

13.40 hrs.

STATEMENT RE. 10-HOUR WORKING DUTY AND IMPLEMENTATION OF MIABHOY TRIBUNAL AWARD

THE MINISTER OF RAILWAYS (PROF. MADHU DANDAVATE): Several Hon'ble Members of this House, as well as the other House, referred to the workload of running staff, operating and maintenance staff, etc. and its effect on the safety of train operation. So far as the running staff are concerned, according to the commitment of the previous Government, a limit of 10 hours duty at a stretch was assured and was to be implemented by the end of 1976. Already all Express, Mail and Passenger trains are working to this schedule and 85 per cent of goods trains. In the past, there was delay in sanctioning the additional manpower to fully implement the balance of the scheme. I am glad to inform the House that a decision has now been taken to permit the Railways to provide additional running staff to the extent of 2700. With the positioning of this additional staff, which will naturally take some time, it is expected that the 10-hour rule will be completely implemented in as short a time as possible, for all the trains—passenger and goods.

Again, as a result of the modifications in the Hours of Employment Regulations, consequent on the acceptance by the Government of the Miabhoy Tribunal Award, extra posts in different categories were required and these had not been sanctioned for a long time, resulting in overtime payments to staff as well as inadequacy of rest givers. I have, therefore, decided to permit the Railways to sanction upto 10,000 posts of operational staff, other than running staff, for the proper implementation of the Miabhoy Award. Here again, some time is required for actual implementation because of the need for recruiting the staff, training them and putting them in position.

13.42 hrs.

CONSTITUTION (FORTY-FOURTH AMENDMENT) BILL—Contd.

[MR. DEPUTY-SPEAKER *in the Chair*]

SHRI A. BALA PAJANOR (Pondicherry): Mr. Deputy Speaker, Sir, I would like to congratulate the hon'ble Minister of Law for introducing this Bill but at the same time I cannot help myself express our feelings. As far as our party is concerned I agree with Shri Somnath Chatterjee that a comprehensive Bill will solve the problem. As such the explanation given by the hon'ble Law Minister is that it is a question of compulsion as they have to restore the powers to High Courts and Supreme Court. I do not see any reason. I think it is a question of convenience which they are adopting as was done by the previous government. When the Swaran Singh Committee was appointed, I remember, the hon'ble Members said that those were the dark days for our country but when it is a question of practice, I am sorry to say, the same old method is being adopted.

I think this House is aware of the fact that when the first introduction was sought to be made in the first Session of this Sixth Lok Sabha the hon'ble Minister for Law tried to introduce a Bill to repeal the entire Forty-second amendment. I do not know what prevented them. I feel for all these days—it is not a question of days but months—they are not in a position to come forward with their mind. Whether it is Janata Government, Congress Government, a Communist Government or a Socialist Government. I am afraid we cannot dupe the people for ever, I think it is a question of convenience that prevented them from coming forward with a bigger Bill or made them to say to the people that they are not in a position to call a special session or Assembly for that.

Sir, when the hon'ble Minister introduced the Bill he said that he is trying to restore the powers of the Supreme Court and the High Court in order to satisfy the common man in this country or help the common man in Kanyakumari go only to the Court of Madras and not to the Supreme Court at Delhi. Sir, when we were asked to give our opinion in regard to Article 226 we appeared before the Swaran Singh Committee, we opposed it tooth and nail. They only gave lip service to our suggestions and laughed at us. I say the same mentality prevails in this House. I know pretty well that Shri Shyam-nandan Mishra spoke vehemently about it but there is a whip and you are forced to support certain matters that happened during the Emergency. We are not bold enough to say that something is wrong. This is not the way to amend the Constitution or tell the people that we are restoring the rights. Without 226 you cannot get back your right. I just quote one other matter. I do not know why Congress Members are shy and I also cannot understand when the hon'ble Member from the Communist Party stated that he cannot understand about the number of judges placed there. We have a special majority in this House to amend certain provisions of the Constitution because the farmers of the Constitution felt that certain matters should not be taken away by a simple majority. So, certain procedures are prescribed. The present Chief Justice of India, Mr. Beg, made certain observations at Madras and I quote:

"About the divergent views held by judges of higher courts on their approach to the Constitution, he pointed out that there were some judges who felt that they were not concerned with the spirit of the Constitution. There were others who held that it was the letter of the Constitution, its objectives and substance that should be interpreted. However, the judges were bound by the basic structure of the Constitution and endeavoured to

give expression to what were the objectives of the people. We are not concerned with political forces or ideologies of political parties—but we are deeply concerned with the political ideology behind the Constitution."

So, certain judges have certain basic ideologies by which they are moved while writing judgments. The Constitution has been passed by the supreme authority, by the will of the people as represented in this Supreme Parliament. I am not casting any aspersions when I say that the judges are appointed on various considerations and they have their pet notions and ideologies. That is why it was said that preferably a two-third majority of the judges will decide the constitutional validity of provisions passed by the supreme authority of the nation, i.e. Parliament. I do not see why the people are not bold enough to come forward and say that. The minister said that lots of cases are pending in the Supreme Court and High Courts. I want to know how many cases challenging the central laws are pending in the Supreme Court and how many cases challenging States laws are pending in High Courts. Thousands of cases involving the constitutional rights of citizens are pending. To bluff the people, they have come forward with a convenient statement that in order to restore that status of the judges and the respect of the judiciary, this Bill has been brought. But at the same time, they have not thought about article 226. The Law Minister will remember that he gave a small note wherein restoring back the position of article 226 was mentioned, when the proposal was considered by a parliamentary committee of this House. But I do not know why it has not been done now. We were asked to come for consultation. Practically all the parties represented in the House were there and we had a casual discussion. A similar casual discussion was there during the emergency also. At that time, I remember some opposition members walked out. Some of

[Shri A. Bala Pajanor]

them are now in the ruling party in honourable positions. I feel we are trying to deceive the people by this. I could have appreciated if the Law Minister had said, we defer this amendment of the Constitution so far as the present session is concerned, because we are on the eve of Christmas. The Speaker said, 10 minutes are enough for each member. Probably the ruling party members want to go back to their constituencies after the session and tell the people. "The 42nd amendment has been given the go-by. We have amended the Constitution". Of course, innocent people will believe it. But for people who practise in constitutional law, it is difficult to tell the people like that. I repeat, this House has a special privilege and power to amend the Constitution. The Law Minister will agree that to argue on the Constitution and to assert the rights under the Constitution, you must be a graduate. Not only that; you must be a law graduate. You must have at least five years experience in practising constitution law before a High Court. But to amend the Constitution, the only requirement as I see it at present is your left hand thumb impression! This is the position of this country. We have to do things without understanding what the implications of this amendment are. I am happy that you have done something; but I am not very happy because you have not done everything. I cannot say that you have taken a very big step. Some Members have gone to the extent of saying that the Law Minister has taken a bold step. You have not taken a bold step, but only a small step. However small it may be, I am happy to congratulate you on it. Now the bell is going on; this is how we are amending the Constitution. So, it is not only the left-hand thumb impression, but also a mixture of it with the bell.

MR. DEPUTY-SPEAKER: The bell is always amending the Constitution.

SHRI A. BALA PAJANOR: I agree but let us not do it with the bell alone. It was said that Government was giving respect to the Opposition and to the views of the Members. What is the use? I may have poor understanding and poor expression. I am sure there are some other Members who can express much better. I may not be as great as many other Members here. But it is impossible for any Member to express his ideas or thinking or the amendment of the Constitution within ten minutes. (Interruptions) As regards 31-D which relates to anti-national activities, it is Okay with us. Because it is not necessary, we say we can give a go-by to it. In regard to Article 226-A, you are talking about a special provision, incorporated under the 42nd Amendment. I see something has been written thereafter; and I am not able to understand it with the help of the Law Minister's comment. In clause 4 of the present amending bill, it is said:

"(a) the stage at which the reference is so pending; and

(b) the ends of justice, either deal with the case as if that article had not been omitted or return the case to the High Court for disposal as if that article had been omitted with effect on and from the 1st day of February, 1977."

SHRI SHANTI BHUSHAN: The words used are 'had been omitted'.

SHRI A. BALA PAJANOR: I follow that. If the case is still pending with the High Court, it is Okay. If it has come to the Supreme Court and if they have taken up the matter, it is for the Supreme Court to decide the matter—if I have understood it correctly—and dispose it of according to the convenience of the Supreme Court. You are taking away the right of the citizen, who could have gone to the High Court and get a version there, and then gone in appeal to the Supreme Court and thus got a second opportunity. I am not blaming you,

because the very same machinery which worked for the 42nd Amendment of the Constitution of this great country, is helping you now. I know that an eminent lawyer like you, of the Supreme Court and of the High Court knows how to argue. I have had the privilege of listening to you not just for 1 or 2 days, but for weeks. You know pretty well that the machinery that has supplied you the material, is not upto the mark. I can not understand how you cancel the right of a citizen who has filed a case in the small High Court; it is now a matter of chance—I do not know whether there will be any—if it is pending before a High Court. What is the remedy that you are giving him? Can he go to the court for a second appeal? Does it not violate Article 14? That is why I said that you were paying scant respect. Article 19 is given back. It is a question of duping the people, to which I cannot be a party—and my party cannot be a party.

But we will support this Amendment, because you are doing something; but that something is not a fully correct step. I have to finish my speech now. I do not know how many Members from my party can speak on this.

MR. DEPUTY-SPEAKER: You have hardly any time. I am sorry I cannot give you any more time.

SHRI A. BALA PAJANOR: I do not make any difference in this respect between Members from my party, Janata Party or of the Congress Party. I feel all the Members of this House have equal responsibility.

SHRI SHANTI BHUSHAN: Did you say that you were supporting two-thirds majority?

SHRI A. BALA PAJANOR: I cannot say that it is correct, that they had given thought to the subject. It is not the great thought of Mr. Sanjay

Gandhi or Mrs. Gandhi because she never had any idea of looking into judicial things. Some machinery, some Members from this side, advised her. It is the coterie or the caucus that did it.

I want to know from you why two-thirds majority is prescribed for passing every amendment of the Constitution and every clause of a Constitution Amendment Bill. Why not pass it like any other Bill? It is because the framers of the Constitution thought that they had to give a certain amount of sanctity to it when it comes to amending the Constitution. That is why I said you require a certain amount of background. Chief Justice Beg, for instance, has admitted that the Judges may have different ideas of the basic structure of the Constitution. So, when you want to restore the rights of the Supreme Court and the High Court, give us more time to consider it in all its implications. You could have confined yourself to amending the article regarding anti-national activities etc.

As a lawyer, I was happy when Mr. Gokhale, who had been a Judge, became the Law Minister. You, too, are a very good lawyer and I was equally happy when you became the Law Minister. So, how can you take it lightly? Because, in all our discussions, in the three or four meetings that the ruling party had with us, I am thankful to you for giving me an opportunity to express my views. It was not like the previous Government. The previous Government simply listened to us and did whatever they wanted. You are good, kind, democratic, open-minded. I want to congratulate you on that again. But it is a question not of convenience, but of conviction. Some people are afraid that the other House may not pass it. It is not a question of the other House. If you are convinced on principle, you should go forward. If the present Law Minister does not do it, who is going to do it? If the present Government does not do, which other

[Shri A. Bala Pajanor]

Government is going to do it? That is the way we have to approach it.

There are 61 crores of people in this country. They do not know the a, b, c, of this big book, the Constitution. It has undergone forty-two amendments. What for? Is it to be a mere pillow for the night? If that is the case, agree that we can speak on it within ten minutes. I am agitated and pained that sufficient time is not given, because every time Members in this august House simply get up and say that they congratulate the hon. Minister for bringing up the particular measure. I would like to know whether they are really interested in this question. Later on, we blame the Judges for not giving correct judgments.

MR. DEPUTY-SPEAKER: You have to wind up.

SHRI A. BALA PAJANOR: I cannot deal with even a single article within ten minutes. I will go on record saying once again that these gentlemen are only trying to pay lip service to this kind of amendment of the Constitution. I am sure that that is not mind of the present Prime Minister or the present Ministry, but there is a mentality which is trying to force it. I see a number of advocates here. When I go out and sit in the Lobby and the Central Hall, I find they are very eloquent. What does the Statement of objects and Reasons say? It says:

"It is considered that articles 32A, 131A and 228A cause hardship to persons living in distant part of India. Further, article 32A would lead to multiplicity of proceedings as case relating to the validity of a State law which could be disposed of by the Supreme Court itself have to be heard first by the High Court...."

Is it the main reason for bringing forward this Bill? We must be bold

enough to say that political decisions were taken at that time. These are the proceedings that are being preserved. When we want to argue on a particular constitutional matter, we refer to the Constituent Assembly debates and see what the framers of the Constitution had felt about it at that time.

14 hrs.

