are doing.

Experience in different parts of the country has shown how, in the absence of reservations, vested interests and feudal

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interests have been able to capture these institutions. *(Interruptions)*

Their hold on these institutions has been reinforced by the failure to hold regular elections. The people's mandate has been perverted into an instrument of exploitation.

To forestall such a perversion of the process, our Bill proposes to make it mandatory for State legislatures to ensure reservation for the Scheduled Castes and the Scheduled Tribes..... *(Interruptions)*

I was aware that reservation for Scheduled Castes and Scheduled Tribes would cause certain problems when we wanted to enforce them, but to be honest I did not expect the problems to come from this section of the House. *(Interruptions)*

Obviously, the power-brokers and feudal interest as stand totally exposed today. *(Interruptions)*

To forestall such a perversion of the process, our Bill proposes to make it mandatory for State Legislatures to ensure reservation for the Scheduled Castes and Scheduled Tribes in proportion to their population in the relevant panchayat area. Our Bill also proposes a significant departure from the Constitution as it exists today. We propose the reservation in Panchayats at all levels of 30 per cent of the seats for women. *(Interruptions)*

I appreciate the interruptions from the hon. members; and I appreciate that this too disturbs them tremendously. *(Interruptions)*

SHRI M. RAGHUMA REDDY: What about the backward classes?

SHRI RAJIV GANDHI: There are three major reasons for which we believe this Constitutional innovation to be necessary. *(Interruptions)*

First, women constitute half the popula-

tion and are involved in rather more than half the economic life of rural India. However, to our shame, their share of assets and income is much less than their share of the population. But the toil and sweat imposed upon them is rather more than half. Second, the sound finance of the household has traditionally been the responsibility of woman. Financial discipline and fiscal responsibility are ingrained in the habits and outlook of the women of rural India. These are qualities badly needed in Panchayati Raj institutions. We believe the presence of women in large numbers in the Panchayats will not only make the Panchayats more representative but will also make them more efficient, more honest, more disciplined and more responsible. *(Interruptions)*

SHRI AMAL DATTA (Diamond Harbour): You give them 50 per cent.

SHRI RAJIV GANDHI: Third, it is the women of India, in their role as grandmothers and mothers, who have been the repository of India's ancient culture and traditions. It is to them that is entrusted the responsibility of transmitting to the next generation the quintessential values, standards and ideals which have enabled our civilization to survive and flourish without a break despite vicissitudes of many kinds. It is that strength of moral character which women will bring to the Panchayats. Let us give them a warm welcome.

not even a warm welcome for the women from the Opposition. *(Interruptions)*

I now turn to the heart of the matter: devolution and sound finance. Respecting the right of the States to legislate provisions for devolution, we have deliberately refrained from tampering with their rights. We have no intention of attempting to rule the districts from the Centre. But we do expect the State Legislatures to enact such measures as are required to devolve powers and authority upon the Panchayats, keeping in mind the provisions of this Bill and the spirit in which this Amendment is being brought forward.

First is the power and authority of the Panchayats to draw up plans within the framework of guidelines and conditions to be stipulated by the State Governments. These plans will constitute the basic inputs for the planning process at higher levels. Thus we will ensure that the voice of the people, their felt needs their aspirations, their priorities, become the building blocks of the edifice of planning. We must put an end to planning from above. We must put an end to priorities being conceived and decided at ethereal heights far removed from the realities on the ground. We must put an end to paternalistic planning. We must initiate a process of people's planning.

Our Bill goes beyond merely planning for economic development. It lays upon the Panchayats the even heavier responsibility of planning for social justice. It will not do to romanticise life in our villages. Life there is hard. Life there is exacting, life there is in many ways, exploitative and oppressive.

In driving the power brokers out of the power houses, in rendering the Panchayats to the people, we lay upon the people's representatives the solemn responsibility of turning their attention first and foremost to the needs of the poorest, the most deprived and the most in need. Each plan for economic development will be accompanied by a plan for social justice. No plan for economic development will merit attention until its social justice component is clear. This is a charter not merely for our villages to become prosperous, but also for our villages to become just.

The second major responsibility of the Panchayats will be the implementation of development schemes assigned to them by the State Governments on such conditions as may be specified by the State Governments. These schemes should cover the major economic concern of rural India commencing with agriculture and land improvement and going on to irrigation and watershed management. It must comprise the diversification of the rural economy into animal husbandry, dairying, poultry and fisher-

ies. It must incorporate industrial activity in rural India. It must extend to minor forest produce which is the chief source of income for our entire tribal populace. It must encompass the day to day concerns of rural India, housing, drinking water, fuel and fodder. The devolution must deal with the basic infrastructure of communication and power in rural India.

We have suggested the inclusion in the Panchayats area of competence of development schemes relating to non-conventional energy sources.

The proposed Eleventh Schedule seeks to vest in the Panchayats the major responsibility for the administration of poverty alleviation programmes. It would entrust panchayats with education and culture as well as health and family welfare, women and child development. We propose to request the State Legislatures to make social welfare programmes for all the weaker and handicapped sections a functional responsibility of the Panchayats. We also propose to give to the Panchayats the responsibility for the public distribution system, which is so crucial for the survival of the weakest and the poorest as also for the general health of the rural economy.

SHRI AMAL DATTA: The Public Distribution System is collapsing.

SHRI RAJIV GANDHI: That is precisely why we want to give it to somebody who will run it and not to the States who are making it collapse. (*Interruptions*)

The Bill proposes that the Panchayats be entrusted with the most neglected area of our community life, namely, the maintenance of community assets.

I would like to stress that the Eleventh Schedule is not an exhaustive list. We hope that the States will progressively devolve many more powers and authority upon the Panchayats so that whatever can be looked after at the local level is looked after at that level and not remitted upwards. (*Interruptions*)

SHRISATYAGOPAL MISRA (Tamiluk): What about the land reforms?.. (*Interruptions*)

SHRI RAJIV GANDHI: The single greatest danger we have to guard against is the devolution of powers to the Panchayats being followed by the transfer of these powers out of the Panchayati Raj system into other bodies constituted outside the system and placed under the direct control of the State Governments. Almost all the State Governments whether Congress or non-Congress, who have established a good system of Panchayati Raj have seriously weakened the impact by constituting bodies outside the Panchayati Raj system where real powers of decision-making are vested and where the elected representatives of the Panchayati Raj are overshadowed by Ministers appointed by the State Government or, as in the case of Karnataka, by the MLA becoming the ex-official Chairman of the Taluka Panchayat Samiti.

It is the purpose of our Bill to ensure that powers delegated to the Panchayats remain within the Panchayats and are not channelled outside the system. By the same token, our Bill is designed to ensure that all development agencies are brought within the framework of the Panchayati Raj institutions and made responsive to the elected authority. There are two basic reasons for administration at the district and sub-district levels having become so unresponsive to the people. One is the fragmentation of the district administration into a large number of agencies vertically owing responsibility to State Government without adequate coordination at a single focal point at the district level. The other has been the absence of an elected authority to function as that focal point... (*Interruptions*)

SHRI S. JAIPAL REDDY (Mohbubnagar): Is this an election manifesto?... (*Interruptions*)

SHRI RAJIV GANDHI: This is a manifesto for the election of the Panchayats... (*Interruptions*) Let us be clear about that.

This is a manifesto for the people of India... (*Interruptions*) Sir, this is a manifesto to give power to the people of India and to rob some of the power brokers who are getting so agitated... (*Interruptions*)

Sir, the House would recall that our Government was returned to office with the largest mandate ever accorded to any party in the history of independent India. I, as Head of that Government, pledged to make a number of structural changes. I very quickly discovered that the system could not cope with the demands which we were making upon it. There was too much ossification.

Mere tinkering with the system would not do; a systemic transformation was essential. Indeed, the starting point of the exercise which has led to the presentation of this Bill was my search for a way of fulfilling the 20th point of our revised 1986 20 Point programme, which promised to the people a responsive administration. At my instance, the Department of Personnel organised a series of workshops on Responsive Administration to which were invited all the District Magistrates, Deputy Commissioners, and District Collectors of the country. I spent over 20 hours in discussion with them.

It emerged that we could not make our administration responsive merely by simplifying procedures or establishing grievance redressal machinery or opening complaint windows. Every such step only led to one more power centre for the power brokers to occupy. The *sine qua non* of responsive administration is representative administration, responsible to the electorate. Such responsive administration in rural Indian can only be secured through genuine Panchayati Raj. It is this that our Bill seeks to achieve.

Devolution of administrative powers must go hand in hand with sound finance. Too often in the past, Panchayati Raj has had functions without finances, responsibilities without funds, duties without the means of carrying them out. Our Bill empowers State Legislatures to ensure the sound finance of the Panchayats by endowing them

with the revenues of taxes that might be appropriate by, or assigned to them, as also with grants in aid from the Consolidated Fund of the State.

### 12.00 hrs

To assist State Legislatures and the executive authority in determining which taxes to assign or leave for appropriation, as also the grants in aid to be given, the Bill proposes the establishment of a Finance Commission to make suitable recommendations.

I would stress the importance of determining the taxes which will be levied, collected and appropriated by the Panchayats. Nothing will inculcate in the Panchayats a greater sense of fiscal responsibility than the possibility of retaining with them the moneys that they raise for such use as they best deem fit. Untied grants make for local-level planning. Authorisation for appropriation makes for responsible local-level planning. So far, the tendency has been to confine appropriation to cesses. We hope State Legislatures will go further and identify taxes, duties, tolls and fees which might be appropriated by the Panchayats.

We are asking of the State Legislatures no more than we are ourselves ready to do as a Union Government. A beginning has been made with the Jawahar Rozgar Yojana. 80 Per cent of the Funds are being devolved on the village panchayats. (*Interruptions*).

We propose to extend this principle to other Centrally-sponsored schemes. There can be no better way of involving the people in their own development. There can be no better way of reducing corruption and nepotism. The system we propose is a transparent system. The bulk of the electorate in a village is composed of the intended beneficiaries of development schemes. Each intended beneficiary will know what schemes are available, how much money there is in the scheme, whether and how the moneys

are being spent. Any Panch or Sarpanch who cheats the people will be removed by the people. There is no way he can escape the consequences of the malfeasance.

I would now like to turn to those parts of the country we are proposing to exempt from the system, or in respect of which special provision is made for modification. In the North-East, there is one sparsely populated tribal State which has no difficulty in adopting Panchayati Raj without modification. That is the State of Arunachal Pradesh. The Bill recognises that in three other States of the North-East Nagaland, Meghalaya and Mizoram, there are traditional systems of self-government, ask in to Panchayati Raj, which must be preserved. Indeed, the rest of the country would be well-advised to study and learn from the Village Development Boards of Nagaland. In these three States, the traditional systems will be left undisturbed.

Similarly, in areas covered by the sixth Schedule, where autonomous District Councils have been established, we would not wish to disturb the system so carefully structured. On the same principle, we are not extending the Bill to the District Council areas of Manipur and the areas covered by the Gorkha Hill Council in the Darjeeling Hill district of West Bengal.

As regards the Union territories, the Bill empowers the President to withhold, extend or modify the application of the provisions of the Bill to a part or the whole of the Union territories. This is designed to ensure that traditional or nascent institutions in areas like the Nicobar Islands, Lakshadweep and Pondicherry are not adversely affected and the special characteristics of Union territories like Delhi are taken into account.

Similarly, in areas covered by the Fifth Schedule the Government in his discretion and not on the aid and advice of his Council of Ministers) may determine the conditions of which Panchayati Raj would be extended to these areas.



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Sir, the Bill proposes that all State Legislatures bring their State legislation into conformity with the proposed Part IX of the Constitution within a year of the commencement of operation of the amendment. We recognise, however, that Panchayati Raj institutions have been elected in most States, some as recently as this year. The Bill authorises the continuance of these Panchayats till the expiry of their terms, unless State Legislatures decide otherwise. The interregnum between the passage of this Bill and the alignment of State legislation with its provisions will, we hope, be used by State Government to give deep thought to the working of the new system.

Panchayats will have to be given the staff they require. We do not propose that the Annual Confidential Reports of the bureaucracy be written by elected representatives at the Panchayat level, but the district bureaucracy will have to be trained and oriented towards discharging its new responsibilities in changed conditions. We have to build trust and mutual respect between the district bureaucracy and the elected Panchayats. At other levels of our democracy, in the States and at the Centre, the bureaucracy and the elected authority have learned to work together in mutual cooperation. Such a harmonious relationship must also subsist between the district bureaucracy and the Panchayats. We hope. State Government will resist the temptation to effect a cleavage between the regulatory and development functions of district administration. There will have to be coordination because it is only through development administration that a regulating officer can establish the contacts and linkages essential to forestalling a law- and order crisis or resolving it when it occurs.

We are deeply conscious that this Bill restricts itself to democracy and development at the grass-roots in rural India. We must extend the same concern to the growing urban and semiurban population of the country. To this end, Government propose to bring forward major legislation in the next

session of the Lok Sabha.

We shall turn our attention to recasting, revamping and rejuvenating the cooperative movement which Panditji had always regarded as the essential complement to Panchayati Raj.

We come to this House after long consideration and a national debate without precedent. We have consulted with more than ten thousand representatives of Panchayati Raj institutions from all over the country. We have discussed Panchayati Raj with the bureaucracy at different echelons, including district officers, Chief Secretaries and Secretaries to the Government of India. We have held meetings with Panchayati Raj Ministers and the Chief Ministers of the States. We have extended the debate to political levels, with in Party forums and in a Parliamentary Consultative Committee.

Our proposals are before you but our mind is not closed. In the months to come, we hope there will be intensive debate about these proposals all over the country. We are prepared to carry forward such discussions with Opposition Parties and Chief Ministers. We will of course listen with the utmost care to suggestions made on the floor of the House. We seek consensus but we are prepared to face the challenge of confrontation. We shall fight for the rights of the people, we shall fight for democracy for the people, we shall fight for development for the people. It is the people of India who are our first and foremost concern. The proposals we place before the House are not really our proposals, they are the proposals of the people of India. We have drawn upon the accumulated experience of Panchayati Raj from all over the country, the good experience as well as the bad, the experience of Congress-run governments as much as of State Governments run by other parties. This experience has been pooled and churned. Out of this *man than* has emerged the *amrit* which we now propose to share.

Our democracy has reached the stage where the full participation parties caption of

the people brooks no further delay. We are accused of rushing through this Bill. There has been no rush. For several years now, we have been holding well-published consultation at several different levels on Panchayati Raj. No one in the public life of this country could have been unaware of our intentions. Our respected Rashtrapatiji, in his Address to both Houses of Parliament, had specifically referred to the major legislation on the subject which Government proposed to bring forward. We now fulfil that promise. Those who decry this as an election gimmick are precisely those whose feudal interest will be overthrown by power reaching the people (*Interruptions*). Sir, whenever I talk of power brokers and feudal interest, it hurts some of our friends very deeply and for that I apologise to them. But this is a fight for strengthening our people and we will fight this fight in spite of every thing the Opposition has to say.