Though I express my feelings on behalf of my Party, I think, many of the Members, including the Members of the ruling party, with whom I have talked are in full agreement with what I say. I support the Janata Government in bringing forward this Bill because they are bold enough to do something, not everything. But while doing so, let us not pay the same lip sympathy. I congratulate the Law Minister but, at the same time, I ask him to see that next time, when he brings forward a Bill, he should not come forward with a Bill like this, a scrap of paper. I am sorry to say that. Hereafter, when the next Bill comes, if possible, you call a special session for it so that we amend the Constitution in toto or we throw away the Constitution Forty-Second Amendment in toto and we restore back the powers of the people in full and be honourable citizens and hon. Members of Parliament. With these words, I hope, this House will consider the Bill and pass it. I support the Bill.

श्री विजय कुमार महोत्रा (दिल्ली दक्षिण-) : उपाध्यक्ष महोदय, जर्मनी के कांस्टीचूशन की हत्या करने के बाद हिटलर ने यह घोषणा की थी—

"Third Reich will last for thousand years."

उसी तरह से 42वें संशोधन के इस पार्लियामेंट में पास होने के साथ-साथ श्रीमती इन्दिरा गांधी ने उस समय यह कहा था कि आपातकाल के पूर्व की स्थिति इस देश में कभी नहीं आ

सकती और जब तक मैं जीवित हूँ तब तक आने का सवाल ही पैदा नहीं होता। हिटलर के करने के पांच साल के अन्दर थर्ड-राइख खत्म हो गई, दो करोड़ जर्मनों की हत्या के बाद हिटलर को अपनी बात चूर-चूर होते हुए, देखने का मौका ही नहीं मिला, वह उस से पहले ही चला गया। मैं समझता हूँ—यह एक बड़ी भारी विडम्बना है कि 14 महीनों के अन्दर ही श्रीमती इन्दिरा गांधी ने जो गर्वा-क्ति की थी, उसके परिणाम उनको देखने पड़ रहे हैं। वे कांग्रेस पार्टी की प्राइम मिनिस्टर ही नहीं रहीं, बल्कि आज कांग्रेस पार्टी की एक्जिक्यूटिव से भी नीचे उतर आई हैं। उन्होंने यह घोषणा भी की थी कि सारी दुनिया इस बात का देख ले कि 60 करोड़ लोग एक युग से दूसरे युग में जा रहे हैं और इसके लिये उन को जो कीमत अदा करनी पड़ रही है, वह ज्यादा नहीं है। डेढ़ लाख लोगों का जेल में डाल कर, सैकड़ों की जेलों में हत्या कर के, बीस हजार लोगों को हवालातों में मरने के बाद और उस के साथ ही करोड़ों लोगों को नसबन्दी में डाल कर, 60 करोड़ लोगों को महम आर आतंक के वातावरण में दो साल तक रखने के बाद भी उस की कीमत ज्यादा नहीं समझती थी। इस लिये मैं कहना चाहता हूँ जिस 42वें संशोधन की ला कर उन्होंने जो आसुरी और पैशाचिक कदम उठाया था, आज उसको खत्म करने की शुरुवात की जा रही है। मैं समझता हूँ—यह बहुत शुभ बात है, अच्छी बात है। मैं इस बात से सहमत हूँ—अच्छा हाता, यदि हम एक कम्प्रीहेंसिव बिल लाते। यह भी ठीक है कि इस संविधान को बने हुए अभी 28 साल ही बीते हैं और इस बीच में यह 43 वां या 44वां संशोधन हमारे सामने आ रहा है। उस बाद भी द्वां तीन और संशोधन लाने पड़ेंगे यह अच्छी बात नहीं है। मैं अपने उन दोस्तों से सहमत नहीं हूँ जो कहते हैं कि लाक स्ट्राक एंड बैरल बिल्कुल एक लाइन में सारे 42वें संशोधन को खत्म कर देना चाहिये। जो यह चार्ज लगाते हैं

कि हम कांग्रेस पार्टी से डर कर 42वां संशोधन पूरा खत्म करने की बात नहीं लाए हैं उनकी यह बात गलत है। अगर उस संशोधन को पूरी तरह से खत्म करने का संशोधन हम यहां ले आते तो क्या कांग्रेस पार्टी का हाथों में नहीं खेलना ?

मैं इस बात से सहमत हूँ कि प्रीएम्बल में सोशलज्म और सेक्युलर शब्द लाने की जरूरत नहीं थी। परन्तु एक बार इनको लिख देने के बाद अगर इनको हटाने का संशोधन हम ले आते तो क्या कांग्रेस पार्टी को हेंडल नहीं मिल जाता हमारे विरुद्ध प्रचार करने का? हमारे अपोजिशन के दोस्त जो आज कह रहे हैं कि पूरे के पूरे को आप खत्म कर दें तो क्या देश भर में यह प्रचार नहीं होता कि जनता पार्टी सेक्युलरिज्म को खत्म कर रही है सोशलज्म को खत्म कर रही है और क्या इसमें देश में गलतफहमी पैदा नहीं होती। इस बास्ते यह जरूरी था कि इन शब्दों का क्लेरिफिकेशन कर दिया जाता। सेक्युलरिज्म का मतलब यह नहीं होना चाहिये कि आदमी धर्म को न माने। समाजवाद का मतलब इसी तरह से यहीं नहीं होना चाहिये कि यहां पर कम्युनिज्म आएगा। सेक्युलरिज्म की परिभाषा है सर्व धर्म सम भाव। इसी तरह से सोशलज्म का मतलब है गांधियन समाजवाद। ये दोनों उस ढंग से आए हैं। इन दोनों शब्दों को निकाल देने का क्या असर होता इसको भी आपको जरूर देखना चाहिये था। इसको देख कर वे हां सरकार ने इन में यह लिखा है :

“that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment.”

[श्री विजय कुमार मल्होत्रा]

आगे लीगल एंड की बात कही है। उसके बाद बर्कज का मैनजेंट में हिम्मा होने की बात कही है। फिर वाइल्ड लाइफ और फारेस्ट्स के प्रोटेक्शन की बात है। फिर इसके बाद चाहिये तो नहीं था और उससे कोई फर्क नहीं पड़ता है कि एक बार यह कह दिया गया था कि जो कैबिनेट है उसके कहने पर ही प्रोजेक्ट को चलना पड़ेगा, इसको लिखने की भी जरूरत नहीं थी लेकिन एक बार संविधान में आ जाने के बाद अब अगर इसको निकाला जाए तो कोर्ट में इस बात को ले सकती है और कह सकती है कि अब प्रोजेक्ट को कैबिनेट के कहने के मुताबिक चलने की जरूरत नहीं है और वह अपने तौर पर चल सकते हैं कैबिनेट को इसमिम कर सकते हैं, यह उनको पावर है। और भी कलाजिज है जैसे जन संख्या के मुताबिक सीटें पार्लियामेंट में रखना, दो हजार तक बढ़ाने की बात इस में लिख दी गई है और इसी तरह से पांच सात और चीजे हैं जिन का जिक्र नहीं करना चाहता हूँ।

यह कह देना कि हर चीज को एक ही बार खत्म कर दें और फिर जो कुछ हम लाना चाहते हैं वह लाएं यह लोगों के सामने लाफिंग स्टाक बनने वाली बात है। आज एक क्लोज निकालें अगले दिन कोई चीज ले जाएं, संविधान संशोधन की और फिर कोई दूसरी ले जाएं, यह अच्छा नहीं है। 42वें संशोधन को पूरी तरह से खत्म कर देना कोई मुनासिब बात नहीं है। जो बातचीत चल रही है मैं समझता हूँ कि इसके अन्दर बहुत सी आसुरी बातें हैं, बहुत उसी गधमी चीजे हैं। लोगों को हेल देने के बजाये और ऐसी पिक्चर पेंट करने के बजाये कि सैक्युलरिज्म, सोशलिज्म, पब्लिक वॉ फायदे की चीजे सब को हम खत्म करने जा रहे हैं और इन चीजों को कट्टोवर्गील बना दें, उसके बजाये जो रास्ता अख्तियार किया गया है वह ठीक रास्ता है और जो इसका विरोध करते हैं उन से मैं सहमत नहीं।

कुछ और भी चीजे हैं जो हमने कह रखी हैं। हम ने लोगों से कहा था कि ऐसा मौका भारत में फिर कभी नहीं आएगा जो इमरजेंसी के दिनों में आया था, जब सुप्रीम कोर्ट की जजमेंट आई कि लोगों की लाइफ और लिबर्टी का अधिकार भी सुरक्षित नहीं है,—किसी को गोली मार दी जाए, उसको भूखा रखा जाए, तो वह कोर्ट में नहीं जा सकता है। आप जरा अंदाजा लगाइये कि करोड़ों लोगों के दिलों पर क्या बीती होगी उस वक्त जिस वक्त रात को उनके दरवाजों पर दस्तक दी जाती थी और दस्तक देने के बाद घर में अकेले आदमी को जो कमाने वाला होता था पकड़ कर ले जाया जाता था। आपने वादा किया है कि वह जमाना नहीं आएगा, आपने वादा किया है कि वह संशोधन 42वें संशोधन से पहले होगा। इस वास्ते जो संविधान में ऐसे प्रावधान हैं जिनका सहारा ले कर श्रीमती इन्दिरा गांधी ने संविधान की हत्या की भारत में एमरजेंसी का युग लायीं, उनको भी खत्म करने की जरूरत है। इमरजेंसी का यह जो प्रविधान है कि भारत में कोई इंटरनल गडबड होती है तो इमरजेंसी लग सकती है किसी भी मौके पर अगर इंटरनल कोई गडबड होती है तो एमरजेंसी लग सकती है और लाइफ और लिबर्टी का अधिकार पूरी तरह से खत्म हो सकता है और आदमी कोर्ट में नहीं जा सकता है, उसको भी खत्म करने की जरूरत है। इसी तरह से और भी बहुत सी बातें हैं जिन को आपको जरूर लाना चाहिये था।

इमरजेंसी से पहले भी देश में क्या हुआ है। बहुत से प्रदेशों में इमरजेंसी लगी हुई थी। 1974 में दिल्ली बन्द किया गया था। तब हजारों आदिमियों को इस वास्ते सिर्फ बन्द कर दिया

गया था कि उन्होंने मुबह दो बजे और तीन बजे भाषण दिए थे कि सब गवर्नमेंट को मार डालो, कत्ल कर दो, रात की बड़ कड़ाती सर्दी में उनको इस प्रकार के भाषण देने के जुर्म में पकड़ कर ले गए थे और जेलों में बन्द कर दिया था। इस प्रकार से हजारों आदमी पकड़ कर बन्द कर दिए गए थे। एमरजेंसी से पहले इस देश में तानाशाही लाने का जो सिस्टम चल रहा था उसमें भी बहुत सी जगहों पर एमरजेंसी की तरह से काम हो रहा था। हरियाणा के अन्दर दफा 144 तोड़ने पर दो लाख रू० की जमानत मजिस्ट्रेट द्वारा मांगी जाती थी। इसलिये उम सारे सिस्टम को कैसे ठीक किया जाय यह भी देखा जाय ताकि आइन्दा ऐसी बात न हो सके।

इसके साथ साथ कोर्ट्स को सारे अधिकार वापस दिये जा रहे हैं, ठीक है। अनुच्छेद 226 की बात आयी है जिसके बारे में मंत्री जी संशोधन आगे लायेंगे। परन्तु यह भी ध्यान रखना चाहिये कि आज जो स्टे देने की पावर्स हैं और जो सालों साल चलती है, एक जगह पर नहर निकालनी है, सड़क बनानी है, कालेज चलाना है, एक एक स्टे 10 10 साल तक चल रहा है और एक आदमी पब्लिक प्लेस पर इमारत बना लेता है और उसके बारे में स्टे आर्डर सालों तक चलता है, उसके लिये भी कुछ सोचना पड़ेगा कि कितने समय तक स्टे आर्डर का रखा जाय। उसके लिये भी यहां पर प्रावधान लाने की जरूरत है।

बहुत से लोगों ने यह कहा था कि 42वां संशोधन जो था उसमें 59 क्लॉजेंस थे जिनका सहारा ले कर ही कांग्रेस से पूछने की जरूरत नहीं थी, हम खुद ही संविधान चेंज कर सकते थे और दोबारा सब चीज लायी जा सकती थी। लेकिन

मैं कहना चाहता हूं कि आपने इसका प्रयोग क्यों नहीं किया। बहुत से लोगों ने कहा कि जो इमरजेंसी के अन्दर अन्याचार किये लोगों ने और जो आज पकड़े जाने से बच रहे हैं और फिर जिन लोगों ने 60 करोड़ लोगों पर तानाशाही लाद कर उनके खिन्नाफ जन्म किये थे उनको उसकी सजा मिलनी चाहिये थी और इसके लिये एम. आई. एस. ए. और दूसरी इमरजेंसी पावर्स में सजा दी जा सकती थी। परन्तु जनता पार्टी ने इस की जरूरत नहीं समझी और को-शिश की उन प्रावधानों का, जिनकी हमने मन्वानिफत की है, उनका कोई प्रयोग न किया जाए। लेकिन मैं समझता हूं कि बहुत उल्दी उन सारे प्रावधानों को खत्म किया जाए तो इमरजेंसी में लागू थे। आपने एंटी नेशनल को आज ही हटा दिया, उसके साथ ही और जो बाकी बांज हैं उनको भी खत्म किया जाए।

मैंने अभी पूछा था कि यह संविधान का 44 वां संशोधन कैसा हुआ? 43 वां संशोधन पेश नहीं हुआ। इसलिये यह शायद संविधान का 43 वां संशोधन ही होगा, 44वां कैसा हो गया? शायद 43वां पहले पेश हुआ है। मैं चाहता हूं कि अगले सत्र तक जो देश की जनता के सामने हमने वायदे किये हैं वह पूरे हो जाएंगे और उसकी जरूरत आज हो रही है, इसके लिये मैं मंत्री महोदय को बधाई देता हूं।

श्री कंवर लाल गुप्त (दिल्ली सदर) : मान्यवर, मैं अपने कांग्रेसी मित्रों का बधाई देना चाहता हूं कि उन्होंने खुद मन से इसका स्वागत किया है, और शायद बहुत ज्यादा फ्रैंकनेस और वाल्डनेस के साथ दिया है, और आशा करता हूं कि अगले सेशन में जब आयेगा तो यह फ्रैंकनेस और वाल्डनेस और भी ज्यादा बढ़ेगी। जब यह बिल बना था तो

[श्री कंवर लाल गुप्त]

उस समय यह कहा गया था कि हमारे देश में सामाजिक और न्यायिक क्रान्ति की शुरुआत हो रही है। माननीय गोखले ने जवाहर लाल जी को कोट किया था जो उन्होंने संविधान सभा में भाषण दिया था कि जो नंगे हैं उनको कपड़ा मिलेगा, जो भूखे हैं उनके पेट में रोटी जायेगी और हर एक को अवसर मिलेगा अपना विकास करने का। और माननीय गोखले ने कहा था कि यह जो संशोधन है 30 साल में कुछ नहीं हुआ, लेकिन इस संशोधन के बाद इस चीज की शुरुआत होगी। एक बहुत फैन फेयर के साथ कहा गया कि पार्लियामेंट सुप्रीम है, कुछ लोगों के अधिकारों का सवाल नहीं है। बल्कि हमारे देश के गरीब आदिवासियों के अधिकारों का सवाल है। इस तरह की बहुत सारी बड़ी बड़ी बात कर के यह संशोधन लाये थे। और उसकी फिलासफी बनायी गयी थी। लेकिन वास्तव में संशोधन क्या था?

I think this nothing but a rape on the Constitution.

और इसके अलावा कुछ नहीं था एक पोलिटिकल पोजीशन को खत्म करना और एक जगह पर एबसोल्यूट अथोरिटी अपनी और अपने परिवार को जमाना। इसके अलावा और कुछ नहीं था। जुडिशियरी को सरकार का डिपार्टमेंट बना देना और उसके अधिकारों को तोड़ना, खत्म करना। और उसके बारे में कहा जाता था कि डेवलपिंग कन्ट्री में इस तरह के अनगाइडेड ह्यूमनराइट्स की लगभगी को एफोर्ड नहीं कर सकते हैं। और इसकी आड़ के अन्दर एक तानाशाही काम कर रही थी। कि आहिस्ते-आहिस्ते यह तानाशाही बढ़े। आपको उपाध्यक्ष महोदय, याद होगा, आप तो उस सदन में थे ही, जेस में हमारे पास एक ड्राफ्ट आया था, जिसमें यह कहा गया था कि इस सारे

कांस्टीट्यूशन को खत्म कर के प्रैजीडेंशियल सिस्टम आफ गवर्नमेंट होना चाहिये। मुझे विश्वास है, और मैं अपनी व्यक्तिगत नालेज के साथ जानता हूँ, मि० पाई यहां बैठे हुए हैं, वह सब जगह सर्कुलेट हुआ और इन्दिरा जी की मर्जी में हुआ। लोग कहते हैं कि श्री संजय गांधी ने कहा, नहीं, वह इन्दिरा गांधी की मर्जी से ड्राफ्ट बनाया गया और सर्कुलेट किया गया। लेकिन सब जगह उसका होस्टाइल एडीट्यूट आया, तो उन्होंने उसको ड्राप कर दिया।

तो वह ऐसी जड़े डालने वाली थी जिससे प्रजातंत्र हमेशा के लिये खत्म हो जाये और यहां प्रजातंत्र के लिये कहने वाला कोई न रहे। एक तरह से जो न्याय की देवी थी उसको जंजीरों में जकड़ा हुआ था, वह कराह रही थी। मैं मंत्री महोदय को बधाई देना चाहता हूँ कि उन्होंने उन जंजीरों को तोड़ा है और जो देवी कौमा में पड़ी थी, आज उसको कांशसैन्य आ गई है। मैं आशा करता हूँ आहिस्ते-आहिस्ते वह देवी बड़ी होगी, सुन्दर बनेगी, प्रसन्न रहेगी और देश में पूरी तरह से स्वतंत्रता होगी।

इन्होंने उस विधान का इस तरह से इम्प्लीमेंटेशन किया कि जो जेजेज जुडिशियस व्यू देते थे, उनका ट्रांसफर भी पोलिटिकल वपन के हिसाब से किया गया कि किस प्रकार से उनके पोलिटिकल स्वार्थ पूरे हों। इसी प्रकार से और भी बहुत सारी चीजें हैं, जिन्हें मैं कहना नहीं चाहता।

मेरे मित्र ने कहा कि जनता पार्टी की कमिटिमेंट है कि इसको रिपील कर दिया जाये। ठीक है, हमारी कमिटिमेंट है, मैं कहता हूँ कि हमारी कमिटिमेंट टोटल है, उसमें कोई कम्प्रोमाइज नहीं करना चाहिये। लेकिन जब हम कहते हैं कि 42वें अमेंडमेंट को रिपील कर दिया जाये तो क्या इसका मतलब यह है कि उसे लाक, स्टाक और बैरल रिपील कर दिया जाय? जो उसमें अच्छी बात हैं, उनको

को प्रथम कर दिया जाये ? मेरा कहना यह है कि जो श्रीवनाकशम क्लाजेज हैं उसमें, उनको प्रथम कर दिया जाये, आज मदन यह पास कर दे कि एड टू दी प्रश्न इसको हटा दे; तो क्यों हटा दें, यह कोई नहीं बनायेगा, क्योंकि इन्दिरा गांधी ने बनाया था ।

मैं यह समझता हूँ कि जनता इस पर विश्वास रखे कि जो इसकी श्रीवनाकशम क्लाजेज हैं, जनता पार्टी की उनके लिये पूरी तरह कमिटमेंट हैं और जनता पार्टी उसे यहां लायेगी । चाहे कांग्रेस वाले मानें या न मानें । हमारे भी कई साथी कहते हैं कि वह मानें या न मानें लेकिन एक कंप्री हैसिव बिल रखना चाहिये था । क्षमा कीजिये, मैं उनसे सहमत नहीं हूँ आखिर एक काम का तरीका है । यह ठीक है कि पार्लियामेंटली हमें इससे लाभ होता, कि हम कांग्रेस वालों से नहीं पृच्छते बिल लाते और उसको पास करते, लेकिन जनता पार्टी का काम करने का डेमोक्रेटिक तरीका है, विधान एक परमानेंट विधान बनने वाला है ।

It is not an *ad hoc* arrangement. It is a permanent Constitution and there is a need for a national consensus to be developed.

और उसके अन्दर केवल कांग्रेस ही नहीं, यह जनता पार्टी चाहेगी कि सभी पार्टियों का ज्यादा से ज्यादा सहयोग होना चाहिये ।

स्वर्णसिंह कश्मिरी ने कहा था कि संविधान का संशोधन करने के बारे में एक नेशनल डीबेट होनी चाहिए । ऐसी कोई डीबेट नहीं हुई, और केवल कांग्रेस के घर में डीबेट हो गई । लेकिन हम लोग एक नेशनल कानसेन्सस डेवेलप कर के संविधान में संशोधन करना चाहते हैं । जनता पार्टी पावर में रहे या न रहे, लेकिन वह ऐसी परम्परा डालना चाहती है, जिस से देश प्रजातंत्र के ढंग पर चले । हम ये संशोधन पीसमोल लायें या एक साथ, लेकिन हम सब से सलाह करके संविधान में संशोधन करना चाहते हैं । मेरी राय में किसी पार्टी

को एकमपोज करना या पोलिटिकल गेन्ज हामिल करना ठीक नहीं होगा ।

इस के अलावा संविधान में संशोधन कर के नया-कथित एन्टी-नेशनल एक्टिविटीज के आधार पर किसी भी पार्टी को बैन करने के लिए एकमीक्यूटिव को स्वीपिंग पावर्ज दे दी गई थी । यह भी प्रावधान किया गया था कि अगर यह कानून संविधान के आर्टिकल 14, 19 और 31 के विरुद्ध भी हो, तो भी उसे क्वेश्चन नहीं किया जा सकेगा । अगर हम यह संशोधन न करें, तो हम कांग्रेस, या किसी भी पार्टी को बैन कर सकते हैं, किसी भी व्यक्ति को गिरफ्तार कर सकते हैं, उस की प्रापर्टी पर कब्जा कर सकते हैं और किसी भी लिटिचर को जन्त कर सकते हैं, और इसके विरुद्ध कोई अदालत में नहीं जा सकता है । यह प्रावधान इस बात के बावजूद किया गया था कि एक अन्टरनेटिव कानून—प्रिवेंशन आफ अनलाफुल एक्टिविटीज—पहले से मौजूद है, जिस में हम बागे में पूरा प्रोबिजर दिया गया है । कांग्रेस पार्टी को डर था कि पता नहीं क्या हो जाये, इसी लिए संविधान में यह संशोधन कर दिया गया । जनता पार्टी इस प्राविजन को हटाना चाहती है, क्योंकि इसका मतलब यह है कि किसी भी संगठन या व्यक्ति को बर्गैरह यह बताये कि उस का कुसूर क्या है, कनडम कर दिया जाये । यह प्राविजन एक ईविल माटिवेशन का नतीजा था । अगर इसे गून्ने दिया गया, तो हम के डिस्टास्ट्स कांसी-वर्बेसिस होंगे । इसके पीछे असली आइडियल यह था डिसेट और पोलिटिकल आयोजीशन को सप्रस किया जाय और इस देश से वन-पार्टी रूल को एस्टाब्लिश किया जाय ।

मेरे पास कांग्रेस के नेताओं के भाषणों के उद्धरण हैं, जिन्हें मैं पढ़ कर सुनाना चाहता हूँ :—

"The Congress President Mr. D. K. Borooah"—he is a good friend of mine—"warned the Jana Sangh that

[श्री कंवर लाल गुप्त]

it would meet the same fate as the RSS if it did not stop working against the unity of the country."

The President of the Bombay Pradesh Congress Committee Mr. Rajni Patel today called for 'A ban on Jana Sangh' to which he said, the R.S.S. had always been attached as a 'Para-military' organisation.