Sir, we trust the people. We have faith in the people. It is the people who must determine their own destinies and the destiny of the nation. To the people of India, let us ensure maximum democracy and maximum devolution. Let there be an end to the power-brokers. Let us give power to the people. (*Interruptions*)

SHRI C. MADHAV REDDY: (Adilabad): Sir, you have permitted the hon. Prime Minister to make a long statement at the time of the introduction of this Bill. Sir, we have given notice that we are going to oppose the introduction of the Bill. Sir, our notices are pending before you and I would like that you should permit us to speak on the views given by the Prime Minister. (*Interruptions*)

SHRI RAJIV GANDHI: Sir, for allowing a debate, we can extend the session for tomorrow and we can have it tomorrow.

We have deliberately decided not to have a debate in this session because we thought that in the intervention period we will have enough time for debate for the Opposition because we in the Congress have been debating it for two years. It is the Opposition

which has ignored the people. So, we have thought that we have the debate in the next session.

MR. SPEAKER. I have received notices from several Members who want to oppose the introduction of the Bill and I shall allow one Member from each Group.

SHRI S. JAIPAL REDDY: No, no. Please don't introduce a new convention... (*Interruption*)

PROF. MADHU DANAVATE: (Rajapur): Sir, whenever a Bill is moved, it is not that one is totally opposed to the Bill. There are certain provisions on which one would like to make concrete suggestions and observations so that the constitutionality of the Bill may not come into jeopardy. Therefore, don't restrict the speakers to only one person from each group. Whatever names have been given, you allow them to make their submissions and you will keep in mind that all the 20 Members make brief submissions. There is one such democracies ideal on which there is a total unanimity in the country in regard to the decentralisation and devolution of the power. But the only question of *moulds operandi* is to be decided.

SHRI SHANTARAM NAIK (Panaji): Sir, in the notice, I would like to know whether they have challenged the legislative competence of the House.,

SEVERAL HON. MEMBERS: Yes; Yes.

(*Interruptions*)

MR. SPEAKER: Yes, they have done it.

(*Interruptions*)

[*Translation*]

MR. SPEAKER: Please sit down. If you could maintain everything can be done in an orderly manner.

(*Interruptions*)

[English]

MR. SPEAKER: Look here. If a motion for leave to introduce a Bill is sought to be opposed by several Members, Chair may ask them to select only one spokesman who may make a statement after the Member in-charge of the Bill has made a statement.

*(Interruptions)*

MR. SPEAKER: I have not yet finished. I am only saying that we have 20 of them.

SHRI C. MADHAV REDDI (Adilabad): The proviso to the rule is very clear. Were a motion is opposed on the ground that the Bill initiates a legislation outside the competence...*(Interruptions)*

THE MINISTER OF STATE IN THE MINISTRY OF COMMERCE (SHRI P. R. DAS MUNSHI): This is the introduction stage. The question of their making a statement will arise when they are opposing the introduction.

SHRI C. MADHAV REDDI: We are opposing very much the introduction. *(Interruptions)*

MR. SPEAKER: I can handle it. What were you saying?

SHRI C. MADHAV REDDI: The proviso to Rule 72 says:

"Provided that where a motion is opposed on the ground that the Bill initiates legislation outside the legislative competence of the House, the Speaker, may permit a full discussion thereof."

*(Interruptions)*

MR. SPEAKER: There cannot be a full discussion. But I think I can allow lots of people.

*(Interruptions)*

MR. SPEAKER: You are always angry.

That is the problem with me. If you keep silent we may solve it.

*(Interruptions)*

MR. SPEAKER: The question is, we can allow a lot of Members. I can allow even two from each Group....

*(Interruptions)*

MR. SPEAKER: I have got the notices.

SHRI RAJIV GANDHI: Sir, we would like the House to know the names of the 20 people who have opposed the Bill...*(Interruptions)*

PROF. MADHU DANDAVATE: (Rajapur): Let them not intimidate us. We will raise certain issues by which the Bill can be strengthened...*(Interruptions)*

MR. SPEAKER: I was listening to him.

*(Interruptions)*

PROF. MADHU DANDAVATE: I am the last man to get provoked by the Prime Minister. But I would point out to you sometimes when some Constitutional points are raised they help the entire country, the Government and the opposition. For instance, the question about the Governor was there. I am glad a notice was taken and that was dropped. You will find in the course of the debate on the constitutionality that a number of points that will be raised will create a national debate and ultimately allow us to arrive at a unanimous thing. This is that objective.

MR. SPEAKER: I am going to be very liberal. *(Interruptions)*

MR. SPEAKER: Hon. much time shall we need for this?

*(Interruptions)*

PROF. MADHU DANDAVATE: Those who speak will keep that in mind and if you listen to the points that are made by the

Members you will know that. Let us not indulge in frivolous arguments as to who are pro-people and who are anti-people.

THE MINISTER OF STATE OF THE MINISTRY OF CIVIL AVIATION AND TOURISM (SHRI SHIVRAJ V. PATIL) : Sir, this is a stage when the Bill is introduced. At this time if debate has to take place, the debate can take place only on the legislative competence of the House of if the hon. Members are saying that they object to this Bill, we would like to know the names of those persons who are objecting to the Bill. (*Interruptions*)

[*Translation*]

MR. SPEAKER : I shall give the reply. (*Interruptions*).

[*English*]

PROF. MADHU DANDAVATE: It is only political intimidation. (*Interruptions*)

MR SPEAKER: Why can't you leave this thing to me? I can handle it.

(*Interruptions*)

PROF. MADHU DANDAVATE: It is not as if these 20 members are the culprits... (*Interruptions*)

SHRI VHIVRAJ V. PATIL: I have not completed my submission.

[*Translation*]

Let me give the ruling... (*Interruptions*)

[*English*]

SHRI S. JAIPAL REDDY: I am on a point of order... (*Interruptions*)

SHRI SHIVRAJ VP. PATIL: I have not completed my submission.

[*Translation*]

MR. SPEAKER: What are you speaking

? Let him speak first, thereafter you also speak. (*Interruptions*).

[*English*]

MR. SPEAKER: I do not know. Why should you bother about it? I will handle it. I will over rule it.

(*Interruptions*)

MR. SPEAKER: I will allow you. I allowed Prof. Madhuji. I will allow you.

[*Translation*]

Let him speak first.

[*English*]

SHRI AMAL DATTA: (Diamond Harbour) Ask him to go to quote the rule. What is rule? Under what rule is he speaking? (*Interruptions*)

SHRI S. JAIPAL REDDY: On a point of order, Sir, (*Interruptions*)

SHRI SHIVRAJ V. PATIL: At this point of time, only one issue can be discussed and the issue is whether this House has the legislative competence or not If the various issues are to be discussed and if they are projected in a fashion that there can be misunderstanding and if the replies are not given, then that will lead to misunderstanding. My submission is that they can speak only on one issues as to whether this House has the legislative competence or not (*Interruptions*). Now, we would like to know whether they oppose on the legislative competence or they are opposing on the principle. If they are opposing on the principle, that is a different matter. If they are opposing on the legislative competence, that is the only issues (*Interruptions*)

MR. SPEAKER: Let me first deal with this subject which he has raised.

(*Interruptions*)

MR. SPEAKER: Hon Members have said that the Bill initiates legislation which is the legislative competence of the house. That is what has been said.

PROF. MADHU DANDAVATE: We are challenging the legislative competence of the House. *(Interruptions)*

[*Translation*]

MR. SPEAKER: Whatever is right is right, What is your objection?

[*English*]

PROF. MADHU DANDAVATE: Legislative competence is not challenged in the House. That is his understanding. *(Interruptions)*

[*Translation*]

MR. SPEAKER: I shall ask him

[*English*]

SHRI DINESH GOSWAMI (Guwahati): Sir, I would like to get a clarification from the hon. Prime Minister. The hon. Prime Minister has said one thing. I would like to get a clarification. *(Interruptions)*

He wants to have a national debate on this Bill. at the same time he points out the names of 20 Members " Does it mean, any critical examination of the Bill is anti-national? Is that his case?

[*Translation*]

MR. SPEAKER: This is no point.

[*English*]

MR. SPEAKER: I have over-ruled that.

SHRIDINESH GOSWAMI: In the course of a national debate, we will make a critical examination of the Bill. Does it mean anti-national?

SHRIBASUDEBACHARIA: (Bankura): Why does he want the names of 20 Members? *(Interruptions)*

MR. SPEAKER: I have permitted Mr. Kabuli.

*(Interruptions)*

SHRI ABDUL RASHID KABULI: (Srinagar): Sir, with your permission, I would like to say... *(Interruptions)*

THE PRIME MINISTER (SHRI RAJIV GANDHI): Sir, the hon. Member has asked me a question. So, If you will give me an opportunity, I will reply to it.

*(Interruptions)*

Sir, I have just received a circular from the Lok Sabha Secretariat (Legislative Branch-I) which says that the following 20 Members who oppose the Bill are: (1) Shri C. Madhav Reddy, (2) Prof. Madhu Dandavate, (3) Shri Dinesh Goswami, (4) Shri S. Jaipal Reddy, (5) Shri Baju Ban Riyan (6) Shrimti Bibha Ghosh Gaswami. (7) Shri Ajit Kumar Saha, (8) Shri R.P. Das, (9) Shri Ananda Pathak... *(Interruptions)*

SHRI S. JAIPAL REDDY: Sir, I am on a point of order.. *(Interruptions)*

MR. SPEAKER: No point of order.

*(Interruptions)*

SHRI RAJIV GANDHI: (10) Shri Zainal Abedin, (11) Shri Manik Sanyal, (12) shri B.,N. Reddy (13) Shri Saifuddin Chowdhary, (14) Shri Purna Chandra Malik, (15) Shri Anil Basu, (16) Shri Ajoy Biswas, (17) Shri Basudeb Acharia, (18) Shri Somnath Chatterjee, (19) Shri Hannan Mollah and (20) Shri Amal Datta. They have oppose this. This is the Lok Sabha Secretariat's circular.

*(Interruptions)*

MR. SPEAKER: I really cannot under-

stand this controversy. Order, please.

*(Interruptions)*

PROF. MADHU DANDEVATE: Sir, I must point out to you that this is not the manner in which to tell the House. *(Interruptions)*

SHRI AMAL DATTA: He has no right to get that circular. Will you give me a copy to that?

MR. SPEAKER: I will explain that. I can explain.

*[Translation]*

Now, I shall reply. I shall tell you.

*[English]*

SHRI AMAL DATTA: Now, the names have been given. If you allow anybody to speak, then that will be known. What we want to say will also be known. Why should the names be made known?

*(Interruptions)*

SHRI S. JAIPAL REDDY: I am on a point of order.

*[Translation]*

MR. SPEAKER: That is I am telling you, why don't you listen?

*[English]*

I am replying to it I am giving the reply when you are asking me.

*[Translation]*

We shall deal with the point of order later first listen to me.

*[English]*

This is what I am trying to tell you. Listen to me.

*(Interruptions)*

MR. SPEAKER: The normal procedure is that a Minister who moves the Bill is given this. This is a normal procedure. This is not done out of the blue. He is apprised.

*(Interruptions)*

MR. SPEAKER: You can ask them. You can verify, if I am wrong. You can verify it. Records are there. Nobody can change them. You may find it out. Every Minister who pilots the Bill is given that.

*(Interruptions)*

MR. SPEAKER: Please sit down. Please sit down, I am on my legs.

*(Interruptions)*

SHRI N.V.N. SOMU (Madras North): Sir, I have also give a notice.

*[Translation]*

MR. SPEAKER: I have heard you. What can I do when you have given it late.

*(Interruptions)*

*[English]*

MR. SPEAKER: If you give it late, I am not responsible for that. I am not responsible. The question is, the hon. Members... *(Interruptions)* I am on my legs. You sit down. You make him sit. You make this man sit. What are you doing without rhyme or season? I have that. I only say that no question arises when I am saying that we are going to allow you. Why should they? When anybody speaks, it will be known. What is the problem? I do not know why should we hanker about it? Yes, Mr. Madhav Reddi to speak.

*(Interruptions)*

SHRI C. MADHAV RADDI: What is the need for reading out this here? *(Interruptions)*

SHRI BASUDEB ACHARIA: I would like to know whether you have permitted him to read the names. (*Interruptions*)

MR. SPEAKER: Sir down.

(*Interruptions*)

MR. SPEAKER: Yes, Mr. kabuli, what are you saying?

SHRI ABDUL RASHID KABULI (Srinagar): Article 370 of the Constitution talks about the inner autonomy of J&K. I would like to refer to Article 370. It says:

"(a) the provisions of article 238 shall not apply in relation to the State of Jammu and Kashmir;

(b) the power of Parliament to make laws for the said State shall be limited to -

(i) those matters in the Union List and the Concurrent List which, in consultation with the Government of State, are declared by the President to correspond to matters specified in the Instrument of Accession governing accession of the State to the Dominion of India as the matters with respect to which the Dominion Legislature may make laws for that State: and

(ii) such other matters in the said List as, with the concurrence of the Government of the State, the President may by order specify."

MR. SPEAKER: You can oppose it. There is no point of order.

SHRI ABDUL RASHID KABULI: I support it. I appreciate the spirit behind it. But the question is about the autonomy. You have to enlighten me, you have to tell me, whether there is any encroachment upon the autonomy of J & K. You have to guide me. You have to help me.

MR. SPEAKER: I have helped you. You can oppose it.

SHRI ABDUL RASHID KABULI: I will not oppose it. I would like to know whether there is any difficulty in making this law applicable to J&K. When Arunachal Pradesh, Mizoram, M'eghalaya and other States have been mentioned.....(*Interruptions*) This is the responsibility of the Chair.

MR. SPEAKER: Take your seat. I overrule this. Nothing doing. Mr. Reddi to speak. You can oppose the Bill.

SHRI ABDUL RASHID KABULI: I am not opposing the Bill. You have to guide us.

MR. SPEAKER: I have given my ruling. Your objection is overruled. You can oppose it. That is enough. That is all right. Mr. Kabuli, there is a limit to everything. Sit down now.

(*Interruptions*)

SHRI ABDUL RASHID KABULI: Sir, you kindly answer my point.

MR. SPEAKER: That is all. Shri Madhav Reddi.

SHRI C. MADHAV REDDI (Adilabad): I rise to oppose this Bill on the ground that it is outside the competence of this House to legislate. I would like to make this clear that this is the unusual type of procedure that we have adopted. At the time of introduction, the Prime Minister was asked to speak and he spoke. He gave a lengthy statement touching upon various points. The Opposition also must have the right to make comments along with the constitutional points which we are going to raise.

I do not want to go into the merits of the Bill. The hon. Prime Minister has mentioned the various points, touching upon the various clauses in the Bill. But I would like to clarify here that when we are opposing this Bill on the ground of legislative competence of the House, it does not mean that we are opposed to all the provisions of the Bill. It should be clearly understood. (*Interruptions*)

SHRI RAJIV GANDHI: I would request

the hon. Member to explain how he intends to get the provisions through without enactment of the Bill

PROF. MADHU DANDAVATE: Listen to him first; then you will follow. Without listening to him you want to follow. How can it be done?

SHRI RAJIV GANDHI: I don't want to follow him.

SHRI C. MADHAV REDDI: If you don't want to follow the debate that I am raising, I would request you to rather withdraw it.

Before I go into the constitutional aspects, I would like to make one point clear. As I said earlier, we are not against the devolution of powers and authority to the Panchayati Raj institutions. We are not against giving more powers to the people. Our party government has already introduced this Panchayati Raj system and the hon. Prime Minister has mentioned this. We have introduced several of the provisions which had been spelt out in the Bill such as the reservation for the Scheduled Castes and Scheduled Tribes and also for backward classes for which no reservation has been mentioned by you here... *(Interruptions)* ..... And also for women.