इस तरह के और भी वक्त में भाषण दिये गये थे। उन सब के पीछे यही भावना थी कि कहीं भी कोई राइट आफ्ट डिमिट और पोलिटिकल आपोजीशन नहीं रहनी चाहिए।

आप को याद होगा कि दिल्ली में एक साल में हजारों मीटिंग्स होती हैं। लेकिन इमर्जेंसी के दौरान कांग्रेस को छोड़कर किसी भी पोलिटिकल पार्टी की एक भी मीटिंग नहीं हुई। कांग्रेस (ओ) ने गांधीजी का जन्म-दिन मनाने के लिए एक मीटिंग करने की इजाजत मांगी थी, और वह इजाजत दे भी दी गई, लेकिन जब श्री मंजय गांधी को इस का पता चला, तो वह मीटिंग कैंसल कर दी गई और उसे नहीं होने दिया गया।

कानूनों की वैलिडिटी के बारे में फ़ैसला करने के लिए सात जजों और टू थर्ड्स मजोरिटी का जो प्रावधान रखा गया था, उसका मतलब यह है कि कोर्ट में वाटलनैक पैदा हो जायेगा, और केमिज का डिमपोजल नहीं होगा स्वयं मूप्रिम कोर्ट ने कहा है कि नई गवर्नमेंट इस बारे में विचार करे। मैं समझता हूँ कि इस बारे में ज्यादा मतभेद की गुंजायण नहीं है।

मैं सरकार से भी एक चीज जानना चाहूंगा और सरकार को उसे क्लैरिफाई करना चाहिए। जहां हमारी कमिटमेंट है कि इन 42वें संशोधन को खत्म करेंगे, वह आप ने कनीअर कर दिया कि उसको करेंगे लेकिन क्या इस के अलावा हमारी और कमिटमेंट नहीं है। अगर है तो उन के लिए भी आप को

बिल लाना चाहिए। जैसे एमर्जेंसी के नाम पर एक तानाशाही का किस तरह से इस देश में निर्माण हो गया उस का 19 महीने का अनुभव हम सब को है, आप को भी है, तो अब एमर्जेंसी की परिभाषा क्या होगी यह भी देखना चाहिए और उस को बदलना चाहिए। कोई एमर्जेंसी के नाम पर दोबारा तानाशाही लागू न कर दे इस तरह का प्रावधान आपको करना पड़ेगा और यह हमारी कमिटमेंट है।

अदालतों ने कहा गोलकनाथ केस में कि फंडामेंटल राइट्स नहीं बदले जा सकते। उसके बाद कहा कि बेसिक फीचर कांस्टीट्यूशन के नहीं बदले जा सकते। अब कल को ऐसी भी अदालत कोई आ सकती है जो यह कह सकती है कि पार्लियामेंट मूप्रिम है और वह बेसिक फीचर को भी बदल सकती है। तो मैं जानना चाहता हूँ कि जो सिद्धांत है जनता पार्टी का कि बेसिक फीचर को बदलने का अधिकार पार्लियामेंट को नहीं होगा, वह बेसिक फीचर्स क्या हैं, उस की भी वृत्त पर भाषा आनी चाहिए ताकि कोई भी अपने वाली सरकार यह कोशिश न करे कि देश में से प्रजातंत्र को खत्म कर दे। मैं मानता हूँ कि बेसिक फीचर के सिद्धांत बदल सकते हैं। समय बदलने पर बेसिक फीचर भी बदल सकते हैं। जेफरसन ने कहा है कि हर जनरेशन के बाद नयी कीम आती है, नये विचार आते हैं। लेकिन मैं चाहूंगा कि उस में इतनी पाबन्दी लगा दी जाय कि अगर उसे बदलना भी हो तो मारे देण के रेफरेंडम में बदला जाय। इस पार्लियामेंट को यह अधिकार नहीं होना चाहिए। इस से बड़ी पार्लियामेंट लोगों की पार्लियामेंट है, वह उसे बदले।

एक चीज मैं और कहना चाहता हूँ जैसे, प्रापर्टी का राइट फंडामेंटल राइट है। आप ने कहा है कि वह फंडामेंटल राइट नहीं रहेगा, केवल कानून में राइट रहेगा और यह अगर रहना है तो उसके लिए भी आप को उस में

परिवर्तन करना पड़ेगा। उसके लिए आप ने क्या किया ?

मैं यह भी कहना चाहता हूँ कि जो यह टडमरी है कि हर एक चीज के लिए संपरेत ला बनाया जाय यह चीज नहीं है। आई० पी० सी० और सीआर० पी० सी० अपनी जगह पर इतने काम्प्रीहेंसिव हैं कि कोशिश यही होनी चाहिये कि नार्मल लॉ से काम चलाया जाये।

आखिर में जहां हम यह कहते हैं कि रूल आफ लॉ हम लायेंगे और उसके लिए 226 में अमेंडमेंट करेंगे, वह आपने कमिट-मेंट कर दिया लेकिन उसके बाद एक करेस्पॉन्डिंग ड्यूटी सरकार की होती है क कोई वायलेंस कोई सैबोटेज या और कोई इस तरह की चीज जो होती है उसको रोके क्योंकि जब तक इस तरह की ऐक्टिविटीज रहती हैं तब तक रूल आफ ला नहीं रह सकता। इसलिए रूल आफ ला को लाने के लिए मेंटिनेंस आफ पब्लिक आर्डर भी करना चाहिये और उसकी जिम्मेदारी सरकार की है।

मैं सरकार से मांग करूंगा कि, मंत्री महोदय उसके बारे में अपना क्लैरिफिकेशन दें और सदन को बिश्वास दिलाएं कि जो जनता पार्टी के मैनिफेस्टो में और बातें ऐड करने की या कम करने की हैं उनके बारे में सरकार का क्या रबैया है और इसके साथ साथ वह एक ऐसा विधान बनाये, अभी नहीं तो उसके बाद में लाये जिससे देश में तानाशाही कभी न पनप सके। इन्हीं शब्दों के साथ इसका समर्थन करता हूँ।

SHRI JAGANNATH RAO (Berrampur): Mr. Deputy-Speaker, Sir, I welcome this Bill. At the outset, I may say that we, as Members of the Congress Party in the previous Lok Sabha supported this Bill—not that

we supported it wholeheartedly because we had our own reservations. But, the House should realise that our Parliamentary Democracy is based on party system which is known by whip system. Whip is issued to the party. I am sure you would have also been issued whips—the Janta Party Members on the Constitutional amendment bill—whether they like it or not, they have to supported. I for one accept the provisions with reservations even while speaking in the House on this Constitutional Amendment Bill.

Now, when this Bill is coming before us to remove the distortions and put the Constitution on an even keel, I welcome that wholeheartedly though, with reservations, we supported it at that time. The 42nd amendment Act was originally introduced as 44th amendment Bill. By a strange coincidence this amendment is also 44th amendment Bill and it will become 43rd amending Act. It is a strange coincidence. Besides, we had passed 42 amendments earlier, each amended one or the other articles. But this Bill seeks to repeal the amendments already introduced, this is a peculiar feature of this Bill. This repeal is necessary because of the distortions that crept in the Constitution.

I am glad that 31D is being omitted now. 31D gave blanket powers to the central executive to declare any association as anti-national and unlawful. The powers that are already there are sufficient to meet the needs of such a situation. But the government then thought it fit to introduce that amendment. Now that this article is removed, there will not be any fear. This fear was expressed by the CPI and ADMK, while they supported the other provisions, they did not support these provisions. They feared that the opposition parties will be suppressed and there would be one party system in the country, whether there was any justification for that fear or not. The scope was there. I am glad that this obnoxious clause is being dropped.

[Shri Jagannath Rao]

I now come to the powers of the High Court and Supreme Court. I opposed this provision in the Congress Party meeting. You will be surprised that in the original recommendation even the High Court could not go into the validity of a State law. I asked then: what is the need for a High Court, abolish it. Then this was put in. Then I objected to the provision that the State High Courts cannot go into the validity of a central law or notification. This also is absurd because if a citizen has a case against the Central Government he has to come to Delhi. It should be that the Central Government or an officer within the jurisdiction of a High Court could be questioned by that High Court. Even that right was taken away. It is absurd. 95 per cent of the cases pending in High Courts and Supreme Court is between the citizen and the State. How can a citizen from Kanya Kumari come to Delhi to file a writ? I am happy that the distortions are being removed.

I strongly objected to the two-thirds majority principle. If in a Bench consisting of five judges, three judges hold a particular law not valid and two hold it valid, the minority view would prevail. The fiction of two-thirds majority was introduced and the case would be decided according to that decision. I said that it was absurd. I was told in reply that the Constitution requires two-thirds majority and even in the Security Council unless a resolution was adopted with two-thirds majority, it could not be deemed to have been passed. Some hon. Members may not be knowing, sometimes Constitution amendment failed in this House for want of requisite majority. As I pointed out, I told at that time that it was absurd and it resulted in absurdities. If a constitutional bench consisting of 14 judges is constituted and a case drags on for a week, what will happen to the other cases and other clients who would be waiting in the corridors? I am glad that this

distortion is being removed and we are restoring the constitutional provisions in the original form. Though the Constitution is or living document which has to meet the aspirations and hopes of the people, it does not mean that such amendments should be brought forward. Without these amendments, the aspirations could be met otherwise by other provisions. Therefore, this Bill has emerged as a product of consensus arrived at by the ruling party and other opposition parties in the House. It is a good precedent that has been established and I am happy about it, viz., as far as the Constitution is concerned, the Parliament functions under its constituent power and therefore, all sections of the House should come to a general agreement about the provisions to be inserted either as amendments or as new provisions. This Bill gives effect to the conclusions arrived at in the meeting with opposition leaders. It is non-controversial and it is so salutary that these amendments will come into effect before this year is out. With these words, I support the Bill.

SHRI C. K. CHANDRAPPAN (Cannanore): Sir, while supporting this Constitution 44th Amendment Bill, I would like to draw attention to some of the promises made by the Janata Party to the people, to which the Deputy Leader of the Janata Party also drew attention. When they fought the elections, the Janata Party in their manifesto promised two or three important things. One of them important points which they put before the people was the manner in which the 42nd Amendment was passed and also various other legislations were enacted by Parliament during emergency. They said, these legislations were enacted under duress. They promised the repeal of the 42nd Amendment. Now there are second thoughts about it. The Minister himself pointed out that they do not consider all the provisions of the 42nd Amendment as bad. The Janata Party also promised the repeal of MISA. Last week when we raised it

in the House, the Government promised that they are going to bring a Bill to repeal MISA, but at the same time it should be remembered that the government today think that it is necessary for it to have some kind of legislation which might give them certain arbitrary powers. It may not be MISA but something else. That was told by the Home Minister in both Houses. Mr. Charan Singh told this House that under emergency, the government of Mrs. Gandhi had a plan to kill the leaders of the opposition and that statement was challenged. He pointed out the observations made by the Attorney General in the Supreme Court. Just now, Mr. Somnath Chatterjee was mentioning another occasion on which the Attorney General had referred to something in the Supreme Court. Mr. Chatterjee did it only two days back. It was in relation to the case of the 40,000 LIC employees who are asking for their bonus. During Emergency, an enactment was made in this House, by which the bilateral agreement arrived at between the LIC and the employees had been repealed. There was a legislation to that effect. My point is that they should not take an attitude of convenience towards such important matters. If they have made promises to the people that they will repeal those legislations which went against the people and their interests, they should honour them. I am sorry to find that the Attorney General is now arguing that the right to bonus of the LIC workers should be treated as something closed, because there is a legislation enacted by this Parliament. I would like to know the attitude of the Government in this matter. Even about Emergency, I think there are second thoughts in the mind of the Janata Party. A note has been circulated. You promised the electorate in this country when you faced them that you will create conditions under which no government will in future be able to impose it. I do not think that Mr. Shanti Bhushan is in a position to reassert that promise made to the people, because the Janata Party has again

second thoughts about Emergency. They do not perhaps propose to have Emergency in the same way as Mrs. Indira Gandhi did in 1975, but to have it in the event of armed insurrection etc.; they think that on similar occasions, emergency can be proclaimed. Why I point out these things is that Janata Party is also developing cold feet on the various promises made to the people.

Now about the supremacy of Parliament. I do not agree with the contention made by various speakers in this House that because somebody had misused the powers vested in Parliament, Parliament should have limited powers to amend the Constitution. I do not agree with that view. I think we have to take another lesson, in regard to the classical approach to the question of the power of Parliament to amend the Constitution. It was debated in the past, as to the extent to which Parliament can go. When it was done, I think *London Times*—if I remember correctly—wrote an editorial comment on it. It asked whether the British Parliament had a right to enact a legislation by which all the people i.e. all the boys and girls born in Britain can be drowned in the river Thames. *London Times* answered "Yes; the British Parliament can bring forward and enact such a legislation." But then it observed: "After doing that, will the people tolerate that Parliament?" That is the question. Here, I think, the situation is the same. Emergency was enforced; it was misused. So many obnoxious legislations were brought in this House and passed. We should learn something better. (Interruptions) All the abuses and everything had been done with the power of Parliament, but the people of this country did not allow that Government to continue. That is why they are now sitting in the opposition. The people of this country are great, there is no doubt about it. They may be ignorant, illiterate, but they have the sense to understand who is right and who is wrong, and they have given a

[Shri C. K. Chandrapan]

clean verdict, under strange circumstances, a verdict which was democratic. How can you today say that the people may not be good in their judgment? I do not agree with you. The final say should be with Parliament. There cannot be any other body which can overrule the decisions of Parliament. If Parliament does something which is beyond the Constitution, the Supreme Court can point it out, but there cannot be any basic structure which will be beyond this Parliament. If Parliament considers tomorrow that the present structure on which the Constitution is based is no more good, well, it is no more good, but they will have to go to the people and the people will say whether Parliament was right in its judgement or not.

Lastly, I would like to remind all in this House that it is not always a Constitutional Amendment which decides the future of a country. After all, Hitler did not bring forward any Constitutional Amendment to kill the Weimar Republic. It was the Black Shirts who decided with their might what the future of Germany should be. No dictator ever bothers to amend the Constitution and then to establish a dictatorship. So, I do not bother about a dictator who will misuse the powers entrusted to Parliament. I would like the Janata Party to have faith in the people, complete, implicit faith in the people, and the people will give ultimately the correct judgement as to who is correct and who is not, and they will put them in their proper place.

With these words, I support this amendment which is very limited, and do it wholeheartedly.

SHRI YASHWANT BOROLE (Jalgaon): There is no controversy in this House on the point that the Forty-second Amendment which was put on the statute-book was really brought in a cavalier manner, when Members not only of the opposition

but even of the ruling party who wanted to oppose it, were behind bars. Not only that. The proceedings were not allowed to be reported in the papers. There was no nationwide deliberation through symposia etc. on the Amendment. So, all of us are practically agreed on this point and on the bad effects of the Forty-second Amendment. It has curtailed liberty and freedom, there is no doubt about it. It has also gagged the press, it has also affected our judiciary adversely, its independence has also been affected. All these bad effects of the Constitution, Forty-second Amendment are quite alive to the minds of the Members of Parliament. I do not think we are at all considering the aspect of the matter that all those 59 clauses which have adversely affected our administration, our liberty, independence of our judiciary and so on should be retained at all in the Constitution. However, the question arises whether the Forty-second Amendment of the Constitution should be repealed in toto or not, whether it is expedient and necessary, whether it is interest of the people at large, whether it will be beneficial that a fundamental document, a basic document, like the Constitution of the country should be put in order. Suppose a man is feeding another person under a threat. Are we going to condemn him for feeding a person? Certainly not.

There are in the Forty-second Amendment of the Constitution certain provisions which are also good. Many of the hon. Members have referred to these provisions. For example, there is a provision for forest and wild life development, there is a provision for children's development and a number of other such provisions. There are a number of provisions which have not come into play and which have not come into existence also. These are merely technical provisions. For example, with an increase in the population of a constituency, there should be a delimitation of the constituency or a re-adjustment thereof. There are

number of other provisions which are very insignificant which do not require to be done away with. But there are other important provisions which are required to be done away with. For such provisions, of course, another comprehensive Bill will have to be brought before the House. It is true that a comprehensive Bill would have been a better one instead of this Bill. But in the present circumstances in which we are functioning, in a democratic way, we have to value democracy more.

I submit, so far as the Constitution is concerned, it is not an ordinary law to be amended. We have to take into consideration, at the time when we want to amend it, whether there is a consensus of opinion among the Members of different parties. Otherwise, we shall be acting only on the majority without getting the necessary consensus which is necessary for amending the Constitution.

As regards the present Bill, it is necessary to pass it without any delay. There are a number of cases pending in the High Courts and in the lower courts. We have been told that there are about 11,000 cases pending in the High Courts. If we have to wait for a comprehensive Bill to be brought before the House and to be passed, the number of pending cases will increase further. So, it is expedient and necessary that immediate steps should be taken in that regard. This is an immediate step for which there is a clear consensus of opinion on the floor of the House.

It is true that such type of amending Bills should not be brought very often. To give you the figures, in the First Lok Sabha, there were 6 such amending Bills, in the Second Lok Sabha, there were 4 amending Bills, in the Third Lok Sabha, there were 9 amending Bills, in the Fourth Lok Sabha, there were 4 amending Bills and in the Fifth Lok Sabha, there were 19 amending Bills. During Mr. Nehru's time, from 1950 to 1964, there were 16 Amendments, in Mr. Lal Bahadur Shastri's time there was one, and in

Mrs. Indira Gandhi's time there were 25 Amendments. Let it be marked that most of the Amendments before the Forty-second Amendment were concerned primarily with reorganization of the States and property rights. None of the previous Amendments had ever had any effect on abridging the Fundamental Rights—freedom of expression and organization. It is only the Forty-second Amendment which had done away with these.

Moreover, the question that arises now is whether there should be any limit on the power of Parliament to amend the Constitution, whether the basic structure of the Constitution should be maintained. For that aspect of the matter also, there should be a due consideration given, and I hope that the Minister-in-charge and his Ministry will consider this aspect of the matter.

With these words, I conclude.

SHRI NARENDRA P. NATHWANI (Junagadh): Mr. Deputy-Speaker, Sir, I rise to support the Bill. It is good to see that hon. Members from the Opposite side lend their support to this Bill. But it should not be mistaken for their genuine regard for the principles underlying the same....

SHRI O. V. ALAGESAN: Question.

SHRI NARENDRA P. NATHWANI: What happened to the Forty-Third Amendment Bill—may I ask Mr. Alagesan through the Chair—if they have got genuine regard for the principle? So far as the support goes, it is welcome and it is understood. It is mere expediency that prompts them to lend their support to this. They know that, unless they agree to certain amendments to the Forty-second Amendment Act, they stand to lose in the eyes of the public. If really they had any genuine regard, if they had been satisfied about the drawbacks—leave aside the question of atrocities inflicted on the Constitution, the rape committed on the Constitution—if they had even the desire to respect the people's wish and

[Shri Narendra P. Nathwani]

mandate, they should have been most willing to come forward and agree to the Forty-Third Amendment Bill. Immediately after the Lok Sabha election results were out, the ex-Prime Minister said, "Very well; I accept the verdict of the people". And that verdict of the people did include condemnation by the people of the Forty-second Amendment Act. Now, they are trying by lending this kind of support, to retrieve their position. Some of them are at pains and they try to elaborate on the circumstances under which they were reduced to the condition of having had to extend their support. Very well; this is one aspect.

There has been a demand from some Members from this side of the House also about a comprehensive Bill being brought forward. The hon. Law Minister has explained the circumstances and I quite see the force in his argument, namely, they have to take into consideration the democratic process of consultation and evolving consensus by such a discussion. It is true, correct. There may be and I accept, there is a room for such honest kind of opinion. Very well, it has been done, it is welcome subject to one reservation to which I shall presently refer.

15.00 hrs.

The objection to this kind of piecemeal legislation is based on two fundamental principles. First, the Forty-second Amendment was brought during the Emergency and what was the nature of the Emergency. I know, you cannot challenge the legal validity of Emergency; you cannot go to a court of law and test whether it is valid or invalid, but nobody could dispute and can dispute the right of any citizen to test it politically, whether in fact, there were circumstances which called for such a kind of proclamation of Emergency. I am not going to refer to the evidence or to the statements which are being given before the Shah Commission. I do not want to go into that, but it is well known by this time that politically, this declaration of Em-

ergency was a totally wrong step taken only to perpetuate personal rule of particular individual. It was in this background that it was declared in the Manifesto of the Janata Party that the Forty-second Amendment would be totally scrapped.

There was another objection which is of a very fundamental nature and that is that taking advantage of proclamation of Emergency, the life of Lok Sabha was extended. Therefore, even if there had been a genuine emergency, the question of bringing about constitutional amendments of such a nature during such an Emergency, and the question of validity, propriety, or fitness of passing such a constitutional amendment Bill during an Emergency when the life of Lok Sabha was extended has also to be examined.

SHRI A. BALA PAJANOR: But it was not given effect to.

SHRI NARENDRA P. NATHWANI: This constitutional amendment Bill came to be passed during the extended period of Parliament. If I remember right even a Judge of the Supreme Court expressed his view to the effect, he made an observation to this effect that since the Parliament's life had been extended, Lok Sabha had not the mandate of the people to indulge into passing an amendment of the Constitution.

It is against this background, the so-called Emergency and extension of the life of Parliament that vitiated the passing of the Constitution (Forty-second Amendment) Act. We have adopted this procedure; it is good. We have this feeling that the Janata Party, Janata Government is trying to follow a democratic norm of consultation, discussions with the other side; we will try to cooperate with them and we will solicit and make our best efforts for their cooperation. But we want them to reciprocate the spirit in which we have been approaching them for this purpose. But I may say one thing. This is my individual and personal reaction to this Bill. Maybe, you may be bringing in piecemeal legislation

amending the Forty-second Amendment Act after trying to get the utmost co-operation. Therefore, so far as this present Bill is concerned, mainly, it deals mainly with the powers and functions of the Supreme Court and the High Courts. I therefore wonder whether so far as the present Bill is concerned, its scope could not have been enlarged by including in its scope for instance, amendments to Article 226 for restoring its position. May be, if the other side is not agreeable to even that small point, that small portion might have been left open. They may vote it down. They may not co-operate in the other House. But we could have stated that so far as this particular branch, namely, the judiciary is concerned, these were the amendments that have been introduced and we tried to repeal them. That is one aspect because this being a constitution amendment Bill, though there are circumstances which may justify it, still such a Bill should not bear the appearance of a patch-work. That is what I feel, because next time Government may have to bring some more amendments to Article 226.

One thing more to which I would like to revert. The hon. Law Minister has repeatedly assured the House that in due course a comprehensive Bill will be brought. Very well, but I understood him to say that the statement in the manifesto, namely, that the Forty-second Amendment embodies the authoritarian trend is general in its scope. Therefore, there may be some parts which may be wholesome and which may be totally unexceptionable and why should we try to repeal them? If that is so, I quite agree. But still there remain several obnoxious things and, therefore, he proceeded to assure us that most of the provisions shall be included in the comprehensive Bill which would be introduced in the early...

SHRI A. BALA PAJANOR: early eighties.

SHRI NARENDRA P. NATHWANI: stages of the next session. What I am

trying to draw your attention to is this. There may be some provisions. Take for instance, part XIVA which deals with administrative tribunals and other kinds of Tribunals. Maybe there is room for an honest difference on its deletion. Some may feel that it is better to divest the judiciary and the higher Courts of certain functions in respect of industrial disputes, service matters, election matters and other matter. Provision is made in those articles for constituting tribunals for such matters. If I remember right, it is Art. 323A and 323B. I would like the hon. Minister to clarify—if it is possible for him to do so—the stand of the government if the Opposition Party does not agree to any change being made in those two Articles?

With these words, I conclude my remarks and support the Bill.

SHRI T. A. PAI (Udipi): I was one of those guilty persons who voted for the Forty-second Amendment as a member of the Government and of the Rajya Sabha. So, having said that I also refer to the observations of my friend that there may be people here who know only how to put their thumb impression and may not know anything about the Constitution. But I would like very much to examine what type of society we are a part of. It was responsible people, it was not the thumb impression people who voted for the 42nd amendment but a people who were highly qualified and were constitutional experts also participated. Therefore, it is time that we examine that when the Janata Party went to the people and told them that the 42nd Amendment was wrong, overwhelmingly the people of India supported the Janata Party and gave them the mandate to amend that constitution. It is not as if the Congress party has opposed the removed of 42nd amendment. The hon. Leader of the Opposition himself has said that we are going to keep an open mind and we accept this verdict. If people do not want it how can we say that Parliament alone is supreme and that the

[Shri T. A. Pai]

people of India do not matter? How can we say that? I am only Sorry, it has been taken for granted that Congress would not agree. The Government should have thought of bringing about a comprehensive Bill to bring about these changes. I am afraid that this piecemeal business is more politically motivated to satisfy people immediately before some of the State elections are held, and then say that for the rest of it, the Congress is not agreeable. I am told you called the opposition parties for consultation in December and I do not think you could not have asked them earlier.

SHRI SHANTI BHUSHAN: They were sent in early November.

SHRI T. A. PAI: Consultation could have been carried on and differences could have been ironed out. I do not think any party would have made it a sort of political prestige to stand by that. Having acted sometimes foolishly it does not mean that we are going to keep it a matter of prestige for all time to come.

SHRI SHANTI BHUSHAN: The Congress sent word that they had to discuss it in many of their forums.

SHRI T. A. PAI: There has been consensus and there has been agreement and this is what I would like to point out. What made these things possible in this country? Even before Constitution was amended the Income-Tax Enforcement Directorate and CBI could be used by the Government against the interests of the people of this country. For 30 years we have not changed our society, maybe, our attitudes were a hangover of the Moghul and the British rule. Every section of the society has come to believe that they get whatever is rightly due to them by becoming sycophants or allowing themselves to be treated over and did not offer their resistance to wrongs. This sort of thing continues whichever party is in the Government. Our Constitution has not changed the society. Through policies we thought

that it would change; we could not do it. Through economic development we thought we could do it; but we have not succeeded. We have not changed the society. Only a social and cultural revolution can achieve this change. The freedom enshrined in the Constitution should not be the property of a few at the top. When we say that people must live without fear, how are we going to accomplish it, unless we see that the people have freedom from hunger? Millions of Harijans and weaker sections have no freedom what so ever in our society. Our Constitution has not succeeded in creating conditions to establish the right of man to live as man. I do not know how we want going to create a new society. When I was recently in Bangkok I was asked the question: How can more than 375 district magistrates before emergency be asked to detain people? Are they not to satisfy themselves about the grounds before they detain the people? None of them asked for them. Some of them gave their signatures on blank papers without even knowing who was to be detained. All of them are in young age, around 35 years. We have always taken the youth as persons standing on certain principles. This hope has been belied. I do not blame them. We, members of the Cabinet, were supposed to exercise our collective responsibility. If we did exercise this collective responsibility I do not think that Mrs. Gandhi would have been able to go thus far. I am therefore pointing it out that things have not changed.