We have taken action to see that these Panchayati Raj institutions function well. We have devolved certain powers and funds. We have also held regular elections, not only direct elections to various committees of the Panchayats.....

THE MINISTER OF LAW AND JUSTICE AND MINISTER OF WATER RESOURCES (SHRI B. SHANKARANAND): It seems, he is not opposing it.

SHRI C. MADHAV REDDI: As the law Minister, kindly listen to me ...*(Interruptions)* ... We have introduced the 18 years of age factor much earlier than what the Government of India has done.

SHRI B. SHANKARANAND: Are you opposing the Constitutional Amendment Bill? *(Interruptions)*... Let us know on what ground you are opposing it.

SHRI C. MADHAV REDDI: I am opposing the introduction of the Bill on legislative competence ground, to which I will come later.*(Interruptions)*

Many Opposition ruled States have introduced Panchayati Raj system long ago. They are functioning very well as the hon. Prime Minister has said. The point here is not whether the Panchayati Raj system is working well in certain States and not working well in certain other States. The point here is whether there is any need for this constitutional change; whether the framework of the Constitution which has been sought to be changed is really needed for the functioning of the Panchayati Raj Institutions. The hon. Prime Minister relied on Article 40 of the Constitution which, he says, gives joint responsibility.

THE PRIME MINISTER (SHRI RAJIV GANDHI): I have not spoken of Article 40.

SHRI C. MADHAV REDDI: You have not spoken, but your Bill speaks. Sir, the Bill mentions.....*(Interruptions)*

SHRI B. SHANKARANAND: What is the ground of opposition? *(Interruptions)*

PROF. MADHU DANDAVATE: Mr. Speaker, Sir, I want to make a request. Shri Shankaranand sitting here speaks as if some of us are speaking as lawyers and he is the lordship. Every time he is asking the question, 'what is the objection? Let him keep quiet. He will explain to the House, what he feels.

SHRI SOMNATH CHATTERJEE: He is fit to be a judge.

SHRI S. JAIPAL REDDY: On Bofors, he is fit to be a judge.



SHRI C. MADHAV REDDI: The Bill mentions about Article 40 and it is said that the Article 40 gives joint responsibility to the States and the Centre. This is absolutely false because Article 40 has nothing to do with the distribution of between the Centre and the States. It is Article 246, which is really relevant and not Article 40. Article 40 only gives directive principles of the State policy, with regard to the Constitution of Panchayats. Article 246 is the Article which gives powers, in Seventh Schedule that the Panchayat Raj is exclusively in the domain of the States and the Centre has nothing to do with it. Centre has actually no jurisdiction over the Panchayat Raj institutions, whether to make the constitutional amendment or to pass the legislation. The constitutional amendment has been suggested by the Ashok Mehta Committee and several other committees. But that was only confined to regular conduct of elections; not with regard to so many other details which had been spelt out in this Bill because the entire scheme of the Panchayat Raj Bill, the Panchayat Raj Act, now, sought to be incorporated in the Constitution, is absolutely irregular and unnecessary. Without the constitutional provision, and the backing by which Panchayat Raj institutions can be established, the Panchayat Raj institutions can be allowed to run, as they are running in the opposition ruling States. That is why I oppose this Bill on the ground that the constitutional amendment is not necessary. It is against the provisions of Article 246 that it is repugnant to the Seventh Schedule of the Constitution. That is why it has no legislative competence to enact this.

*(Interruptions)*

THE MINISTER OF STATE IN THE MINISTRY OF THE HOME AFFAIRS (SHRI SONTOSH MOHAN DEV): You talk to the public.

*(Interruptions)*

SHRI M. RAGHUMA REDDY (Nalanda): You are anti-backward classes.

*(Interruptions)*

SHRI BASUDEB ACHARIA (Bankura): Sir, I oppose the introduction of the Sixty Forth Amendment Bill, on the ground of legislative competence.

Sir, a point has been made by Shri Madhav Reddi that this Parliament has no right to enact the legislation on Panchayati System. I would like to make it clear that we are not against giving power to the people. We have already given the power to the people of West Bengal. The elections - Panchayat Elections- in West Bengal are being held regularly since 1979, since the CPM Government came to power in West Bengal. *(Interruptions)*

There were no Panchayat Elections, for 18 years, when Congress (I) Government was there in West Bengal. They enacted a law, Panchayat Act of 1983. After enactment of that law, they did not implement it. When the Left Front Government came to power, they implemented it....*(Interruptions)*. The long list that has been given here would be included as Eleventh Schedule. All these matters which are mentioned here are already there in West Bengal. But the most important thing which is required for successful implementation of Panchayati Raj is land reforms, and to give land to the tillers. All these things are there in West Bengal. ...*(Interruptions)*

SHRI SOMNATH CHATTERJEE (Bolpur): The Prime Minister has gone much beyond the scope of the Bill. You have to listen to it now.

SHRI BASUDEB ACHARIA: Why did he speak on a cooperative system? What has that to do with this Bill?

MR. SPEAKER: You simply make your point. What are the points on which you are opposing?

SHRI V. KISHORE CHANDRA S DEO (Parvathipuram): The Prime Minister touched everything under the Sun.

SHRI BASUDEB ACHARIA: All these things are already there in the non Congress

(1) States; there the Panchayati Raj system is working well, in West Bengal, Andhra Pradesh....

SHRI SOMNATH CHATTERJEE: And, therefore, why this Bill?

SHRI BASUDEB ACHARIA: The intention of the Government is very much clear from the statement made by the Prime Minister. Why has this law been brought forward now? When the Congress (I) Government came to power in Tripura, all the Panchayats were superseded by the Government.

MR. SPEAKER: I am not going to allow like this. You pinpoint what you want to say. What are you doing?

SHRI BASUDEB ACHARIA: Sir, they have no power to enact any law on Panchayati Raj. This enactment will disturb the basic structure of the Constitution. This will erode the power of the State Government; by bypassing the State Governments, they want to enact this legislation. If the real intention is to hold the elections regularly, these elections are not being held regularly in Congress (I) States, and not in non-Congress (I) States.

MR. SPEAKER: Please come to the point.

SHRI BASUDEB ACHARIA: There the elections are being held regularly. In West Bengal, thirty-three per cent of the members of the Gram Panchayat belong to scheduled castes or scheduled tribes even without this reservation. An agricultural labourer can contest with a landlord and he can win. That is the position in West Bengal even without reservation.

SHRI RAJIV GANDHI: The hon. Member rose to oppose the Bill on Constitutional grounds whether we are competent to legislate or not. But I have not heard any Constitutional arguments. All I have heard is subjective and substantive arguments on the contents of the Bill. Obviously, the argu-

ment that has been put here is not a legal argument. They seem to object to the contents of the Bill. It is not the legal arguments of competence that they are objecting to, it is the contents that they are objecting to. (Interruptions)

SHRI BASUDEB ACHARIA: What did you say? You said all irrelevant

SHRI RAJIV GANDHI: While introducing the Bill, I have an opportunity to say what I want to. Intervening or opposing a Bill on technical...

PROF. MADHU DANAVATE: Why don't you leave it to the Speaker.

SHRI RAJIV GANDHI: I leave it to the Speaker.

PROF. MADHU DANAVATE: After some time you might be the Speaker; do it at that time, not now.

MR. SPEAKER: Let us not confront. Mr. Acharia, you must understand. I want to smoothness it out so that we can deal with it. I have given you the opportunity. So, avail of it properly. Don't misuse it.

SHRI BASUDEB ACHARIA: When this system was functioning. (*Interruptions*)

[*Translation*]

MR. SPEAKER: Your interruptions are causing all the hindrance.

SHRI BASUDEB ACHARIA: Sir, there is no necessity for an enactment of a new legislation. There is the necessity of a political will for the efficient implementation of the panchayat system. The devolution of power to the people, which has been successfully implemented in some non-Congress-I States, can be done in other States also. The Central Government can issue instructions to those States which are not having the panchayat system. For this there is no necessity of a legislation.

[English]

[Translation]

THE MINISTER OF AGRICULTURE  
(SHRI BHAJAN LAL): Mr. Speaker Sir,

PROF. MADHU DANDAVATE: We are not discussing agriculture (*Interruptions*)

MR. SPEAKER: You please sit down.

AN HON. MEMBER: This is a Constitutional matter. (*Interruptions*)

SHRI BHAJAN LAL: This is a technical matter which calls for a legal discussion. While discussing the Bill he is spiting on matters related to his State. He is saying what should have been included in the Bill and what we have done if the Bill is to be discussed in detail, the tinings of the House should be extended.

MR. SPEAKER: You please sit down. We need not extend the time.

(*Interruptions*)

SHRI BHAJAN LAL: It amount to same whether we do it this way or that way.

MR. SPEAKER: You please take your seat.

SHRI BHAJAN LAL: On the one hand, they express their support, while on the other, they oppose it..(*Interruptions*)....Are they speaking in favour of the Bill on against it? Please extend the time of the House to enable us to have a full discussion on it, so that the people of this country could realise where these people actually stand.

MR. SPEAKER: You please take your seat.

PROF. MADHU DANDAVATE: Hon. Bhajan Lal ji, we are discussing a Constitutional matter and not agriculture. (*Interruptions*)

[English]

RAO BIRENDRA SINGH (Mahendra-

garh): The only people who have taken part in Panchayati Raj institutions, who have practical and personal knowledge of the conditions in the villages and who are voters in Gram panchayats, should be given a chance to speak here. Why everybody is wasting the time of the House in arguing whether the Bill is necessary or not?

AN HON. MEMBER: Then let the Prime Minister withdraw his speech. (*Interruptions*)

PROF. MADHU DANDAVATE (Raiapur): Will you kindly yield the floor to me? Thank you.

Mr. Speaker, Sir, I am very happy that in the course of his speech, while introducing the Bill on Panchayati Raj the Prime Minister has given an assurance to this House that after the introduction of this Bill he would like a national debate so that when the Bill comes for consideration in this House the party in power will be able to benefit by various suggestions converging constitutionality, legislative competence and many other issues —and may be when it comes to the stage of consideration there might be further enrichment of the Bill. I may point out to you, Sir, because some persons had raised through public debate the issue of Governor's power I am glad that the Government has favourably responded to the suggestions though they have their reservations and have dropped that particular aspect, that if the Prime Minister listen to our point of view regarding the constitutionality of the Bill, regarding certain provisions, due to which the constitutional validity might come into trouble. In the light of all these observations not only in this House but also in a national debate outside, if they are able to make the necessary changes then I dare say that on this subject we will not want to divide the House.

There are some issues on which there is not only a consensus but there is unanimity. As far as the concept of democratic decentralisation and devolution of power from the Centre to the State and States to the village are concerned, there is not only a consensus but there is a total unanimity in the country

and I want to reiterate that, I am glad that not only he spoke outside but the Prime Minister in this very House has very clearly stated in this very House that some of the Congress as well as non-Congress Government have implemented devolution of powers...

THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI SONTOSH MOHAN DEV): Mr. V.P. Singh has said that he will repeal the Bill if he comes to power. (*Interruptions*)

SHRI VISHWANATH PRATAP SINGH (Allahabad): Sir; I have been mentioned by name..(*Interruptions*)

SHRI SONTOSH MOHAN DEV: You have threatened the House that you will repeal the Bill...(*Interruptions*)

SHRI VISHWANATH PRATAP SINGH: A portion of the Bill which I mentioned to be repealed was the Governors' power to dissolve....(*Interruptions*)

SHRI SHANTARAM NAIK: He has threatened the House to repeal the entire Bill. (*Interruptions*)

SHRI VISHWANATH PRATAP SINGH: May I say what I had asked for? You have repealed that portion. You had no courage to come before the House today and I have achieved it even before you have come to present the Bill. So what I wanted has been repealed with the combined efforts of the Opposition Parties.

SHRI RAJIV GANDHI: May I respond to that?

SHRI VISHWANATH PRATAP SINGH: What I am saying is that you have no courage to come with the provisions now. So far as decentralisation is concerned, we are all for decentralisation. It is the Opposition which is only cooperating and following it up.

PROF. MADHU DANAVATE: I was

under the impression that the Prime Minister will throw out those provisions but not even before the elections;

SHRI RAJIV GANDHI: The hon. Member from the Opposition who just spoke really lives in a little world of his own. If the hon. Member thinks that we change our Bill because some newspaper writes something or some member of the Opposition says something, they are totally mistaken. What the newspaper...

AN HON. MEMBER: You clarify that.

SHRI RAJIV GANDHI: I am speaking. If you listen, you will hear. What the newspaper picked up was something which we had thrown in the dustbin. And those that grovel in the dustbin only find what is in the dustbin. Let me just read out what was thrown in the dustbin. I will read it. I am reading it out.

Sir, what was thrown in the dustbin and I am quoting here "If at any time, the Governor of a State is satisfied that any Council in the State is not functioning in accordance with law or is grossly abusing its power or is functioning in a manner which is detrimental to public interest, he may by order suspend or dissolve the Council and appoint an administrator to exercise the powers vested in the Council." But what was thrown in the dustbin was not what we created. This was what was put to parliament in 1978 during the Janata Government. This paragraph that I have read has been signed by a number of people including Shri S.M. Joshi, Shri Mrinal Gore, Nanaji Deshmukh, Shri Indubhai Patel, Shri Era Sezhian. Shri R. K. Hegde—who is a very close friend and colleague of the hon. Member there, he signed this—Shri E.M.S. Namboodripad and about 20 people. This is what they wanted and what we have rejected.

PROF. MADHU DANAVATE: Can I come back to what I was saying?

SHRI A. CHARLES (Trivandrum): Now he will withdraw.

PROF. MADHU DANDAVATE: Sir, what I was pointing out to the House is that even today, the Prime Minister has very categorically said that there are Congress as well as non-Congress States in which the Panchayat experiment has been effectively worked out. Now, in the light of our commitment to democratic decentralisation, we have certain doubts. There are certain difficulties, certain constitutional hurdles are likely to be created. If we guard against those hurdles and remove the and suitably amend this particular Bill, in that case, it is possible that it will not be the case of throwing away the baby with the bath water. Therefore, I would like to make concrete suggestions and also observations. (Interruptions)

There is no question of suspicion. Firstly, let us take note of the fact that Article 368 of the Constitution gives us the power to amend the Constitution by two-thirds majority of those present and voting in both the Houses.

13.00 hrs.

There was a considerable controversy, and the matter was tested in the Supreme court and ultimately, what survives today in the Keshavananda Bharati judgement. The Keshavananda Bharati judgement of the Supreme Court has upheld the right of Parliament, to amend any part of the Constitution... (Interruptions)

THE MINISTER OF HOME AFFAIRS (S. BUTA SINGH): Then what are the difficulties?

PROF. MADHU DANDAVATE: Just listen to me. Listen to me gentleman... I am sorry. Not gentleman; hon. Member. They are not mutually exclusive.

All that I am pointing out is that Keshavananda Bharati judgement had stated that any part of the Constitution could be modified or amended under Article 368; but amending the Constitution is one thing, and mutilating the Constitution is another; and, therefore, they put the only limitation that

under Article 368, you can amend the Constitution, but you cannot change the basic features of the Constitution. (Interruptions)

SHRI SHANTARAM NAIK: This will strengthen the basic structure.

PROF. MADHU DANDAVATE: Listen to me.

Sir, will you restrain the hon. Member? In every sentence, he is interrupting me..... Therefore, I am trying to point out to you. (Interruptions)

SHRI HAROOBHAI MEHTA (Ahmedabad).....\*..\*\*.....

(Interruption)

MR. SPEAKER: I have not allowed him

PROF. MADHU DANDAVATE: In this very House, the Law Minister has repeatedly said that it is a fact that the Keshavananda Bharati judgement is the law of the land today—though we are not inclined to urge with it. In the Minerva case, even a review petition was filed. All these aspects are there

Therefore, what I want to point out to you is this. Where the judges referred to their refusal to allow change in the basic structure, they have actually illustrated what the basic structure is. The fifth feature which they have mentioned is the federal character of the Constitution. And, therefore, I will urge the Prime Minister to enquire into this particular aspect, by constituting the constitutional experts, and try to find out whether, in the formulation of this Bill the basic structure of the Constitution is not disturbed. (Interruptions)

SHRI SHANTARAM NAIK: What do you feel?

PROF. MADHU DANDAVATE: I feel that it is disturbed. Unfortunately, you had not listen to my first sentence. That is the trouble. Listen to my speech *in toto*. (Interruptions) I am not going astray at all. (Interrup-

tions) Therefore, I would like to take into account the federal character of the Constitution, and see that the construction of the Bill is made in such a way that the basic structure will not be affected; and on that account, a laudable objective of democratic decentralization from the Centre to the States, and from the State to the villages is not mutilated. That is my point. In this respect, I would like to draw the attention of the House, and particularly of the Prime Minister, to the fact that the matter was within the jurisdiction of the Sarkaria Commission. The Sarkaria Commission did go through this point. They did consider what was to be done for Panchayati Raj, what was to be done for the devolution of power, They envisaged certain constitutional difficulties; and, therefore, very categorically in the Sarkaria Commission's report they have pointed out that there were three alternatives. One alternative is legislation by the States on the basis of consensus at the Inter-State Council, which is not functioning today. The second alternative that they envisaged was Central legislation, with the consent of the States and the third was Central legislation necessitating a constitutional amendment. And they have categorically said, by way of abundant caution; "We do not favour the third alternative". But they are in favour of exporting the earlier alternative, so that the new reform Bill will not act as an obstacle to the constitutional validity of the Bill. I would like this particular aspect which has been focussed by the Sarkaria Commission to be taken into account.

"Then I would like to refer to the Directive Principles in the constitution. Article 40 of the Constitution regarding organisation of village panchayats reads as follows:-

"The State shall take steps to organise village panchayats and endow them with such powers and authority as may be necessary to enable them to function as units of self-government.

The State shall do it. Here the question is that the State is sought to be interpreted in

different ways. Article 36 regarding definition reads as follows:-

"In this part (that is part iv regarding Directive Principles of State Policy) unless the context otherwise requires " the State" has the same meaning as in Part III.

Now, what is Stated in Part III ?

Now Article 12 regarding definition reads as follows:

"In this part (that is part III of Fundamental Rights), unless the context otherwise requires, " the State" includes the Government and Parliament of India and the Government and the Legislature of each of the States and all local or other authorities within the territory of India or under the control of the Government of India.

This has to be read in the context of the reality and in the context of actually implementing the Constitution. Here it is said, it is the Parliament, The State Legislatures and other bodies. But, at the same time, even when an enabling clause is, there as far as certain powers are concerned, there are articles of the Constitution which keep the responsibility exclusively at a particular level. For instance, you take Article 51 where there is a reference about permeation of international peace and security. It is a concern of the State. You can say that the State means both the State level as well as the central level. But with that Article 51 is interpreted to mean that that "promotion of international peace and Security" can be taken care of only at the Centre, Therefore, I would very much like that this particular aspect should be taken note of . Therefore, Articles 40, 36 and 12 are to be read in conduction. As far as local self-governments are concerned, I would like to refer to Schedule Seventh. It very clearly says as to what the State List,. This is very clearly stated in the Seventh Scheduled, Entry 5. I need not read it again. If you check up Entry 5, in Schedule Seventh, it very clearly says that the local gov-

[Prof. Madhu Dandavate]

ernment is exclusively the State subject. (Interruptions). It has been made explicitly clear. I would like the Prime Minister to take note of that and try to consult the experts. He should consult the constitutional experts like Shri H.K.L. Bhagat and S. Buta Singh and try to see that all the aspects are properly studied so that later on there should be no difficulty as far as constitutional matter is concerned. Federalism has to be protected. The only danger is that the unitary characteristics are sought to be introduced in the entire procedure. There is one more instance I can quote. Take, for instance, the Election Commission I do not want to criticise the Election Commission. But the fact is that if you review the Election Commission is role, you will find that he has given so many interviews, not regarding this Bill in which it has been pointed out that the burden of the Election Commission is increasing a lot.

Now, if you put the Election Commissioner at the Centre with a heavy burden of looking after all these elections, including the elections of the Panchayats, this is decentralisation combined with centralisation I am afraid that in the process that is sought to be introduced the Centre is trying to encroach upon the authority and powers of the State. Skipping the States, the Centre is trying to jump on to the villages. What I would like is that there should be devolution of power from the Centre, to the State and likewise devolution of power from the State to the villages. At the same time as far as the financial resources are concerned, there must be transfer of resources from the Centre to the State and transfer of resources from the State to the Villages. Then only will this experiment of democratic decentralisation, to which we all are committed, be a success.

I will conclude by saying, we should try to draw a distinction between the two attitudes; Outright opposition to the very concept of democratic decentralization, and opposition, due to some reservation on grounds of constitutionality. I was very sorry, I felt deeply hurt, when the Prime Minister got

up and said that, "When we are referring to reservation for women and reservation for Scheduled Castes some people who are the remnants of a feudal order are feeling disturbed. If there is one issue on which the entire country is one and the House is one, Mr. Prime Minister, I assure you it is the issue of reservation for Scheduled Castes and Scheduled Tribes. Up to the last breath of our life we will defend it, we shall never oppose it, There is no question of opposing it. And, therefore, do not try to have a cheap jibe at us by saying that we are the feudal elements who are not happy to have reservation. Really, therefore, I conclude by saying that..(Interruptions) in some States an additional question has come up. (Interruptions).

SHRI SHANTARAM NAIK: What about the Rajas and Maharajas?

PROF. MADHU DANDAVATE: Let the Rajas and Maharajas take care of themselves. We have fought against them during the freedom struggle.

THE MINISTER OF STATE OF THE MINISTRY OF SURFACE TRANSPORT (SHRI RAJESH PILOT): Which list did you sign in 1979 when Babu Jagjivan Ram was a contender for the Prime Ministership? (Interruptions)

PROF. MADHU DANDAVATE: There is one more difficulty which is likely to come up. Some of my colleagues have pointed it out; Shri Madhav Reddi pointed it out and so also Shri Kishore Deo. Sir, just as we have to take care of reservation for the Scheduled Castes and Scheduled Tribes and women, (I strongly stand for the reservation for women—without their support I will not be able to go home let me tell you) there is one more dimension and probably you have not taken note of it. In some of the States there were laws under which there was statutory reservation for backward classes. The matter went to the court of law and there were constitutional and legal difficulties. We do not want that difficulty to come up. So, not only reservation for Scheduled Castes and

Scheduled Tribes and women should be there, but even a provision has to be made for reservation for backward classes. Even after the Mandal Commission Report we have not yet done it. All these aspects have to be taken care of. We wanted all these constitutional aspects to be brought to the notice of the Government, so that after a national debate when they try to bring back the Bill for consideration, it will be an enriched Bill, a better Bill a perfect Bill which can be passed unanimously, without any constitutional house, With this purpose I have put my views before the House.

MR. SPEAKER: Shri Dinesh Goswami.

[*Translation*]

SHRI BALKAVI BAIRAGI: (Mandsaur): I want to say something to the hon. Prime Minister and hon. Shri Dinesh I have listened to three speeches, I always listen to my learned colleague hon. Shri Madhu Dandavate's speeches with rapt attention I have only one comment to make on the discussions that is going on

" Yee ada bilkul nayenhai Aankh ladre ke liye yeh peeth kiye baithe hain.

[*English*]

SHRI DINESH GOSWAMI(Gowahati): Mr. Speaker, Sir, I will not go into the political aspect, because while opposing the introduction of the Bill I must confine myself to the constitutional and legal aspects. I have been taken aback by one statement of the Prime Minister. At the first shot, he said, that this Bill is being introduced and he will like a national debate. But then he said, "I would like to know the names of the those twenty persons who have opposed the Bill". almost indicating as if one who oppose the Bill is an anti-national.

Sir, the debate means critical scrutiny. The debate also includes opposition. And therefore unless the Prime Minister has an open mind to listen to the critical scrutiny and the opposition, and if he only feels that those

who support the Bill must be listened to, then I believe there is no scope for a national debate. I hope that is not his attitude.

Why am I opposing this Bill? I am opposing this Bill on the Constitutional ground, to which Mr Madhu Dandavate to some extent has referred. Sir, Panchayat is a subject under the purview of the State Legislatures because it is in the State List Item 5. Item 5 of the State List says that local Government, that is to say, Constituent powers of Municipal Corporation, and so on and so forth will be the State subject. Today, the Parliament is legislation on those spheres, where the State had the full authority to legislate.

Sir, I am fully conscious of the fact that the Constituent power of the Parliament to bring a constitutional amendment is there. I am not challenging it. But then, position is that we have exercised the Constituent power by which the Parliament is legislating on a field which, the Constitution says, is reserved for the State Legislatures.

Under the Seventh Scheduled, we are saying that all matters relating to Panchayats is not a matter of the Union List. It does not come within the purview of the Parliament. It is for the State Legislature to legislate. But by a Constitutional amendment, we are exercising the very same power, which we have actually given to the State Legislature. There is a Constitutional contradiction in this. And any Constitution which admits of such contradictions dilutes the strength of the Constitution. That is the fundamental objection I have. That point was taken care of by the Sarkaria Commission. The Sarkaria Commission suggested three alternatives. The first alternative was that a law may be made on the basis of a model Bill prepared on the basis of consensus at the forums of the Inter-State Council. The second alternative was; ' By a law on the subject made by Parliament under Article 252 with the consent of the Legislature of the State And the third was, 'That by Parliamentary law uniformly applicable throughout India. But the Sarkaria Commission was very clear and it says that



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if you want to make the third law, then you shall have to amend the Seventh Schedule and take Item 5 out of the purview of the State Legislature. The adoption of alternatives 1 and 2 will not require amendment of the Constitution. However as a condition specifying for adoption of alternative three—those aspects of the matter which are analogous to Article 170 and 174 will have to be carved out of the ambit of Entry 5 list and 2 and therefore, there is a separate item in List 3. Therefore, what the Sarkaria Commission suggested was, take it out of the purview of the List 2, transpose it in List 3. Sarkaria Commission, knowing fully well that this will affect the autonomy of the States, recommended that this should be resorted to as the last resort, only when the first two alternatives failed. Any my complaint against the Government is that the hon. Prime Minister did not exercise or did not try to take recourse to the first and the second alternatives. Because if he had taken recourse to the first and second alternatives, and got either a model Bill prepared in the Inter Governmental Council or in the National Development Council or consensus of the State Legislatures, then the States' autonomy would not have been affected. By this Constitutional amendment, through an indirect process, we are affecting the autonomy of the States. My submission is that when we talk about devolution of power to Panchayats, there can be no devolution of power to Panchayats unless we respect the devolution of power to the State Governments. If we feel that we can strengthen the third tier by diluting the second tier, then we are living in a fool's paradise. We are trying to dilute the second tier. We are trying to bring more centralisation and at the time of bringing more centralisation, we are saying that we are going for greater de-centralisation. This constitutional law amounts to greater centralisation. That is why, I am objecting to it.

The second is that even in operation, the power of scrutiny has been given to the CA&G of India. I have the privilege of watching in the Public Undertakings Committee

and the Public Accounts Committee the working of the C&AG. We know what causes the delay for the C &AG to give his reports and how many reports he can give. The C&AG cannot even scrutinise 1/1000th of the functioning of the Government. I do not know how the Prime Minister can think of that the C&AG will be able to examine all the Panchayats. I am not taking the point of the Election Commission. Even the C&AG's report on Bofors has not been laid on the Table of the House. I would like the Prime Minister to examine and seriously think about it. Today the C&AG is so much hard pressed to examine public corporations and different departments that it takes six years for him to submit the report and by that time it becomes virtually meaningless.

The third is, I object to the Financial Memorandum. Under rule 69 (1) of the Rules of Procedure, my objections is about the Financial Memorandum. (*Interruptions*).

MR. SPEAKER: Oppose it on constitutional grounds.

SHRI DINESH GOSWAMI: That is one of the constitutional grounds that they are taken recourse of one constitutional authority which has no time to go into the accounts...

SHRI RAJIV GANDHI: I would like Mr. Dinesh Goswami to tell me a little but about the State CAG...(*Interruptions*).

"There are authorities which are different from the State CAG." This is what you said. (*Interruptions*).

SHRI DINESH GOSWAMI: There are Auditors-General in the State.

SHRI RAJIV GANDHI: You said about the State's Comptroller & Auditor General. Please explain to me about that....(*Interruptions*).

SHRI DINESH GOSWAMI: I hope, you are satisfied that the Auditor General of the

State should have been given this power...*(Interruptions)*.

My objection is regarding Financial Memorandum

Rule 69 (1) of the Rules of Procedure says:

"A Bill involving expenditure shall be accompanied by a financial memorandum which shall invite particular attention to the clauses involving expenditure and shall also give an estimate of the recurring and non-recurring expenditure..."

What does the Financial Memorandum say:

- 7 "Article 243H provides for auditing of accounts of the Panchayats in such manner as the Comptroller and Auditor-General of India deems necessary. Similarly, article 243-I provides for superintendence, direction and control of elections to the Panchayats to be vested in the Election Commission. These provisions are likely to increase the work in the office of the Comptroller and Auditor-General as well as in the Election Commission, necessitating augmentation of their staff. However, both the Comptroller and Auditor-General as well as the Chief Election Commissioner have indicated that it would be difficult for them at present moment to estimate likely increase in staff and the consequent financial burden without detailed study of the additional work involved."

What is the likely increase in expenditure has not been mentioned. *(Interruptions)*

MR. SPEAKER: Please confine your-

self to the constitutional objection.

*(Interruptions)*

SHRI DINESH GOSWAMI: May I point out that the right of Members is also to oppose introduction on the ground of inadequacy of financial memorandum and I am exercising that right. This has always been done. You can look into the precedent.

MR. SPEAKER: I do not allow it. Please do it on constitutional grounds.

*[Translation]*

Please confine yourself to the subject of legislative competence.

*[English]*

SHRI DINESH GOSWAMI: I will submit that the fact that without this exercise the Bill has been brought, shows that the Government have introduced this Bill without really going deeply into all the aspects of the Bill. I am one who belongs to a party which believes in more regional autonomy, which believes that there should be decentralisation of power, but at this one time, they will centralise powers more. You will not give more powers, financial powers to the States. You only talk of devolution of the powers but are taking away the powers of the States. There is dichotomy in what the Government of India is praising and, therefore I have opposed this Bill. In fact, my submission will be that this Bill as it is will only increase the power of the Centre and whatever is attempted at will not be achieved, and that is why I am opposing the introduction of this Bill.