The present Government also, I have seen it, is like that—where is the collective responsibility? If Shri Jagjivan Babu could go or appear before the Shah Commission and say that even to-day the Cabinet Minister's telephones are tapped or the Cabinet Minister are under surveillance. If there is this feeling, it would be dangerous; we all broke down because of that feeling. We had reached a stage when we would not speak to each other and the Members of the Cabinet would not come to know what was hap-

pening. This was exactly what happened to Parliament. This was what happened to all sections of the society. Those who went to the jails—I think most of them—became patriots by choice. But, for us because we remained outside, it was a cowardice by choice. Perhaps they too would have joined us if they had not been taken in. This is what exactly happened. We have got to examine this. Will this Government behave in the same old ways whether the Constitution is amended or not? Whom are these rights for? And why is it that the people are not able to exercise their rights to go to the court? Because that takes a long time. Everybody is afraid of going to the court to assert their rights merely because of this that it is expensive.

The other day Mrs. Gandhi was arrested. There was a package of arrests; we talk of the rule of law. I do not know whether we when in power, we also made some dramatic postures. When houses were raided there was wide publicity; even though it was really true or not there was a feeling that we were gaining politically by this kind of things. Now this Government, to have a package deal by way of this kind of thing, ex-Prime Minister, two ex-Cabinet Ministers, two civil servants and four businessmen had to be arrested at the same time. I do not know whether you will call it a rule of law? May be you may do that to satisfy the law. Unless you have some political objective, I do not think you would have done this. I am sorry that by this move, even serious mistakes were committed.

I think Shrimati Indira Gandhi did appreciate what the rule of law would mean because, but for this, she would not have been released by the Magistrate. Perhaps she appreciated what exactly the Independence of Judiciary would mean. But, Sir, when she was released, why was it that some of the Members of the Government become critical of the magistrate? This clearly shows that to whichever party we belong, we are the same and have the same behaviours. And this is what we

have to fight for to whichever party we may belong if we really want to establish.... (Interruptions)

SHRI SHYAMNANDAN MISHRA (Begusarai): Criticism is not banned in a democracy.

SHRI T. A. PAI: Not on the magistrate and not on the judiciary.

SHRI SYAMNANDAN MISHRA: In fact I can criticise the judgment of the Supreme Court, but I cannot attribute motives.

SHRI T. A. PAI: Maybe, I do not know that. Perhaps, Mr. Mishra, it may be because you are a lawyer. As a common man, I would say that unless you get a judgment in your favour would you not agree on this that you have not been able to appreciate what the Magistrate has done, if he has done a wrong thing, there is a High Court where you could have gone. It is not as if it is a final judgment. I would also like you to see as to what all this would mean. We are as anxious as anybody else that this vicious power that is to be entrusted to the Executive shall not be permitted as long as the basic structure of the society and not the Constitution remains what it is. It is possible for you to rule making the people still face hardships even with all the constitutional safeguards that you have provided for.

SHRI B. C. KAMBLE (Bombay South-Central): Mr. Deputy-Speaker, Sir, while I welcome broadly the provisions of the Bill, I am making a few humble submissions with a view to getting some clarifications from the mover, the Hon. Law Minister. The first one is about the provisions in 31(d). There is also a similar provision for movement of armed forces for the maintenance of law and order.

That provision should have been repealed along with this. Why is that not being done? That is my first question. I feel that 31(a)(d) is meant for common people, labour people of any other people and not to allow them to

[Shri B. C. Kamble]

organise themselves. In case the people tried to organise themselves the previous Government wanted help of the armed forces to be utilised even for the elementary purpose of maintaining law and order. Hence, that should have also been repealed along with 31(a)(d). My second submission is this: what actually is the purpose of the Bill? As I understand it, the purpose is to get rid of the difficulty of disposal of cases in the Supreme Court and the High Courts—nothing more than that.

There are certain difficulties in the disposal of these cases. If it is the contention of the hon. Law Minister that the High Courts and the Supreme Court should be restored to their original power, then this is only half truth; it is not complete truth.

Article 368 pertains to the amendment of the Constitution and that stands as it is and the Supreme Court is completely barred there from entertaining any kind of petition so far as the validity or constitutionality of an amendment is concerned. Why is the provision which pertains to the transfer of subjects from the State list to the concurrent list maintained? The main question that I should like to agitate here is: is it or is it not the intention of the Janata Government to invest the Supreme Court with the power to declare valid or invalid an amendment to the Constitution? I can understand with regard to the constitutionality of the Union Act. I say Union Act, not a central Act. I can understand the constitutionality of a State Act. Suppose that power is not invested in the Supreme Court, who has to do that job? Therefore, my submission is that this part of the provision has also not been properly considered.

I go further and say that the constitution-makers laboured for three years and gave a well balanced constitution. But it has been amended from time to time. As originally adopted, this Constitution had no inherent defects at

all. Then where is the wrong? The wrong is in the Constitution or in the Government who implement it? The wrong may be in the Constitution or in the Government or in the services? Where lies the wrong? Certainly not in the Constitution as originally adopted by the Constitution Assembly. The Constitution had been amended so many times, annually, terminally, even quarterly. Is it the way of implementing the Constitution? Therefore, these piecemeal moves will not do. The 42nd amendment Act had knocked out the bottom of the original Constitution, thereby it has crippled the form of government as well as the system of government. The federal form of government has been crippled by the 42nd amendment Act not only by shaking the 7th schedule but also by making the provision for the employment of the Armed Forces even in civil matters. That destroys the autonomy of the States. Secondly, it has given a deadly blow to the parliamentary system of government by destroying the institution of President. Some day Indians will have to repent for this, if the two prerogatives which stand abolished today, abolished. The two prerogatives are: summoning the leader to form the government and declaring the Lok Sabha as dissolved. These two prerogatives are for the maintenance of the State apart from the Government. Therefore, when such a thing has been done, my submission is that the system of government and the form of government are crippled.

If there is one thing on which everybody should broadly agree, it is the system of government and form of government. I am sorry even after nearly 25 years, Indians are not concurring broadly even on this. When a comprehensive Bill will come, I am sure the Law Minister will face so many difficulties. He will say that the question about the form of the government and system of government to be pursued will be taken up later on. Our Constitution does not provide technically for a break-down clause. But during the emergency the break-down clause was being applied under the

42nd Amendment and emergency is attempted to be perpetuated by accepting a very pernicious principle of variation. In the former provision, there were only two situations—either you impose an emergency or revoke it. There is now a third principle—variation in the proclamation. Therefore, emergency is attempted to be made perpetual. There also appears to be confusion with regard to the so-called supremacy either of Parliament or of judiciary or of the Constitution itself. This confusion must be set at rest. Otherwise, wittingly or unwittingly we will get into a sort of a disaster, if this kind of wrestling between Parliament, judiciary and bureaucracy is allowed to continue. Nobody is supreme for this reason that the entire sovereign power is distributed in the State legislatures and the Parliament. Therefore neither Parliament is supreme nor Supreme Court is Supreme. If there is anybody supreme, it is the people of India. I am a one-man party representing the Republican Party. The Law Minister should extend to us an invitation. We have something very material to contribute. During the emergency, I published two booklets analysing the provisions of the 44th Amendment Bill. I toured extensively throughout Maharashtra and explained the provisions. Bombay was the first city where I held the first public meeting. So, by extensively touring the State I explained to the people the implications of the emergency and the way out.

I have made my submissions in a spirit of understanding to assist the government, however humbly I can assist. I have tabled an amendment which is in List 3 seeking clarification whether the Supreme Court will be invested with the power of determining the constitutionality of an amendment to the Constitution. I want an answer to that.

डा० रामजी सिंह (भागलपुर) : उपाध्यक्ष महोदय, संविधान (42वें संशोधन) की पृष्ठभूमि क्या थी, इसे हमें समझना

चाहिये। प्रो० मार्बलकर ने उस संशोधन के सम्बन्ध में कहा कि व्यक्तिगत लाभ और बढ़ते हुए जन-जागरण के भय के कारण संविधान (42वें संशोधन) के रूप में भारतीय संविधान के साथ बलात्कार किया गया था। वस्तुतः यह संविधान का संशोधन नहीं था, बल्कि संविधान की हत्या थी। श्रीमती इन्दिरा गांधी ने इस संविधान संशोधन पर हुई बहस में हस्तक्षेप करते हुये जो कुछ कहा था, हम उससे यह अनुमान कर सकते हैं कि हम कहां जा रहे थे। वास्तव में 42वां संशोधन न तो प्रारम्भ था, न वह अन्त था, बल्कि वह तो केवल एक विकृति थी। श्रीमती इन्दिरा गांधी ने कहा था :

“This bill is not achieving all our people freer and endowing them dian revolution forward, making our people freer and endowing them with greater power over their own destiny”.

इसका यह मतलब है कि यह संविधान संशोधन एक व्यक्ति की तानाशाही के लिए एक अभ्यास-क्रम था। इस संविधान संशोधन में कुछ अच्छी बातें भी हो सकती हैं, लेकिन इसके पीछे नीयत खराब थी, और वह नीयत थी व्यक्तिगत तानाशाही को भारतीय जनमानस पर लादना। यही कारण है कि आज विपक्ष के भी हमारे मित्त इस स्वातन्त्र्य संग्राम में हमारा साथ दे रहे हैं।

उस समय भी कांग्रेस के कुछ मित्तों, और सी०पी०आई० के भी कुछ मित्तों ने इसके सम्बन्ध में जो कहा था, उससे मैं केवल एक दो उद्धरण आपकी सेवा में रखना चाहता हूँ। श्री पी० आर० दास मुन्शी ने कहा था :

“For one party rule, it is all right.”

[डा० रामजी सिंह]

यानी अगर एक पार्टी की सत्ता रखनी हो, तब तो यह 42वां संशोधन ठीक है। ये जनता पार्टी के किसी व्यक्ति के नहीं, बल्कि श्री पी० आर० दास मुन्शी के शब्द थे।

श्री आरखण्डे राय, जो कि सी० पी० आई० के सदस्य थे, ने कहा था : "आज की घोषणा के बाद मंत्री जी, मुझे भी मदेह हो गया है कि येन-फ्रेन-प्रकारण आप अपनी गद्दी बनाना चाहते हैं, चुनाव टालना चाहते हैं।"

वस्तुतः यह संविधान संशोधन व्यक्तिगत आकांक्षा की बढ़ती हुई बीमारी का एक चिन्ह था। इसमें कुछ अच्छी भी बातें हो सकती हैं, लेकिन साधन और साध्य का जो विवेक बापू ने बताया था, उस की दृष्टि में यह संविधान संशोधन का साधन अशुद्ध था, तो उस का साध्य तो अशुद्ध होगा ही।

लोक सभा का अपना कार्य-काल पूरा हो गया था, और उसे संविधान में संशोधन करना तो दूर रहा, कोई भी कानून बनाने का अधिकार नहीं था। इस लिए एक अशुद्ध धारणा और अशुद्ध नीति से यह संविधान संशोधन किया गया था। यह स्पष्ट है कि जब संविधान में संशोधन किया गया, तो संविधान के मौलिक ढांचे के साथ खिलवाड़ करने का हमें हक नहीं था। क्या हम संविधान संशोधन के द्वारा संसदीय जनतंत्र के बदले एक तानशाही हुकूमत को इस देश में ला सकते थे? — नहीं ला सकते थे।

हमारे एक बड़े संविधान-विशेषज्ञ, एन्थनी साहब, ने कहा था कि इस संविधान संशोधन पर जो चिल्लपों मचाई जा रही है, उस का कारण क्या है; संविधान के अनुच्छेद 368 के अन्तर्गत संविधान में संशोधन करने का हक है। एन्थनी साहब तो अब इस सदन में नहीं हैं, और वह कब लोक सभा में आयेंगे, हम नहीं कह सकते हैं, लेकिन उन्हें मालूम होना चाहिए कि अगर संविधान में संशोधन करने का हक है, तो क्या इस बात का भी हक है कि संविधान में संशोधन इस रूप में किया जाए कि हम इस देश में जनतांत्रिक प्रणाली के बदले एक तानशाही प्रणाली लागू कर दें। मैं समझता हूँ कि संविधान का यह संशोधन वास्तव में संविधान की विकृति है, उस के विरुद्ध एक बड़ा षडयंत्र है।

संविधान संशोधन के सम्बन्ध में यह भी कहा गया था कि यह संसद सार्वभौम है। दक्षिण कम्युनिस्ट पार्टी के भाइयों ने इस का समर्थन किया था और श्री हीरेन मुर्जी ने एक बड़ा मुन्दर बयान दिया था। सारे लोगों का और हमारे चन्द्रपन साहब का भी बयान है कि संसद सार्व भौम है। और जनता क्या है? जनता क्या सार्वभौम नहीं है? अगर हम लाम्की की बात कहें या और किसी की कहें कि पीपुल इज दि मावरेंट तो जनतंत्र में जनता मालिक है। संसद में बड़ी जनता होती है और वह संसद जो थी उस में कांग्रेस के लोग कितने प्रतिशत वोट ले कर आए थे? 43 प्रतिशत वोट लेकर आए थे। तो 43 प्रतिशत वोट प्राप्त कर के यह कहना कि संसद को संविधान के साथ खिलवाड़ करने का हक है, यह गलत है। इसीलिए उम संविधान का संशोधन आज हम कर रहे हैं।