SHRI S. JAIPAL REDDY (Mahbubnagar): Mr. Speaker, Sir, at the very outset, I must thank the hon. Prime Minister profusely for the handsome compliments he paid to the enviable and bright

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record of non-Congress (I) ruled States, in respect of Panchayati Raj institutions.

PROF. MADHU DANDAVATE: Don't praise too much, otherwise he may withdraw... *(Interruptions)*.

SHRI RAJIV GANDHI: I will not withdraw.

SHRI S. JAIPAL REDDY: I am also happy, Sir, that our Prime Minister who has been sleeping like Kumbhakarna for four and a half years, has woken up on eve of polls in respect of Panchayati Raj institutions.... *(Interruptions)*

THE MINISTER OF PARLIAMENTARY AFFAIRS AND MINISTER OF INFORMATION AND BROADCASTING (SHRI H.K. L. BHAGAT): Sir, I rise on a point of order. *(Interruptions)*. Sir, I am on a point of order. Please listen to my point of order... *(Interruptions)*. Sir, you have repeatedly emphasised that their observations at this stage should be on ground of legislative competence alone and nothing else... *(Interruptions)*. But he is not doing that... *(Interruptions)*. We have seen a number of people sitting on those benches opposing various reforms... *(Interruptions)*

MR. SPEAKER: Mr. Jaipal Reddy, as always, I request you to say to the point. Why call all these names? You are unnecessarily wasting the time of the House. This is always the bane, you see...

*(Interruptions)*

SHRI H.K.L. BHAGAT: We have seen them opposing the abolition of Privy Purses, we have seen them opposing the nationalisation of banks on the pretext of legislative competence. We have seen them opposing from those benches. If you want to oppose,

have the courage to oppose it. Don't take the garb of legislative competence, which you have none. Therefore, he must confine himself to the legislative competence and not otherwise. We know what is happening. Most of them have opposed these revolutionary measures on the pretext of legislative competence. And they are today even apologetic because they know their fate. So, Sir, ask him to confine to the legislative competence of this Bill only.

*[Translation]*

PROF. MADHU DANDAVATE: This is neither observe nor unparliamentary.

*[English]*

MR. SPEAKER: Confine yourself to the legislative competence only.

SHRI S. JAIPAL REDDY: Sir, I will now follow your advice. Anyway, I am very happy that he is taking interest in Panchayat Raj institutions though it is like pot calling the kettle black and devil citing the scriptures. I am all for this Bill. I want much more to be included in the Bill... *(Interruptions)*

MR. SPEAKER: Then why oppose it? Amend it then.

SHRI S. JAIPAL REDDY: When I say I am for the Bill, I am for the spirit of the Bill, I am for the features of the Bill, I am for the spirit to be strengthened, I am for the features to be widened... *(Interruptions)*

SHRI ASUTOSH LAW (Dum Dum): I am on a point of order, Sir. Is he opposing under rule 72, Sir? If he is opposing under rule 72, then he cannot say all these things.

*[Translation]*

MR. SPEAKER: Please, tell me whether you want to oppose. Otherwise we shall leave it.

[English]

SHRI S. JAIPAL REDDY: But, Sir, I am deeply doubtful about the Constitutional validity of this Sixty-Fourth Amendment Bill. Sir, I would like the Prime Minister to point out a single article in the Constitution which empowers the Union Parliament to legislate any matters reserved exclusively for the State List. Let me refer to the Preamble of the Constitution. Sir, ours is a Union of States. It is not a Union of States, Panchayats and Municipalities. Therefore, the States have been recognised as separate units. Sir, ... (Interruptions) I will always be happy to learn from Mr. Madhu Dandavate, not from the Prime Minister. Sir, when the Prime Minister admits that the record of Congress ruled States is not good, under Article 252, the Assemblies of Congress-I ruled States can adopt a Resolution calling upon the Government of India to initiate legislation in respect of Panchayati Raj institutions, the suggestion was made by the Sarkaria Commission. Sir, earlier, in respect of urban land ceiling law which has been more honoured in breach than observance, a similar measure was adopted and the State Assemblies passed in Resolution. Therefore, if we are to overcome the question of constitutional validity, there is a method and measure enshrined in the Constitution. Please take recourse to Article 252 and the non-Congress- I States also will cooperate with you because we do not allow such an important Bill on which there is no difference of opinion in this House to be exposed to a charge of Constitutional invalidity.

Sir, this House can also benefit by the advice of the Attorney General. When this House is doubtful about the constitutional validity of the Bill the House can request the Attorney General to clarify, to throw light on this issue. This is very important.

Sir, coming to the intentions, the Prime Minister in a statement made in 'The Hindu'

on December 9, 1986 stated "If there is to be a material change in our relationship with the States, the Centre has to act directly in respect of the List-2". Sir, I may mention that the List-2 deals with the subjects reserved for the States. So, he is in fact trying to tamper with the List-2 on the pretext of strengthening Panchayat Raj institutions. Thus he is trying to encroach upon the powers of the States. I am quoting the Prime Minister. So, the declared objects of the Bill are laudable but the undeclared intentions are unholy.

SHRI SOMNATH CHATTERJEE (Bolpur): Mr. Speaker, Sir, I immediately come to the Constitutional aspect. But at the outset I want to make it absolutely clear that we are not against the principles of some of the provisions of this Bill like holding of elections regularly and providing reservation for the Scheduled Castes and Scheduled Tribes and Women. But what we are against is the methodology that has been adopted to achieve something over which there should be no dispute throughout the country and there should be unanimity.

Sir, there are three provisions of the Constitution which are very important and relevant. One is, Article 40 of the Constitution, which is the Directive Principle providing for setting up village panchayats and endowing them with necessary powers. Second is, Article 246 of the Constitution of India lays down the legislative powers in relation to the different lists in the Seventh Schedule respectively Parliament or State Legislature will have the authority to legislate on matters in respect of Union List and State List and in the case of Concurrent List both the Union Parliament and the State Legislatures can legislate. And the last important part is in the context of the provision of Entry V of the State List II of the Seventh Schedule of the Constitution which confers exclusive jurisdiction, as our founding fathers decided, on

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the State Legislatures and State Legislatures alone can legislate for the Panchayats.

PROF. N.G. RANGA (Guntur): Not 'alone'. (*Interruptions*)

PROF. MADHU DANDAVATE (Rajapur): The word 'alone' is there. As a founder member, you have written that. (*Interruptions*)

SHRI SOMNATH CHATTERJEE: Sir, when Article 40 was inserted by way of amendment brought by Shri K. Santhanam which was Article 31-A in the Draft Constitution - that amendment which was not in the initial draft of the Constitution was adopted by Dr. B.R. Ambedkar. Sir, I am quoting again with your kind permission what Shri Santhanam said in this House.

It relates to the Constitutional or legislative competence:

"What powers should be given to a village panchayat, what its areas should be and what its functions should be will vary from Province to Province and from State to State and it is not desirable that any hard and fast direction should be given in the Constitution. I think these must be left to the Provincial Legislatures."

That is precisely what was done. Ambedkar while moving for the adoption of the Draft Constitution in the Constituent Assembly, said this:

"The basic principle of federalism is that the legislative and executive authority is partitioned between the Centre and the States, not by any law made by the Centre but by the Constitution itself. This is what the constitution does. The States under our Constitution are

in no way dependent upon the Centre for their legislative or executive authority. The Centre and the States are co-equal in this matter"... The Chief mark of federalism lies in the partition of the legislative and executive authority between the Centre and the States by the Constitution. This is the principle embodied in our Constitution. There can be no mistake about it. It is therefore wrong to say that the States have been placed under the Centre. The Centre cannot by its own will alter the boundary of that partition, nor can the judiciary."

PROF. N.G. RANGA: That is his speech. (*Interruptions*)

SHRI SOMNATH CHATTERJEE: Yes, speech of the Chairman of the Drafting Committee of our Constitution.

PROF. MADHU DANDAVATE: That was endorsed by Pandit Nehru also.

PROF. N.G. RANGA: The word 'alone' is not there.

PROF. MADHU DANDAVATE: It is there. That was endorsed by Pandit Nehru also. (*Interruptions*)

SHRI SOMNATH CHATTERJEE: Sir, I have my respect to Prof. Ranga. Have you got a copy of the Constitution? In Article 246 (3), subject to clauses 1 and 2 it is stated that the Legislature of any State has exclusive powers to make laws for such States or any part thereof with respect of any to the matter enumerated in List II in the Seventh Schedule and clauses 1 and 2 have nothing to do with the List II of the Second Schedule. (*Interruptions*)

PROF. MADHU DANDAVATE: That book is not published by CPM. (*Interruptions*)

SHRI SOMNATH CHATTERJEE: Sir, therefore, my submission is that any law which the Parliament makes by exercise of its constituent power by means of Constitution amendment cannot confer any power on the Central Legislature unless you amend List II as well, which the Sarkaria Commission has said. (*Interruptions*)

Sir, the Prime Minister is reported to have said... (*Interruptions*)

Are you listening with any attention? (*Interruptions*)

SHRI VISHWANATH PRATAP SINGH: The problem is you serve sweetmeat in a bad pack. (*Interruptions*)

SHRI SOMNATH CHATTERJEE: The other day, at the AICC Conference - I saw it in the papers - the Prime Minister has said that the Centre and the States share the responsibility for bringing the Panchayati raj to fruition and that constitutional framework for Panchayati raj is primarily the responsibility of the Centre. This is what he has said. This is nothing but a travesty of the constitutional provisions in this country. As the Constitution stands today, even after this amending Bill is accepted, the Centre will have no authority with regard to panchayats which continue to remain under the sole and exclusive authority of the State legislature. Then, what is the purpose of this Bill? You are seeking to subvert and tamper with the basic structure of the Constitution which has laid down that federalism is one of the basic structures of our Constitution as Keshavananda Bharati has said. This is your whole objective.

PROF. MADHU DANAVATE: Shri Kesavananda Bharati survives till now.

SHRI SOMNATH CHATTERJEE: Not only survives but it has been reiterated by the Supreme Court repeatedly in the last

judgment of Minerva Mills case. I would like to know two things, whether federalism is the basic structure of the Constitution or not and whether the State has got exclusive jurisdiction to make laws with regard to panchayats and local Governments or not, according to this Government, and if so, how the constituent power of this Parliament be exercised to make provisions which strike at the very federation structure of the Constitution. This is to be answered before the question of competence can be fully answered.

PROF. MADHU DANAVATE: Before it is answered, it has to be read.

SHRI SOMNATH CHATTERJEE: I find my good friend Mr. Shiv Shankar is nothing down something. I do not know what he is nothing down. But will he note down this? (*Interruptions*). Mr. Shiv Shankar, please be true to the Constitution, and not to your leader.

THE MINISTER OF STATE OF THE MINISTRY OF WELFARE (DR. RAJENDRA KUMARI BAJPAI): Is he saying that Parliament has no power to legislate on such matters?

SHRI SOMNATH CHATTERJEE: Even if this Bill is passed, Parliament will have no power to legislate on the panchayat. Again I reiterate even if this Bill is passed, the Central legislature will have no authority to legislate on the panchayats. That is my second question. What is being done? This is very important, Mr. Speaker. I request the hon. Prime Minister to answer. The Bill contains certain guiding principles like Directive Principles. Kindly consider the Bill. It says the State legislature may pass this law containing certain things. This cannot be anything but the guidelines or Directive Principles. Suppose, one of your State Governments does not pass this law. What can you do? I put this question. The Central legislature cannot do it so long as Energy five of the

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State List is to remain. I am on the Constitutional point. The court cannot direct a law to be made by a State legislature by a writ of mandamus. What is the object of this Constitution amendment which cannot have any effect unless the legislatures pass appropriate laws, the legislatures of different States? That is why, I say that this is a law which is being made not for bringing about decentralisation of power. This is with a purpose of public consumption and nothing but an election gimmick and election stunt. That is why, they did not pass it even, in this Session. They should have passed this during the Budget Session itself. They did not bring the Bill before the Chief Ministers. The Bill was not shown to the Chief Ministers during the last Chief Ministers' Conference. Even no discussion took place with the Chief Ministers on the terms of the Bill. The object is not decentralisation. The Prime Minister has spoken of his trust in the people. We have also trust in the people. *(Interruptions)* We have also trust in the people. We are firmly of the view that the people will be able to find out the real intention of this Government to denude the powers of the States. The people will give their verdict and they will give their verdict by ousting this Government.

THE MINISTER OF HUMAN RESOURCE DEVELOPMENT (SHRI P. SHIV SHANKER): Mr. Speaker, Sir,

SHRI S. JAIPAL REDDY: Sir, is he opposing this?

MR. SPEAKER: He is opposing your argument.

SHRI SOMNATH CHATTERJEE: How can he speak?

SHRI P. SHIV SHANKER: You alone cannot have any prerogative. *(Interruptions)*

SHRI S. JAIPAL REDDY: Sir, I am on a point of order. To the best of my knowledge, Ministers can intervene when the Bill is considered. We are now at the introduction stage. We were not allowed to go into the merits. We were compelled to stick to the Constitutional point. Therefore, only the Minister who introduces the Bill should respond to us.

MR. SPEAKER: You are not right. Overruled.

SHRI S. JAIPAL REDDY: This has no precedent in the history of Parliament.

MR. SPEAKER: You please read Rule 72. We are having a good debate now.

THE MINISTER OF HUMAN RESOURCE DEVELOPMENT (SHRI P. SHIV SHANKER): Mr. Speaker, Sir, the issue is simple. But a lot of confusion is sought to be generated by the other side partly because there seems to be a total misunderstanding on the concept of the legislative competence, of the language that has been used in the proviso to Rule 72 of the Rule of Procedure. The legislative competence means whether in a given case the Parliament has the power to the enactment of either the Constitutional amendment itself or the law itself.

PROF. MADHU DANDAVATE: Most of us have used the Constitutional Validity.

SHRI P. SHIV SHANKER: I will come to that point. Constitutional validity is a different question. Constitutional validity is different from the legislative competence. They are two different things. I will come to that point. In the context of an ordinary law, Article 246 takes care as to the legislative competence part. By virtue of Article 246 of the Constitution, read with the Entries in List I, II, III of the Seventh Schedule, either the Parliament has the power to make the law or the State

Legislature has the power to make the law. There, you would say whether the Parliament has the power to make the law and it is there where the question of legislative competence comes in. When it comes to the question of the Constitutional amendment, neither Article 246 applies, nor any of the Articles whatsoever on which the arguments have been advanced.

PROF. MADHU DANDAVATE: Article 368 of the Constitution applies there.

SHRI P. SHIV SHANKER. You have got to go to Article 368 of the Constitution.

SHRI SOMNATH CHATTERJEE: We are aware of it. We referred to those Articles to show as to what is the basic structure of the Constitution.

SHRI P. SHIV SHANKER: What I say, as a senior advocate of the Supreme Court, you are unfair in not referring to Article 368?

SHRI SOMNATH CHATTERJEE: I have never questioned about Article 368.

SHRI P. SHIV SHANKER: You have tried to mislead. Let me try to lead you correctly.

PROF. MADHU DANDAVATE: When it comes to Article 368, you are referring to Article 246 and vice versa. (Interruptions)

SHRI P. SHIV SHANKER: My observation was that I expected certain standards from him. I didn't expect it from others.

SHRI SOMNATH CHATTERJEE: Did : mislead you?

SHRI P. SHIV SHANKER: You didn't refer to Article 368. (Interruptions)

SHRI SOMNATH CHATTERJEE: Shri

I assume that none of you knows about Article 368? (Interruptions)

SHRI P. SHIV SHANKER: Unless you say that you are ignorant of Article 368.

SHRI SOMNATH CHATTERJEE: Did I not refer to Kesavanand Bharati case? (Interruptions)

PROF. MADHU DANDAVATE (Rajapur): Mr. Shiv Shanker, I must point out to you that he did refer to the Kesavananda Bharathi case. And he further said that in the Minerva Case, that was confirmed about Article 368.

SHRI P. SHIV SHANKER: Kesavananda Bharati case is totally different. That is a question of constitutional validity. I am speaking of the legislative competence and it is in respect of that the hon. Member referred to Article 246. Either he is ignorant of Article 368 or he deliberately does not want to say anything. This is what I am saying. It is there where he tries to mislead. (Interruptions)

SHRI SOMNATH CHATTERJEE: Since you are accusing me, will you yield for a minute? (Interruptions)

SHRI P. SHIV SHANKER: I am only saying on the basis of what he has said. I have no objection.

SHRI SOMNATH CHATTERJEE: What is this accusation? (Interruptions)

SHRI P. SHIV SHANKER: The accusation is, you have never referred to the Article. (Interruptions)

SHRI SOMNATH CHATTERJEE: Parliament has passed that amendment to the Constitution. What type of amendment it is.



SHRI P. SHIV SHANKER: Yes, I will come to it. That I am going to say. You please sit down. (*Interruptions*)

THE MINISTER OF ENERGY (SHRI VASANT SATHE): Somnath, you are trying to be smart. (*Interruptions*)

SHRI P. SHIV SHANKER: This Bill is the Constitution (Amendment) Bill and Article 368 starts with the words "notwithstanding anything in this Constitution". It is an overriding provision. It overrides Article 246 which overrides all the other provisions. It says:

"Notwithstanding anything in this Constitution, Parliament may in exercise of its constituent power amend by way of addition, variation or repeal any provision of this Constitution in accordance with the procedure laid down in this article."

I am purely on the question of the legislative competence. I will come at a later stage to the question of constitutional validity. Though, at this stage that should not be argued yet it has been raised and I will answer to this question also. The submission is that you cannot rely for the constitutional amendment on Article 246 at all. This is what they have been saying.

SHRI SOMNATH CHATTERJEE: Of course, you can. (*Interruptions*)

SHRI S. JAIPAL REDDY (Mahbubnagar): It is a basic feature.

SHRI P. SHIV SHANKER: Basic feature is a different issue. That is the constitutional validity. This is a question of legislative competence. Now the submission is that Article 246 empowers to make ordinary laws. Ordinary laws. When an ordinary law is sought to be made under Article

246, we would not have made the law on the panchayats. I agree. (*Interruptions*)

SHRI M. RAGHUMA REDDY (Nalgonda): They are denigrating the opposition. (*Interruptions*)

SHRI P. SHIV SHANKER: Panchayats fall in the List II of the Seventh Schedule. The ordinary laws under Article 246 could have only been framed by the State legislature. (*Interruptions*) just a minute please. But this being a constitutional amendment, this overrides Article 246. And overriding Article 246.... (*Interruptions*) You may laugh at it. Fair enough. You have a right to laugh at. If you are ignorant, I am only sorry for that.

SHRI SOMNATH CHATTERJEE: It will be a provision of the Constitution within the meaning of Article 245. Does it alter Entry-V of the Second Schedule?

SHRI P. SHIV SHANKER: Entry 5 of the II Schedule, as I have already said, on that if any ordinary law is framed, it is the State alone which can frame the law.

SHRI SOMNATH CHATTERJEE: Does this Bill touch it?

SHRI P. SHIV SHANKER: The Bill does touch it and hence this constitutional amendment. Please don't forget, when the subject 'Education' was brought in the Concurrent List, it was brought by virtue of the Constitutional amendment. How else could it have been brought unless it was constitutional amendment? Could you have said at that time that on Education since the State alone had the power to frame the law under Article 246, the Parliament could not have changed it and brought it into the Concurrent List? Could you have said that? You could not have said it. Therefore that is an amendment under Article 368. In Article 368 any provision of this Constitution could be amended.

**PROF. MADHU DANDAVATE:** You are stretching it too far. He quoted 246 only to illustrate the federal structure and federal character of the Constitution.

**SHRI P. SHIV SHANKER:** I will come to that part of it. But I was trying to meet his point and I must meet his point. Now my submission is, under Article 368...

**SHRI DINESH GOSWAMI:** I consider that the constituent power of the Parliament is there to amend it. Does it not mean that by this amendment, you have brought Panchayats into the Concurrent List?

**SHRI P. SHIV SHANKER:** I am not prepared to accept it. Not at all. I am straight-way saying it; not at all.

**SHRI SOMNATH CHATTERJEE:** Very good, that is what I was asking.

**PROF. MADHU DANDAVATE:** Stand by that argument.

**SHRI P. SHIV SHANKER:** Yes, I stand by it.

It is not being brought in the Concurrent List for the purposes of making the law under Article 246 by the Parliament. I am very categorical about that.

**SHRI SOMNATH CHATTERJEE:** Road that with Entry 5.

**SHRI P. SHIV SHANKER:** If it is to be read with Entry 5, Education was also in the State List. There it was brought into the Concurrent List. (*Interruptions*)

**SHRI DINESH GOSWAMI:** Therefore you analogy on Education is not correct, that education was brought into the Concurrent List.

**SHRI P. SHIV SHANKER:** Please fol-

low the argument. If you cannot follow and raise objections, I cannot help it. I am saying that in spite of this, for an ordinary legislation under Article 246 the subject remains in the State List.

The only point to be explained is, for any amendment that will take place under Article 368 which could be against the spirit of Article 246 - justifiably because it is the constituent power that this Parliament can exercise, which is over and above this, the very words are such that it is an over-riding power - once the Parliament goes for the amendment of the Constitution, the only test that they are trying to say which should be answered is the test whether such an amendment offends the basic feature of the Constitution or the basic structure of the Constitution.

I would like to submit that this basic structure theory does not apply to an amendment law. It only applies to the Constitutional amendment. One of the hon. Members was trying to say that the constitutional amendment is regarding Panchayati Raj and cannot be made by the Centre having regard to Article 246 and reliance was laid on Article 40. I have already answered this and I need not go into each and every point that has been raised because I thought broadly I should explain.

The point is, so far as the Centre is concerned, can a State - I will put it this way - not act having regard to Article 40 and still the Centre can keep quiet? I am raising a basic issue.

**14.00 hrs.**

They have read Article 40. One of the hon. Members has also read Article 36, for the purpose of trying to say that the definition of the State is the same as in Part III, that is Article 12. Kindly read Article 37 also. The provisions contained in this Part shall not be

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enforceable by any court, but the principles, therein laid down, are nevertheless fundamental in the governance of the country and it shall be the duty of the State to apply these principles in making laws. Now, let us take a case, where a State Government acts in violation of a Directive Principle contained in Part IV of the Constitution. Would the Centre keep quiet? The Centre has the power. In such cases, the Centre has the power to guide, goad and to direct, that the State Government shall follow the Constitution.

SHRI S. JAIPAL REDDY: Under which Article?

SHRI P. SHIV SHANKER: If it shall not, let it face the consequences of Article 356 of the Constitution. (*Interruptions*)

Yes, Certainly. (*Interruptions*)

SHRI SOMNATH CHATTERJEE: This is what was done. By this, State's rights would be done away with. The intention is to amend Article 356 of the Constitution, and by this process, to do away with the States. (*Interruptions*)

SHRI P. SHIV SHANKER: Why don't you listen? I am answering you, because you have raised the issue. (*Interruptions*) If you have to face it, you have to face it. You have raised the issue, you must face it. Suppose the Constitution warrants something to be done and if a State does not want to follow the Constitution, and it violates the constitutional mandate, then the Government in that State cannot be carried on, according to the Constitution and in terms of Article 356, we have the right to act and we shall act. If you misbehave, we shall act. Don't bother about that. You were just trying to say that; I thought I should bring this to your notice. (*Interruptions*)

SHRI DINESH GOSWAMI: There were States where the separation of the executive and judiciary was done away with. What steps did not take? (*Interruptions*)

SHRI P. SHIV SHANKER: There are courts compel it and if the court cannot compel it, the court has a right in certain cases where the issue is it is not as though they cannot issue a mandamus. (*Interruptions*) If the court cannot direct, then it is the duty of the Centre to see that every State acts according to the Constitution. If you do not want to act according to the Constitution, you have to face the consequences. I need not go into that. (*Interruptions*)

If you violate, if you arrogate to yourself a power, contrary to the Constitution, you have to face the consequences.

PROF. MADHU DANDAVATE: Now, the motivation is that you want a constitutional amendment to Article 356.

AN HON. MEMBER: The question of motivation does not arise.

SHRI P. SHIV SHANKER: Your motivation is obvious that you want to violate the constitution. That is the case.

SEVERAL HON. MEMBERS: No. No. (*Interruptions*)

SHRI P. SHIV SHANKER: You have to abide by the Constitution. If you do not abide by the Constitution, we will make you to abide by the Constitution. We will make you to abide by the Constitution. The other point is that... (*Interruptions*)

SHRI DINESH GOSWAMI: You are speaking of decentralisation. Why are you doing like this?

PROF. MADHU DANDAVATE: It is very clear; to bring it under the orbit of Article

356, they want to amend the Constitution.

**SHRI P. SHIV SHANKER:** It comes under the orbit of Article 356 if you arrogate to yourself the violation of the provisions of the Constitution. I am absolutely clear and I would like to make the position clear. If you arrogate to yourself not to follow the Constitution, you are unfit to be there, you are unfit to be here also. Let us be very clear about that... (*Interruptions*)

One aspect which has been raised is about the federalism part. There had been a lot of confusion and my friends seem to be labouring under a total confusion on the concept of federalism. This country is not a federalism in the matter in which the United States has come into being.

**PROF. MADHU DANDAVATE:** They have their own brand of federalism.

**SHRI P. SHIV SHANKER:** Now, you are trying to say that federalism is a basic structure of the Constitution. Therefore, I have got to explain the position itself. The point is that there it was the case of the various States coming together and surrendering certain powers to be Federal Government and keeping the large chunks of the powers unto themselves. In our Constitution, which is a complete document altogether, powers have been clearly laid down. Powers of the States and powers of the Centre have both been clearly laid down having regard to the Seventh Schedule and the different entries thereunder. If you go through the Constitution closely, the essence of the Constitution on the federal aspect is that powers are demarcated with a strong bias towards the Centre. Let us be very clear. I am only trying to interpret...

**SHRI SOMNATH CHATTERJEE:** In India.

**SHRI P. SHIV SHANKER:** Yes, I am not

speaking of any other country, I am only speaking of the Indian Constitution as it stands today.

The point is how it is that the federal structure has been eroded by virtue of this amendment of this Constitution. No body has said a word about it. If they were to say that look, it is in this manner, this is the provision, which erodes the federal structure and thereby it affects the basic structure of the Constitution, one can understand. My friends are arguing in a general form. General form of what? General form saying that Panchayat is in entry 5 of list II in the 7th Schedule, and since we are now legislating on that subject, that *per se* is an erosion of federal character, which is wholly wrong.

**SHRI SOMNATH CHATTERJEE:** You say wrong, I say it is not wrong.

**SHRI P. SHIV SHANKER:** That is perfectly all right. That is a matter for the courts to decide. Fair enough. This is far from going to the question of the legislative competence. This is constitutional validity part. I should submit that no effort has been made and I would like to say that there is no question of the erosion of the powers that have been demarcated within the State and the Centre by virtue of the 7th Schedule of the Constitution, so far as this amendment is concerned. If you have a conviction that it offends the basic structure, let us understand what is the basic structure. Basic structure is the foot the Chancellor. Basic structure itself has not been clearly defined by the Supreme Court itself. Supreme Court has given some illustrations. Some illustrations Supreme Court has given, there is no doubt about that.

**PROF. MADHU DANDAVATE:** Federal character is one of them.

**SHRI P. SHIV SHANKER:** That is perfectly all right. I am only saying that the

[Sh. P. Shiv Shanker]

Supreme Court has resorted itself, in a given case, to go into the question of the basic structure, while illustratively certain items have been mentioned by them. No attempts have been made by either side.

PROF. MADHU DANDAVATE: That means they can go beyond these illustrations.

SHRI P. SHIV SHANKER: Yes, it is not exhaustive. That is why I said it is a foot of the Chancellor. If I as a judge say that this is the basic structure then it becomes the basic structure. And we do not believe in the basic structure theory. I am sure, my friend sitting on the other side also does not believe it. But as long as Keshavananda Bharati's case remains it is binding on us and we will go by it. All of us are bound by the judgement of the Supreme Court. That is a different issue but the point is that in this case, in this Constitutional amendment which is being brought under Article 368 - which is the constituent power to amend the Constitution - it has not been shown as to how the basic structure of the Constitution is offended. In fact the basic structure in no way gets offended by this amendment. Federalism is not affected.

As I said earlier, I repeat it so that the matter becomes clear, while the matter will be within the List 2 it has not been brought under the concurrent list- and, therefore, legislation on this entry will be the exclusive prerogative of the State legislature. That is why even this amendment says, that the State will frame the law. I will just bring to your kind notice Article 243 (e), which is the main clause:

"Subject to the provisions of this Constitution, the legislature of a State may by law endow the panchayats with such powers and

authorities as may be necessary to enable them to function as institutions of self-government and such law may contain provisions for the devolution of powers and responsibilities upon panchayats at the appropriate level subject to such conditions as may be specified thereon with respect to that..."

So, all those details have been given.

It is this which refers to the addition of the Eleventh Schedule. It is only in Article 243 (e).

Therefore, the position is that it is not as though the Centre is going to frame the law. If the Centre were to go to frame the law then of course when it comes to operation...

SHRI SOMNATH CHATTERJEE: It cannot frame the law.

SHRI P. SHIV SHANKER: That is what I am saying. Therefore, so far as the Constitutional amendment is concerned, I would like to submit that our Constitution also is not a unitary system of the Constitution. The framers of the Constitution were aware of the diversities in the societies. Therefore, when they went ahead for the purpose of framing Constitution, they wanted that the Constitution should represent the hopes and aspirations of diversified people in the country.

Sir, one aspect which I would like to submit is that one of the Hon. friends has raised a question on the union of the Article 1. I don't know how it has come. Article 1 says:

- "(1) India, that is Bharat, shall be a Union of States.
- (2) The States and the territories thereof shall be as specified in the First Schedule.

(3) The territory of India shall comprise-

(a) the territories of the States;

(b) the Union territories specified in the First Schedule; and

(c) such other territories as may be acquired."

I could not understand how he has brought panchayats into it. Still the territories will remain the same. I suppose panchayats are the parts of the States and, therefore, for the purpose of territories...