यह जनता पार्टी की गौरवमयी परम्परा है कि संविधान को हम ने दलगत

राजनीति से ऊपर रखा है और आज हम अपने विरोधी मित्रों के साथ भी बैठ कर बात करते हैं। भारतवर्ष की राष्ट्रीय अखण्डता और मानव के जनतांत्रिक अधिकारों का जहां तक प्रश्न है उसे दलगत राजनीति से जनता पार्टी सदैव ऊंचा रखेगी।

उस समय स्थिति क्या थी ? उस समय हमारे जनसभ के, बी० एल० डी० के, सोशलिस्ट पार्टी के, कांग्रेस (आगोनाइजेशन) के सदस्य कहां थे ? आप जानते हैं वे सब तो जेल में थे। केवल एक ग्रोम प्रकाश त्यागी जी राज्य सभा में थे और कृष्णकान्त जी ने वहां एक वक्तव्य दिया था। लेकिन मैं देख रहा था लोक सभा की सारी कार्यवाहियों को, कहीं कोई विरोधी स्वर नहीं दिखाई पड़ रहा था। संविधान निर्मातृ परिषद् के एकमात्र सदस्य सक्सेना साहब उस समय थे और मावलंकर साहब तो स्वतन्त्र थे, और वह स्वतन्त्र रहेंगे लेकिन केवल मात्र एक सदस्य संविधान निर्मातृ परिषद् के सक्सेना साहब ही थे जिन्होंने उसका विरोध किया था, नहीं तो और कहीं कुछ उसमें दिखाई नहीं पड़ा। कहीं-कहीं कुछ देव साहब ने भी विरोध किया लेकिन जो एक निर्भीक और साहसपूर्ण कदम के साथ तानाशाही का विरोध होना चाहिये था वह नहीं हो सका।

आज कुछ हमारे कांग्रेस के मित्रों ने भी स्वीकार किया कि संविधान का जो संशोधन हुआ वह स्वर्णसिंह की कमेटी ने जो संशोधन दिया था उसके भी परे था। यानी संविधान के संशोधन का मसविदा बनाने के लिए दिखाने के लिए स्वर्णसिंह कमेटी बनाई गई थी लेकिन इंदिरा गांधी एंड प्राइवेट कम्पनी लिमिटेड उस पर भी हावी थी। इसीलिए जो इसका जनतांत्रिक रूप था वह उसमें नहीं आया। सब से बड़ी बात यह भी कि हमारे संविधान का जो मौलिक

ढांचा था चेक्स ऐंड बैलेंसेज के साथ उसे नष्ट कर दिया गया। कार्यपालिका और न्यायपालिका के बीच जो संतुलन रखा था वह समाप्त हो गया। जिस दिन कार्यपालिका, न्यायपालिका और विधायिका के बीच का संतुलन नष्ट हो जायगा उस दिन जनतंत्र का भी पूर्ण विराम हो जायगा।

यही कारण है, इसी पृष्ठ भूमि में हम लोगों का आक्रोश जगा। दो तीन दिन पहले हमारे दल के उपनेता का भी जो आक्रोश जगा वह इसीलिए जगा कि हम ने जनता वचन दिया था कि यह गलत तरीके से जो संशोधन संविधान में किए गए हैं उनको हम स्वीकार नहीं करते हैं। बापू की सीख थी कि गलत साधन में कोई काम हम न करें। तो हमारे ऊपर विरासत है एक बड़ी परम्परा का। हम ने समन्वय का प्रयास शुरू से किया है और यही कारण है कि हम थोड़ा थोड़ा करके ला रहे हैं। वह बात नहीं है कि 44वां संशोधन ही हम पहली बार ला रहे हैं। इसके पूर्व 43वां संशोधन भी हम ला चुके हैं। इसीलिए इस 44वें संशोधन के संबंध में हमारे विधि मंत्री ने बताया कि किस तरह से विरोधी दलों के लोगों के साथ बात करने के बाद वे उसे यहां लाए हैं और इसीलिए आज मुझे सचमुच में एक सुखद आश्चर्य हो रहा है कि हमारे प्रतिपक्ष के मित्र अपनी गलती स्वीकार कर रहे हैं तो अब इसके बाद हम लोगों की ओर से उनके प्रति एक शब्द भी कटुक्ति का कहना अपना अपमान करना होगा। अगर दिन भर का भूला हुआ भी शाम को घर आता है तो वह भूला हुआ नहीं समझा जाता है। जनतंत्र की राह पर वह देर में आए। जिस दिन उनसे इंदिरा गांधी टूट कर चली गई उस दिन हम समझते हैं कि जनतंत्र का स्वर्ण-विहान हुआ। इसलिए यह जो संशोधन आया है इसमें यह नहीं सवाल है कि हमने अपने वादे को भुला दिया है। कुछ लोग हमें अपने वादे की याद दिला रहे हैं। जनता के साथ हमने जो वादे किये हैं

[डा० रामजी सिंह]

उसका स्मरण दिलाने के लिए उन जैसे लोगों की आवश्यकता नहीं। उसके लिए जनता ही हमें याद दिला रही है। यही कारण है कि हमारे दल का प्रजातंत्र बाहर से ही स्वस्थ और सशक्त नहीं है दल के अंदर भी हम किसी प्रकार की तानाशाही स्वीकार नहीं कर सकते हैं और यह जनता पार्टी की गौरवमयी जनतांत्रिक परम्परा है।

अगर समय रहता तो मैं इस सारे बिल के संबंध में कुछ और कहता लेकिन चूंकि यह तो समूचा संसद एक राय से यह कह रहा है इसीलिए अब इसके ऊपर अलग अलग विचार करने की आवश्यकता नहीं है। जब संविधान संशोधन के द्वारा राष्ट्र विरोधी कामों के लिए कानून बनाने का हक संसद को हो गया था तब क्या हुआ था? जब राष्ट्र और राज्य पर्यायवाची शब्द हो गए थे? उस वक्त ऐंथनी साहब अल्पसंख्यकों की बात करते थे तो श्री सक्सेना जी ने उनको याद दिलाया था कि आप आज अल्पसंख्यकों की बात करते हैं लेकिन जब राष्ट्र और राज्य पर्यायवाची शब्द (स्टेट इज गवर्नमेंट) हो जायेंगे तब अल्पसंख्यकों के लिए भी कोई सुरक्षा नहीं रहेगी। इसलिए मैं कहता हूँ कि अल्पसंख्यकों में यह संविधान संशोधन एक मुमुहूर्त में आया है। जिस प्रकार लोकमान्य तिलक ने 1905 में हमारे मौलिक अधिकारों का बिल रखा था, जिस प्रकार ऐनीबेमेंट ने 1905 में नागरिक अधिकारों का बिल रखा था, पं० नेहरू ने हमारे लिए 18 फंडामेंटल राइट्स की कल्पना की थी और जैम हमारे डा० अम्बेडकर साहब ने विधान में हमें मौलिक अधिकार दिये थे उसी प्रकार आज हम संविधान में 44वां संविधान संशोधन करके अपने मौलिक अधिकारों की सुरक्षा के लिए संकल्प कर रहे हैं।

डा० नुरसी मनोहर बोशी (धलमोड़ा) : अध्यक्ष महोदय, मैं इस 44वें संविधान

संशोधन विधेयक का समर्थन करने के लिए खड़ा हुआ हूँ और उस काले 44वें संविधान संविधान का विरोध जो कि 42 वें संविधान संशोधन के रूप में पास हुआ था। यदि आप पिछली कार्यवाहियों का निरीक्षण करें तो या तो विधि की विडम्बना कहें कि 44वें संविधान संशोधन से इस देश में जनतन्त्र को समाप्त किया गया और 44वें संविधान संशोधन विधेयक से ही आज इस देश में जनतंत्र को पुनः स्थापित करने की कोशिश हो रही है। वह भी 44वां संविधान संशोधन था और यह भी 44वां संविधान संशोधन विधेयक है। आज यदि समय के पैमाने पर घटनाओं को देख सकने की हमारी क्षमता होनी, इस प्रकार का कोई प्रोजेक्टर होना जिसमें कि हम साल भर की घटनाओं को वापस देख सकने और आज यदि वह प्रोजेक्टर इस लोक सभा में लगाकर उन घटनाओं को देखने तो इसी सदन में पिछले वर्ष अक्तूबर और नवम्बर के महीने में किस प्रकार का भय और आतंक का वातावरण व्याप्त था जिसका संकेत हमारे भाई साहब ने यहाँ पर किया। इसी सदन के सम्मानित सदस्यों ने—उन्हें सम्मानित कहूँ अथवा नहीं, मैं नहीं जानता—पूरे बहुमत के साथ उस 44वें संविधान संशोधन विधेयक का समर्थन किया था और आज इस 44वें संविधान संशोधन विधेयक को पूरे बहुमत के साथ, बिना किसी डिस्सन्ट के समर्थन कर रहे हैं। उस समय तो शायद किसी ने आपत्ति भी की थी—सम्भवतः मावलंकर जी ने और श्री शिवन लाल सक्सेना ने विरोध किया था, लेकिन आज इस 44वें संविधान संशोधन का कोई विरोधी नहीं है जब कि यहाँ कोई भी भय और आतंक का वातावरण नहीं है। आज इस उन्मुक्त वातावरण में खुले दिमाग और खुले हृदय से शासक और प्रतिपक्षी दल, जितने भी इस देश के राष्ट्रीय दल हैं जिनका प्रतिनिधित्व इस संसद में है उन सभी के नेताओं ने मिल कर एक नये संविधान संशोधन

विधेयक की शुरुआत की है। मैं समझता हूँ आज का दिन इस देश के लिए बड़ा शुभ दिन है।

मैं माननीय विधि मंत्री को इस बात के लिए बधाई देता हूँ कि उन्होंने यहां पर इस विधेयक को प्रस्तुत किया और एक नये प्रकरण की शुरुआत की। कुछ मित्रों ने कहा है कि इसमें जो धाराएँ हैं वह अपूर्ण हैं और उनसे पूरा समाधान नहीं होता। विशेषकर न्यायपालिका के बारे में कहा गया है कि जब तक धारा 226 पूरी की पूरी निरस्त नहीं होती, जब तक उसका रूप आपात-स्थिति से पहले का नहीं कर दिया जाता तब तक यह संविधान संशोधन अधूरा है—यह बात सच है। लेकिन जनता पार्टी ने कभी भी यह स्वीकार नहीं किया कि धारा 226 को कितना आज हमने संशोधित किया है उससे आगे उसको संशोधित नहीं करेंगे। विधि मंत्री महोदय ने भी इस बात की घोषणा की है कि उसके बारे में यथासमय संशोधन लाये जायेंगे।

15.44 hrs.

(MR. SPEAKER in the chair.)

एक मित्र ने कहा कि केवल कुछ थोड़े से मुकदमे न्यायपालिका के सामने पड़े हुए थे जिनका जल्दी निपटारा करने के लिए यह संशोधन लाया गया है लेकिन मुकदमे थोड़े से नहीं थे। एक मिनट के लिए यदि देखा जाये तो सुप्रीम कोर्ट के सामने अप्रैल के महीने में 14777 मामले पड़े हुए थे विवाद के। और विभिन्न उच्च-न्यायालयों में पहली जनवरी, 1977 को 5 लाख 64 हजार मामले निपटाये जाने के लिये पड़े हुए थे। आज जो परिस्थिति है—उस में क्या व्यवस्था है—अधिक श मामलों में सुप्रीम कोर्ट में सात जजों को एक साथ बैठना होगा और हाई कोर्ट में पांच जजों को

एक साथ बैठना होगा। इस का परिणाम क्या होगा—सारा काम ठप्प। यह कितनी मजबूत व्यवस्था पिछले संविधान संशोधन में की गई थी। एक तरफ कहा गया कि गरीबों को न्याय का दान देने का अधिकार संविधान के निदेशक सिद्धान्तों के अन्तर्गत देते हैं और दूसरी तरफ सुप्रीम कोर्ट और हाई कोर्ट के लिये ऐसी व्यवस्था कर दी गई कि जो भी गरीब आदमी कभी भी उन तक पहुंच ही न सके। सुप्रीम कोर्ट तक जाने का मतलब होगा कि कोचीन में रहने वाला व्यक्ति दिल्ली आकर सुप्रीम कोर्ट का दरवाजा खटखटाये, जिस में हजारों रुपया खर्च होगा।

हमारे मित्र चन्द्रपतन माहब, जिनकी पार्टी ने उस समय के 44वें संशोधन का, जो बाद में 42 वां संशोधन अधिनियम बना, सम न किया था, व आज गरीबों की बात करने हैं। यह सारी व्यवस्था उस समय बहुत ही चालाकी के साथ की गई थी। डाइरेक्टिव प्रिन्सिपलज में लिख दो कि गरीबों को न्याय का दान और दूसरी तरफ 32 वीं धारा में ऐसा संशोधन कर दो कि गरीब आदमी कभी भी न्यायपालिका के पास भटकने न पाये। मैं समझता हूँ—आप ने इन धाराओं में जल्दी संशोधन कर के आम आदमियों को राहत पहुंचाई है। देश की जनता के सामने आप ने इस को बहुत मजबूती के साथ रखा है, स्पष्टता के साथ रखा है कि जनता पार्टी के इरादे बिलकुल साफ हैं। यदि हम इस सम्बन्ध में एक समेकित बिल लाते, तो वह वास्तव में बहुत अच्छा होता, परन्तु वह सम्भव नहीं हो पा रहा था, हम ऐसा कर नहीं पा रहे थे और समेकित बिल लाने में थोड़ा विलम्ब भी होता और उस में यह खतरा भी था कि हमारे प्रतिपक्ष के मित्रों को यह कहने का अवसर मिल जाता कि जनता पार्टी अपने इरादों में माफ नहीं है और एक समेकित बिल लाने में बहाना बना रही है। इस लिये हमारी पार्टी

[डा० मुरली मनोहर जोशी]

इस बिल को यहां लाई और अगले अधिवेशन में एक संशोधित बिल लाने का आश्वासन भी उसने दिया है। इस से हमारी नीयत बिलकुल साफ है, हम संविधान में संशोधन करना चाहते हैं, 42 वें संशोधन की उन तमाम धाराओं को जिन्होंने देश में असन्तुलन पैदा किया—जनता और सरकार, सरकार और न्यायपालिका, जनता और न्यायपालिका में—उस तमाम संशोधनों को नष्ट करना चाहते हैं।

श्रीमन्, जनतन्त्र के सम्बन्ध में कहा गया है—वैसे तो जो अधिकार होते हैं, वे बहुत ही खतरनाक होते हैं, लेकिन जो मैजोरिटी, बहुमत के अधिकार हैं, वे सब में खतरनाक होते हैं। प्रो० भावराज मेरी इस बात की गवाही देंगे—

The rule of tyranny is the most oppressive tyranny; the tyranny of majority is the most oppressive majority.