SHRI S. JAIPAL REDDY: I referred to the preamble to say that as it is, it is a two-tier structure. You are surreptitiously trying to add a new tier which you are not competent to do.

SHRI FRANK ANTHONY (Nominated Anglo Indian): I want to congratulate you for what you have said in three sentences. It is axiomatic that our Constitution, unlike the American Constitution, is unitary in character. That is characterised by the fact that there residuary powers are vested in the Centre and that is encapsulated in Article 368. That is how I put it.

SHRI P. SHIV SHANKER: I deliberately used the words "with a strong bias towards the Centre." So, having regard to the residuary powers, I didn't want to use the word 'unitary' because it would have been highly sensitive for the friends who are sitting on the other side. That is why, I was very careful in using the words. (*Interruptions*)

I consider this document as sacrosanct. I am bound by the oath of this document. I shall stand by it. That is the point. (*Interruptions*)

So far as the Union of States is con-

cerned, there is no argument without going into it. Because it has nothing.

Therefore, there is a legislative competence and in my submission it also does not violate the basic structure, theory concept also. (*Interruptions*)

[*Translation*]

MR. SPEAKER: If you could keep quiet the matter can be decided in two minutes.

[*English*]

PROF. N.G. RANGA: Mr. Speaker, why not we adjourn for lunch?

MR. SPEAKER: We are in the midst of an interesting discussion.

[*Translation*]

SHRI SAIFUDDIN CHOWDHARY (Katwa): I will pick up the thread from where Shri Somnath Chatterjee has left. He has asked a pointed question and that is, even after the enactment of this law or passing of this Bill, if a State Government don't follow the guidelines given in this Bill, then what the Central Government is going to do? (*Interruptions*)

MR. SPEAKER: Please order.. It will take more time if you interrupt. It is better you restrain yourself. (*Interruptions*)

SHRI SAIFUDDIN CHOWDHARY: When that question was raised, I found that some Ministers were laughing in their own mind and probably they want this question to be raised by many quarters in the country and whereby they will come out with this suggestion that from now on, they have to make another amendment to take Panchayat in the Concurrent List. That is why I don't support the modalities of this enactment where I think it is a stepping stone for taking

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Panchayat in the Concurrent List. That is the real object. (*Interruptions*)

MR. SPEAKER: Mr. Charles, if you keep quiet for five minutes, it will be over, otherwise, it will take another fifteen minutes more. So, simple it is. He is the last speaker.

SHRI SAIFUDDIN CHOWDHARY: If I have to appreciate the sincerity of this Government, then I have to get a clarification in regard to this question. The Article 40 of the Constitution has a reference to the Panchayat and steps to be taken by the State. I want to know what steps this Government and the Party running this Government have taken in those States particularly where they are running the Government—in order to see that they motivate their people for holding elections to the Panchayats. This is a very vital question. So, this vital question comes, viz. of the political will of the party which is ruling the country. That is the point. The lack of political will be the Congress Party at the Centre..

MR. SPEAKER: Legislative competence...

SHRI SAIFUDDIN CHOWDHARY: I am talking about the competence.

PROF. MADHU DANDAVATE: Sir, he is speaking about their incompetence.

MR. SPEAKER: Sum up, please.

SHRI SAIFUDDIN CHOWDHARY: We cannot allow the lack of political will of a political party which is running the Government, to be used to thwart the basic features of the Constitution. The cat is now out of the bag. What they want is to establish a Command type of administration... (*Interruptions*) You are going to do it.

Now, Mr. Shiv Shanker has said that if

elections are not held ideally in time, as per the guidelines, after the enactment of this Bill, then Article 356 will be resorted to.

MR. SPEAKER: No; he did not say that... Please sum up.

SHRI SAIFUDDIN CHOWDHARY: listen to me. In Clause 2 of this Bill, under 243-1, the marginal note says: "Superintendence, direction and control of elections to the Panchayats to be vested in the Election Commission."

The Central Government has been trying to pressurize the Election Commission into not holding... (*Interruptions*)

MR. SPEAKER: Do not cast aspersions on the Election Commission. Now sum up.

SHRI SAIFUDDIN CHOWDHARY: Please understand it. The State Government may now prescribe a certain method by which elections are to be held; and the Election Commission may say: 'That is not acceptable to us'. If that conflict arisen, what is to be done? They say that if the elections are not held, on that ground Article 356 will be applied. What will happen then?

MR. SPEAKER: No; he has not said that. (*Interruptions*) Ut is only upto the point of making a law. Not beyond that.

SHRI SAIFUDDIN CHOWDHARY: Conflicts can be imposed; then it has to be totally in the hands of the State Governments—i.e. the holding of the elections. No superintendence, no control, no direction in the hands of the Election Commission. (*Interruptions*)

PROF. MADHU DANDAVATE: He is arguing about the Government's competence.

SHRI SAIFUDDIN CHOWDHARY:

What I feel is that there cannot be any disagreement in seeing to it that the panchayats are strengthened and they functions effective instruments at the grassroots, and that reservations are made for women, Scheduled Castes and Scheduled Tribes. But this is not the real issue; the real issue is that they are trying to make this as a stepping-stone really to bring Panchayats under the Concurrent List and thereby bypass the State Governments and thwart the federal structure of the Constitution. That is why we oppose the evil design of the Government which says with a very good and cool fact that they are going to do this during this last year to their tenure.

MR. SPEAKER: Now the Prime Minister.

SHRI N.V.N. SOMU (Madras North): *rose.*

MR. SPEAKER: Mr. Somu, I got your party's list late

(Interruptions)

SHRI N.V.N. SOMU: Sir, I must ventilate my party's grievances. Let me take two minutes. (Interruptions)

SHRI V. KISHORE CHANDRA S. DEO (Parvathipuram): I also want to speak.

MR. SPEAKER: Can I allow them?

THE PRIME MINISTER (SHRI RAJIV GANDHI): Yes.

MR. SPEAKER: You will take only two minutes.

SHRI V. KISHORE CHANDRA S. DEO: Though I gave the notice late, I would like to thank you for permitting me to make my points.

First of all, I would like to make amply clear that I and my party have always stood for the devolution of powers and for decentralisation. There is no question is questioning as far as decentralisation is concerned, as far as devolution of powers is concerned. I have only certain apprehensions in my mind. Many of the things which have been brought in this Bill have already been implemented by several State Governments. It is unfortunate that today a Constitution Amendment has been brought to make the Congress-ruled States implement certain things which have already been implemented by many State Governments. The hon. Minister, P. Shiv Shanker, is a legal luminary. I am not a constitutional expert. But there have been several cases where the Supreme Court has held that the basic structure of the Constitution cannot be changed; the federal character of the Constitution is a basic part of the Constitution. Can Article 246 be over-rigid by this amendment that you are bringing tomorrow? After this legislation is brought, can the Central Government force the State Assemblies to pass legislation vis-a-vis Panchayats. If this Bill tomorrow is going to be struck down by a court of law on the ground that it does not conform to the basic norm or cutting into the basic structure of the Constitution, it will be very sad, because we do not want something which we are going to give to the Panchayats or to the people tomorrow going to be struck down by a court of law. Will it stand the scrutiny of law? Therefore, I would like the hon. Prime Minister, in consultation maybe with us and other legal luminaries sitting next to him, to enlighten us on this. I would like to say that only on this ground this Bill should not be, which is being uselessly introduced today, struck down.

SHRI N.V.N. SOMU (Madras North): On behalf of my DMK Party, I want to say a few words. A dancing girl was asked to dance. When she could not dance properly, she said that the dancing floor was not constructed



[Sh. N.V.N. Somu]

properly. Likewise, after 40 years of independence, if we ask why India has not made progress in the villages, the Ruling Party says, the Panchayati system has not improved. Actually, some ten years back, they wanted to implement the 20-point programme. They said after implementing the 20 point programme, the living conditions in India would improve. But it was a total failure. Now, they have caught hold of the Panchayati system.

The introduction of this Bill runs counter to the basic structure of the constitution; this trespasses the power of Entry V in the Seventh Schedule. All the powers of the State Governments have been taken away by this Bill. This also tampers with the basic federal structure of India. Now a new unitary system of government under the disguised of giving more powers to Panchayats is being introduced. The Central Government is trying to take away all the powers from the State Governments.

In Tamilnadu, district court were abolished by the great leader, Mr. Kamaraj. He introduced the present Panchayat Union in Tamilnadu. The basic philosophy behind the establishment of Panchayat Union of Kamaraj should not be struck down.

Dr. Ambedkar said that the Central Government and the State Governments were both the creature of the Constitution; one is not subordinate to other. Therefore, this present Bill is slowly, steadily taking away all the powers of the State Governments. Therefore, we oppose this Bill.

In the Eleventh Schedule of the Bill, all the powers of the State Governments are taken away by the Central Government—Agriculture, land improvement, minor irrigation, animal husbandry, fishery, social forestry. I want to quote Shri Hanumanthaiya,

who said in the Constituent Assembly, and I quote:

"We were, during the days of freedom struggle wedded to certain principles and ideologies taught us and as propounded to us by Mahatma Gandhi. The first and foremost advice which he gave in his picturesque language was that the constitutional structure of this country ought to be broad-based and pyramid-like. It should be built from the bottom and should taper right up to the top. What has been done is just the reverse. The initiative from the Provinces and the States and from the people has been taken away and all power has been concentrated in the Centre. This is exactly the kind of constitution Mahatma Gandhi did not want and did not envisage."

This Bill leads to that. I oppose this Bill.

SHRI RAJIV GANDHI: Sir, I have been listening to what the hon. Members have been saying and except for one or two members who tried in a very defensive manner to talk about legislative competence, most of the members did not even bother to touch the point. And that has made me think a little bit. Why would they so many of them,—twenty of them in the list here. And, Mr. Goswami wanted to know why I wanted to know the names of the twenty, when it is a democratic society and we are encouraging debate. Of course, we are encouraging debate. But we would like to have the debate out in the open, not from behind curtains and inside *burkhas*. Come out and speak, do not hide? Why do you want your name to be hidden, if you are taking a position? (*Interruptions*)

SHRI DINESH GOSWAMI: No, not at all.

SHRI RAJIV GANDHI: Goswamiiji, let

me finish. I did not interrupt you.

**PROF. MADHU DANDAVATE:** We would not have remained anonymous when we speak. You would have come to know about our names. (*Interruptions*)

**SHRI RAJIV GANDHI:** Why were you so worried, then? (*Interruptions*)

**SHRI C. MADHAV REDDI:** You were trying to score a point and we opposed. (*Interruptions*)

**SHRI RAJIV GANDHI:** Sir, the fact is that the members by their interventions have shown clearly that they were not interested in legislative competence, that their only interest is to block this Bill and not legislative competence. This is precisely what we have been talking about. Let me tell you.

The hon. Member from Andhra, did he say one word about legislative competence? The member who spoke next about West Bengal, no, he talked about political will; he did not talk about legislative competence. And what happened to political will in Tripura and what happened to political will in Kerala? It is not a question of a political party or political will. The fact is, ... (*Interruptions*)

I said in my opening statement. (*Interruptions*) I have said in my opening statement, it is not question of political will, it is not question of political party, it is not a question of Congress or non-Congress. There are good Congress States, there are bad Congress States. There are good Opposition States, there are bad Opposition States. The same party in Opposition has a different record in different States. So, obviously there is something overriding beyond just parties. And that is why we are coming to this House with a Constitutional Amendment. (*Interruptions*)

One member from Jammu and Kashmir,

I do not know whether you allowed him to speak, but I got the sense of what he was trying to ask. This Bill does not cut across Article 370 and it will not apply to Kashmir until the legislature in Kashmir makes it apply, which we sincerely hope that they will do.

**PROF. SAIFUDDIN SOZ (Baramulla):** The people of Jammu and Kashmir welcome this measure.

**SHRI RAJIV GANDHI:** Thank you very much. The limited point I was trying to make is only this that we are not trying to vitiate Article 370 by bringing in this Bill. It will go through the procedure that exist today.

**SHRI ABDUL RASHID KABULI (Srinagar):** I stand for the Bill and I would like to support Constitutional measures like this. (*Interruptions*)

**SHRI RAJIV GANDHI :** Thank you.

Sir, very limited legal arguments were raised and those that were raised were not to the point. The point about the legislative competence has been squarely answered by my honourable colleague. And one Member who stood up after my Minister had answered, said himself that he is not competent and I entirely agree with him that he is not competent to comment on it. So, I will not comment on anything that he has said... (*Interruptions*)

**PROF. MADHU DANDAVATE:** Do not misinterpret us. (*Interruptions*)

**SHRI RAJIV GANDHI:** I think it was Mr. Goswami, who asked: why did we not present this Bill to the Chief Ministers. Sir, it would have been a breach of privilege of the House had we presented a Bill that we are going to place in front of this House anywhere outside this House and we had no intention of doing that; and neither have we any intention of

[Sh. Rajiv Gandhi]

falling into such traps laid by you... (*Interruptions*)

Sir, many Members have talked about the basic structure of the Constitution and that we are breaking the basic structure. One Member specially has asked for it, and that Members' Party has had a rather dubious record of dealing with our Constitution, they have burnt it, they have torn it, they have dumped it—I do not know what else they have done to it. I wonder which basic structure he is talking about... (*Interruptions*) Sir, I have not yielded. I would not like to be interrupted. We have been listening to all if there for almost three hours... (*Interruptions*) Sir, I had not named any Member or party. I am glad the hon. Member has confessed to his allegiance.

Sir, this Bill does not change the basic structure of the Constitution in any way, let me be very clear. But it may be changing the basic structure of the opposition. sir, because as we have seen, the President of the Janata Dal came in here, made a brief statement, then he cowed down and sat down when I gave him a reply. He has run away... (*Interruptions*) You do not have to defend him... (*Interruptions*)

PROF. MADHU DANDAVATE: In most of the debates, he withdraws from the House. He has the liberty to go... (*Interruptions*)

SHRI RAJIV GANDHI: Why are you taking a feudal position? (*Interruptions*)

PROF. MADHU DANDAVATE: Rarely you are presented in the debates (*Interruptions*)

SHRI RAJIV GANDHI: Sir, many parties have opposed this Bill. And I say, 'opposed this Bill, not opposed the legislative competence of this House' because almost

nobody has done that. The Parties include the Telugu Desam, the Lok Da, the AGP, the DMK.

I am not surprised that these Parties have opposed it because we know the background of these Parties. But what has surprised me is that some Members of the more progressive Parties, the CPM, the CPI, the Forward Bloc, have also opposed this Bill and that is surprising.

I hope that these parties will see the light and will not get carried away by meanderings of their neighbours... (*Interruptions*)

Sir, obviously the opposition to this Bill that we have seen today has not been on legislative competence. The opposition has been on something else, something more substantive, something that is hurting much. And this is what is coming out.

Sir, the opposition is obviously a motivated machination of the Members of the Opposition and it is a machination to see that they protect the power brokers; it is machination to fight for the feudalists... (*Interruptions*) Sir, it is the Members of the Opposition vying to support the vested interests so that corruption at these levels continues. It is a pity that on a major issue like this, we have not had a united House. But this is not the first time that progressive measures have been opposed by Members sitting on the other side. Sir, abolition of privy purses, the nationalisation of banks, land reforms and many other historic and revolutionary measures taken by this House have been opposed by the people who have been sitting there... (*Interruption*) Every time they have done it, the people of this country have relegated them to the dustbins of history. And that is where they shall remain. There opposition to this Bill has proved to the people of this country that they do not stand by the people of this country in this historic measure.

We have listened to the arguments that have been put. We have rejected all the arguments that have been put.

MR. SPEAKER: The question is:

"That leave be granted to introduce a Bill further to amend the Constitution of India."

Those in favour may say 'Ayes'.

SEVERAL HON. MEMBERS: 'Ayes'

MR. SPEAKER: Those against may say 'Noes'.

SOME HON. MEMBERS: 'Noes'

MR. SPEAKER: I think, 'Ayes' have it, 'Ayes' have it, 'Ayes' have it.

SOME HON. MEMBERS: 'Noes' have it.

MR. SPEAKER: Let the lobbies be cleared.

Now the lobbies have been cleared. The question is:

"That leave be granted to introduce a Bill further to amend the Constitution of India."

Those in favour may say 'Aye'.

SEVERAL HON. MEMBERS: Aye.

MR. SPEAKER: Those against may say, 'No'.

SOME HON. MEMBERS: No.

MR. SPEAKER: I think the 'Ayes' have it, the 'Ayes' have it.

SOME HON. MEMBERS: 'Noes' have it.

SOME HON. MEMBERS: We want Division, Sir.

MR. SPEAKER: Let there be Division. The question is:

"That leave be granted to introduce a Bill further to amend the Constitution of India."

*The Lok Sabha Divided.*

### Division No. 7

14.49 hrs.

### AYES

Abdul Ghafoor, Shri

Agarwal, Shri Jai Prakash

Ahmed, Shrimati Abida

Akhtar Hasan, Shri

Alkha Ram, Shri

Anjiah Shrimati Manemma

Ansari, Shri Abdul Hannan

Arunachalam, Shri M

Awasthi, Shri Jagdish

Azad, Shri Ghulam Nabi

Bairagi, Shri Balkavi

Ban, Shri Deep Narain

Banerjee, Kumari Mamata

Basavaraju, Shri G.S.

Bhagat, Shri H.K.L.

Bhanu Pratap Singh, Shri

Bharat Singh, Shri	Dighe, Shri Sharad
Bhatia, Shri R.L.	Digvijay Sinh, Shri
Bhosale, Shri Prataprao B.	Dikshit, Shrimati Sheila
Bhumij, Shri Haren	Dinesh Singh. Shri
Birbal, Shri	Engti, Shri Biren Singh
Birendra Singh, Rao	Faleiro, Shri Eduardo
Birinder Singh, Shri	Fernandes, Shri Oscar
Budania, Shri Narendra	Gadgil, Shri V.N.
Buta Singh, S.	Gaekwad, Shri Ranjit Singh
Chandra Pratap Narain Singh, Shri	Gaikwad, Shri Udaysingrao
Chandrakar, Shri Chandulal	Ganga Ram, Shri
Chandrasekhar, Shrimati M.	Gehlot, Shri Ashok
Chandrashekharappa, Shri T.V.	Gholap, Shri S.G.
Charles, Shri A.	Ghosh, Shri Bimal Kanti
Chaturvedi, Shri Naresh Chandra	Ghosh, Shri Tarun Kanti
Choudhary, Shri Nandlal	Gomango, Shri Giridhar
Dabhi, Shri Ajitsinh	Guha, Dr. Phulrenu
Dalbir Singh, Shri	Gupta, Shri Janak Raj
Damor, Shri Somjibhai	Jaffar Sharief, Shri
Das, Shri Sudarsan	Jagan Nath Prasad, Shri
Das Munsu, Shri Priya Ranjan	Jain, Shri Dal Chander
Dennis, Shri N.	Jain, Shri Nihal Singh
Dev, Shri Sontosh Mohan	Jain, Shri Virdhi Chander
Dhariwal, Shri Shanti	Janarthanam, Shri Kadambur
Dhillon, Dr. G.S.	Jangde, Shri Khelan Ram
Digal Shri Radhakanta	Jatav, Shri Kammodilal

Jeevarathinam, Shri R.	Kuppuswamy, Shri C.K.
Jena, Shri Chintamani	Lachchhi Ram, Shri
Jitendra Prasada, Shri	Law, Shri Asutosh
Jitendra Singh, Shri	Mahabir Prasad, Shri
Jujhar Singh, Shri	Mahajan, Shri Y.S.
Kabuli, Shri Abdul Rashid	Mallick, Shri Lakshman
Kamal Nath, Shri	Mane, Shri Murlidhar
Kamat, Shri Gurudas	Meira Kumar, Shrimati
Kamble, Shri Arvind Tulshiram	Mishra, Shri G.S.
Kamla Kumari, Kumari	Mishra, Dr. Prabhat Kumar
Kamla Prasad Singh, Shri	Mishra, Shri Uma Kant
Kaul, Shrimati Sheila	Misra, Shri Nityananda
Keyur Bhusan, Shri	Mohanty, Shri Brajamohan
Khan, Shri Mohd, Ayub (Jhunjhunu)	Motilal Singh Shri
Khan, Shri Mohd Ayub (Udhampur)	Murmu, Shri Sidha Lal
Khattri, Shri Nirmal	Muttemwar, Shri Vilas
Khirhar, Shri R.S.	Naik, Shri Shantaram
Kidwai, Shrimati Mohsina	Naikar, Shri D.K.
Kinder Lal Shri	Namgyal, Shri P.
Kisku, Shri Prithvi Chand	Nagi, Shri Chandra Mohan Singh
Kolandaivelu, Shri P.	Odeyar, Shri Channaiah
Krishna Pratap Singh, Shri	Oraon, Shrimati Sumati
Krishna Singh, Shri	Pandey, Shri Madan
Kshirsagar, Shrimati Kesharbai	Pandey, Shri Manoj
Kujur, Shri Maurice	Pant, Shri K.C.
Kumaramangalam, Shri P.R.	Parashar, Prof. Narain Chand
Kunwar Ram, Shri	Pathak, Shri Chandra Kishore

Patil, Shri H.B.	Rao Shri V. Krishna
Patil, Shri Shivraj V.	Rath, Shri Somnath
Patil, Shri Uttamrao	Rathod, Shri Uttam
Patil, Shri Veerendra	Rawat, Shri Harish
Patnaik, Shri Jagannath	Sahi, Shrimati Krishna
Peruman, Dr. P. Vallal	Sakargaym, Shri Kalicharan
Pilot, Shri Rajesh	Sangma, Shri Williamson
Poojary, Shri Janardhana	Sankhawar, Shri Ashkaran
Potdukhe, Shri Shantaram	Sankata Prasad, Dr.
Pradhan, Shri K.N.	Satyendra Chandra, Shri
Pradhani, Shri K.	Sathe, Shri Vasant
Puran Chandra, Shri	Sethi, Shri Ananta Prasad
Purohit, Shri Banwari Lal	Shah, Shri Anoopchand
Pushpa Devi, Kumari	Shahi, Shri Laliteshwar
Qureshi, Shri Aziz	Shailesh, Dr. B.L.
Raj Karan Singh, Shri	Shaktawat, Prof. Nirmala Kumari
Rajeshwaran, Dr. V.	Shankaranand, Shri B.
Rajhans, Dr. G.S.	Shanmugam, Shri P.
Ram, Shri Ramswaroop	Sharma, Shri Chiranji Lal
Ram Awadh Prasad, Shri	Sharma, Shri Nand Kishore
Ram Prakash, Ch.	Shastri, Shri Hari Krishna
Ram Singh, Shri	Siddiq, Shri Hafiz Mohd.
Ramachandran, Shri Mullappally	Sidnal, Shri S.B.
Rana Vir Singh, Shri	Singaravadivel, Shri S.
Ranga, Prof. N.G.	Singh, Shri D.G.
Ranganath, Shri K.H.	Singh, Shri Lal Vijay Pratap
Rao, Shri J. Vengala	Singh, Shri S.D.

Singh Deo, Shri K P.

Yogesh, Shri Yogeshwar Prasad

Soren, Shri Harihar

Zainul Basher, Shri

Soz, Prof. Saifuddin

**NOES**

Sparrow, Shri R.S.

Ghosh Goswami, Shrimati Bibha

Sreenivasa Prasad, Shri V.

Jhansi Lakshmi, Shrimati N.P.

Sukh Ram, Shri

Kakade, Shri Sambharjirao

Sukhbuns Kaul, Shrimati

Kalpana Devi, Dr. T.

Sultanpur, Shri K.D.

Tulsiram, Shri V.

Sundararaj, Shri

MR. SPEAKER: Subject to correction,  
the result of the Division is...

Sunder Singh, Ch.

*(Interruptions)*

Surendra Pal Singh, Shri

SHRI SOMNATH CHATTERJEE: Sir,  
we did not ask for the Division. How did the  
machine start working?...*(Interruptions)*

Suryawanshi, Shri Narsingrao

Swami Prasad Singh, Shri

PROF. MADHU DANDAVATE: Who  
asked for Division, Sir? We told you, we are  
not pressing for Division. How did the ma-  
chine start working then?...*(Interruptions)*

Swell, Shri G.G.

MR. SPEAKER: There are so many  
who were asking for it...

Tapeswar Singh, Shri

*(Interruptions)*

Tariq Anwar, Shri

Thambi Durai, Shri M.

PROF. MADHU DANDAVATE: Let it go  
on record that someone from the ruling party  
demanded it, we have not asked for it.

Thungon, Shri P.K.

Tigga, Shri Simon

SHRI SOMNATH CHATTERJEE: Sir, I  
am on a point of order. The Division was  
asked, Lobbies were cleared and then they  
went to their seats. *(Interruptions)*

Tripathi, Dr. Chandra Shekhar

Tytler, Shri Jagdish

Vanakar Shri Punam Chand Mithabhai

MR. SPEAKER: As earlier somebody  
asked from this side, now somebody asked  
from that side. You did not ask for it...

Verma, Dr. C.S.

*(Interruptions)*

Vyas, Shri Girdhari Lal

PROF. MADHU DANDAVATE: Our stand is  
clear. The stand of the entire Opposition is

Wasnik, Shri Mukul

Yadav, Shri Shyam Lal

Yadava, Shri D.P.



[Prof. Madhu Dandavate]

clear. We did not want to divide the House. I want to know who demanded the division of the House. We made it clear to you that we do not want Division. We made it clear to you...*(Interruptions)*

MR. SPEAKER: Some people asked for it.

PROF. MADHU DANDAVATE: We came to you and told you that we do not want division. We want to know who demanded Division.

SHRI SOMNATH CHATTERJEE: How did the machine start working unless you asked for it?...*(Interruptions)*

MR. SPEAKER: I will explain it. The right to call for a Division is of everybody in this House. Secondly, when first I put the question, then some Members from this side asked for a Division. Then I asked for the clearance of the Lobbies. Then, again I called 'Ayes' and 'Noes' and then some members from that part of the House asked for a Division...

*(Interruptions)*

PROF. MADHU DANDAVATE: Let it go on record, Sir, that the Opposition did not want a Division...*(Interruptions)*

SHRI RAJIV GANDHI: Sir, if the hon. Members feel that the Division has taken place without their being ready for it, we are willing to have another division...*(Interruptions)*

PROF. MADHU DANDAVATE: Sir, we told you firmly that we are not pressing for Division. We did not want the House to be divided. We told you and you said yes...*(Interruptions)*

SHRI SOMNATH CHATTERJEE: You never asked for the machine to be worked...*(Interruptions)*

SHRI H.K.L. BHAGAT: Sir, this is again

double-facedness...

*(Interruptions)*

PROF. MADHU DANDAVATE: Sir, let it go on record that we did not ask for Division.

MR. SPEAKER: I told you, somebody from that side asked for it...*(Interruptions)*

MR. SPEAKER: I have explained the position...

*(Interruptions)*

SHRI SOMNATH CHATTERJEE: Sir, we never asked for the Division. How could you put the machine to work unless we asked for Division? How can you ask for the Division? *(Interruptions)*

MR. SPEAKER: They have asked for Division from that side.

*(Interruptions)*

SHRI SAIFUDDIN CHOWDHARY: Who gave the order, Sir?

*(Interruptions)*

MR. SPEAKER: I was asked for a Division. Then only I called for a Division.

*(Interruptions)*

SHRI VASANT SATHE: You had asked for a Division. *(Interruptions)*

MR. SPEAKER: In this House, anyone can call for a Division and somebody from that side called a Division, pressed for a Division. Then only I called for the clearance of the Lobbies. Again when I put the motion to the vote of the House, somebody asked for a Division.

*(Interruptions)*

MR. SPEAKER: I did not say that you did it. I did not say that.

MR. SPEAKER: Now, subject to correction\*, the result of the Division is:

Ayes: 205

Noes: 5

*The motion was adopted*

THE PRIME MINISTER (SHRI RAJIV GANDHI): Sir, I introduce the Bill.

*The Lok Sabha then adjourned for Lunch till Forty-five minutes past Fifteen of the Clock*

*The Lok Sabha re-assembled after Lunch at forty five minutes past Fifteen of the Clock*

[MR. DEPUTY SPEAKER *in the Chair*]

MR. DEPUTY SPEAKER: Shri Rajesh Pilot.

SHRI V. KISHORE CHANDRA S. DEO (Parvathipuram): I had given a notice of privilege against Indian Express (*Interruptions*) That newspaper has written articles about the fodder machines.

MR. DEPUTY SPEAKER: I will go through and let you know.

SHRI V. KISHORE CHANDRA S. DEO: The Speaker has promised me. I have given privilege notice.

MR. DEPUTY SPEAKER: Whatever you have given regarding privilege, I will consider.

SHRI V. KISHORE CHANDRA S. DEO: Today is the last day of Parliament.

MR. DEPUTY SPEAKER: I will study it. I will let you know.

*(Interruptions)*

15.46 hrs.

DELHI MOTOR VEHICLES TAXATION (AMENDMENT) BILL\*\*

THE MINISTER OF STATE OF THE MINISTRY OF SURFACE TRANSPORT (SHRI RAJESH PILOT): I Sir, I beg to move for leave to introduce a Bill further to amend the Delhi Motor Vehicles Taxation Act, 1962.

MR. DEPUTY SPEAKER: The question is:

"That leave be granted to introduce a Bill further to amend the Delhi Motor Vehicles Taxation Act, 1962."

*The motion was adopted*

SHRI RAJESH PILOT: Sir, I introduce\*\*\* the Bill.

15.47 hrs.

MATTERS UNDER RULE 377

[*Translation*]

(i) **Need to lay a new Railway line from Sahjanva to Dohrighat in Gorakhpur (U.P.)**

SHRI MADAN PANDEY (Gorakhpur): Today the Indian Railways are fully self-sufficient. There is no doubt that the self-

\*The following members also recorded their votes for AYES:—

Shri Rajiv Gandhi, Shri Brahm Dutt, Shri J. Chokha Rao, Shri Ram Ratan Ram, Shri Ram Bhagat Paswan, Dr. Kripasindhu Bhoi, Shri Ram Singh Yadav, Shri Natvar Singh Solanki, Shri N. Tambi Singh, Shri Shankar Lal and Shri Mankuram Sodi:

\*\*Published in Gazette of India, Extraordinary Part II, Section 2 dated 15.5.89.

\*\*\*Introduced with the recommendations of the President.