और जनतन्त्र में मैजोरिटी की टायरनी का, उस के अत्याचार को रोकने और नागरिकों के अधिकारों, की यदि कोई गारन्टी है तो वह निष्पक्ष, मुलभ न्यायपालिका है। वेबल रूल-आफ-ला, इण्डिपेण्डेन्ट जूडीशियरी और इबीली-एबेलेबिल जस्टिस हकुमन के अत्याचार और अतिरेक को रोकने की गारन्टी है। इसलिये मैं समझता हूँ कि यह बहुत महत्वपूर्ण कदम उठाया गया है जिस से हम ने उस रूल आफ टायरनी को, बहुमत के द्वारा जो अत्याचार किये जाने की सम्भावनायें हैं, उन को समाप्त करने का प्रयास किया है ताकि आम जनता को न्याय शीघ्र मिल सके और न्यायपालिका का काम ठीक ढंग से चल सके।

एक सज्जन ने कहा कि इस में इस बात की व्याख्या होनी चाहिये कि कौन सुप्रीम

है ? मैं काम्बले साहब से बिलकुल सहमत हूँ कि यदि कोई सर्व प्रभुता सम्पन्न सर्वसत्तासम्पन्न है तो वह भारत की जनता है। संविधान भारत की जनता ने बनाया है और न्यायपालिका कार्यपालिका, विधायिका—तीनों उस संविधान की रचनायें हैं, उस की सृष्टि हैं। इस लिये सारी प्रभुता भारत के नागरिकों में निवास करती है—इस में तनिक भी सन्देह नहीं होना चाहिये। इस लिये मैं आप से निवेदन करना चाहता हूँ कि ऐसी व्यवस्था होनी चाहिये कि यदि कोई दल, कोई शासन संविधान का वायोलेशन करे, अतिरेक करे तो वह वैसा न कर सके। आज यदि कोई भारतीय दण्ड संहिता के विरुद्ध काम करता है तो आप उस को दण्डित करते हैं, किसी राज्य के कानून का यदि कोई उल्लंघन करता है तो उस के लिये आप उस को दण्डित करते हैं, लेकिन यदि कोई दल, कोई सरकार संविधान का उल्लंघन करे और इसका गलत और नापाक इरादों को पूर्ति के लिए करना चाहे तो क्या व्यवस्था आप करेंगे यह मैं जानना चाहता हूँ। मैं चाहता हूँ कि आप कुछ ऐसी भी व्यवस्था करें ताकि कांस्टिट्यूशनल आफेंस नाम की किसी चीज की परिभाषा हो सके, संविधान की भावना, उसकी जो स्पिरिट है उसके विरुद्ध जा कर कोई संविधान के दुरुपयोग का किसी प्रकार से कोशिश न कर सके।

एक माननीय सदस्य ने कहा कि पार्लियामेंट सुप्रीम है। मैं पूछना चाहता हूँ कि क्या इसको हक है कि किसी व्यक्ति को बह राजा बना सके ? क्या यह चीज भारत की जनता की जनतांत्रिक परम्पराओं और भावनाओं के अनुकूल होगी ?

प्रो० पी० जी० भावराजकर : (गांधीनगर)
कोशिश की गई थी।

डा० मुरली मनोहर जोशी : जिस को रानी बनाने की कोशिश की गई थी वह आज कहां पहुंच गई है आप देख ही रहे हैं।

एक माननीय सदस्य : महारानी ।

डा० मुरली मनोहर जोशी : महारानी या किसी महाराजा की रानी बनाने की जो कोशिश की गई थी उसका क्या परिणाम निकला यह आपने देख ही लिया है । हमारे संविधान के कुछ बेसिक फीचर्स हैं । उनका कोई भी उल्लंघन करेगा, नष्ट करने की कोशिश करेगा, संविधान का दुरुपयोग करके यदि कोई भारत में प्रजातंत्र को नष्ट करने की कोशिश करेगा तो उसके लिए दंड की व्यवस्था होनी चाहिये । कांस्टिट्यूशनल आफेंस जैसी किसी एक धारा को इस में जोड़ा जाना चाहिये भले हो आने वाली संसद को इस बात का अधिकार प्राप्त दे दें कि पूर्ववर्ती सरकार का वह इम्पीचमेंट कर सके । इसमें मुझे कोई आपत्ति नहीं है । लेकिन कुछ न कुछ व्यवस्था अवश्य होनी चाहिये । कोई शासन, कोई दल, कोई ग्रुप कोई टाकस जिसको आप इम बीटर कह सकते हैं आगे चल कर देश में संविधान का दुरुपयोग करने की, उसके साथ बलात्कार करने की किसी भी प्रकार की कोशिश न कर सके, यह व्यवस्था आपको संविधान में कर देनी चाहिये ।

मुझे प्रसन्नता है कि हमारे विरोधी दल के मित्रों में से कुछ ने स्वीकार कर लिया है कि उन से गलती हुई है । मुझे खुशी है कि आज एक ऐसा वातावरण देश में बना है कि जो लोग कल परसो तक नापाक स्थिति का गुणगान करते रहे हैं उन्होंने अपनी भूल को स्वीकार कर लिया है । मैं पिछली लोक सभा की कार्यवाही पढ़ रहा था । मुझे एक सम्मानित कांग्रेसी सदस्य का एक वक्तव्य पढ़ने को मिला था जिस में उन्होंने लोक सभा के सदस्यों को कहा था 'कलैव्यम् मा समागमः' । आपको घबराने की जरूरत नहीं है, पसीना आने की जरूरत नहीं है । यद्यपि वह इसी सदन के अब भी सदस्य हैं लेकिन दुर्भाग्य से इस समय

यहां नहीं हैं, किसी के पांव डगमगा रहे हैं उनके पास आज शायद वह हैं, उनकी मालिश कर रहे हैं, उनको बल प्रदान करने के लिए गए हैं उन्होंने कहा था कि कलैव्यम् मा समागमः घबराने की जरूरत नहीं है । साठे जी आज दिखाई नहीं दे रहे हैं । उन्होंने पिछली बार यह कदा मैं सभी देशवासियों से आज कहना चाहता हूं कि घबराने की जरूरत नहीं है, भय की जरूरत नहीं है, हम को देश के महान मनीषियों ने सिखाया है कि न केवल हम निर्भय हों, अभय भी हो । भारत की सब से बड़ी संस्था इस संसद ने जनतंत्र की पुनः स्थापना की है । भारत के प्रत्येक नागरिक को हमें निर्भय ही नहीं अभय भी बनाना है । मैं श्रीमती इंदिरा गांधी को भी कहता हू कि डरने की बात नहीं है, अभय की स्थापना करने का हमने एक प्रयत्न किया है और इसके लिए मैं सरकार को बधाई देता हूं और इस संशोधन विधेयक का समर्थन करता हूं ।

श्री कचरलाल हेमराज जैन (बालाघाट) : इस 41वें संशोधन पर हुए भाषणों को मैंने सुना है । 42वें संशोधन की बड़ी आलोचना की गई है और यह भी सुनने को मिला है कि उसके कुछ अंश अच्छे हैं । 42वां पूरा बिल समाप्त नहीं होने जा रहा है । मेरी सनस में यह आ रहा है कि हमने इन नौ महीनों में कुछ नहीं किया है । केवल इस तरह के काले कानूनों को हटाने की बात हमने जनता से नहीं कही थी । इसके अतिरिक्त भी हमने बहुत से वादे जनता से किए थे । आज आप दिल्ली को ही देखें जो कि देश की राजधानी है और जहां हम रहते हैं । व्यापारियों द्वारा इस तरीके से जनता की लूट हो रही है कि भारत के किसी गांव में भी इतनी मंहगाई नहीं है, इतनी मुनाफाखोरी नहीं है जितनी यहां है । अध्यक्ष महोदय, जनता को न्याय, सही वास्तविक न्याय दिलाने का हमने वचन दिया है । मैं मंत्री महोदय में कहूंगा कि इसके लिये भी कोई ऐसा संशोधन बिल लायें जिससे जनता जो त्राहि त्राहि कर रही है उसको

[श्री कचरुवाल हेमराज जैन]

राहत मिले। यह बिल जो आ रहा है यह तो एक कलंक था जो हट रहा है, इसका मैं स्वागत करता हूँ। लेकिन जो आज देश के अन्दर खुली घूट चल रही है उसके लिये हम कौन सा बिल लाने जा रहे हैं? इस और विशेष ध्यान दें और आने वाले बजट सेशन में उसे पास करें अन्यथा इस देश की जनता हमें और आपको साफ करने वाली नहीं है। और खासतौर पर दिल्ली में, मैंने पूरे भारत में घूम कर देखा है और अपने जिले में भी कह सकता हूँ कि व्यापारी संतुलित है, लेकिन दिल्ली नगर में व्यापारी खुले आन लूट कर रहा है। इसके लिये भी हमें कोई बिल लाना चाहिये और व्यापारियों के जगुल से कंगड़ों जनता को बचाना चाहिये। इतना ही बहते हुए मैं संशोधन का समर्थन करता हूँ और याद दिलाना चाहता हूँ कि इस पर आप कोई ठोस कदम उठाएँ अन्यथा भारत की जनता को इसमें कोई लाभ नहीं मिलने वाला है।

SHRI JAGANNATH SHARMA (Garhwal): Prior to the Forty-second Amendment Act, the amendments in the Constitution took place generally in order to meet a specific situation. There were some amendments which were enacted to remove administrative inconveniences. There were some amendments which were enacted to enforce public order. There were some other amendments which intended to resolve water disputes, language disputes and so on. But quite a few of them were undertaken to remedy problems which had been created because of judicial decisions. But the Forty-second Amendment proclaims that it intended to establish supremacy of parliamentary democracy, in fact and in effect, both, it was designed to give absolute authority to the Prime Minister through the executive. It throttled completely the concept of the rule of law. It abridged democracy and the democratic functioning; the basic freedom were totally eroded and the entire judiciary was placed in a secondary position.

16 hrs

Everybody knows that a constitution is a sacred document. Constitution is the paramount law of the land but nowhere in the history of the world we have such a hurried legislation at a time when the Parliament has outlined its five year term and leaders of opposition had been detained without trial. In that extended term we could not have such amendments of far-reaching consequences.

Sir, I will not dilate on this because most of my colleagues have spoken over it and practically on all aspects of the problems created by 42 amendment. I would, however, to emphasise that the present Bill has a two-fold purpose: (1) restoration of the jurisdiction to the Judiciary by Supreme Court and High Courts, and (2) dropping of Article 31D, which invests the Parliament with special powers to make any law with regard to antisocial activities.

In the last Lok Sabha the constitution was amended 19 times. There were 476 legislations which were passed. There were 114 Presidential Acts which were implemented. There were more than 36000 statutes, rules and notifications which were drafted. With his plethora of rules and statutes how can we expect seven judges to decide on the constitutional issue of every notification, by-law, regulation etc? It was practically an impossible asks to form a bench of seven or five every time. While piloting the Bill the hon. Law Minister said, and rightly too, that it paralysed the working of the high courts.

I am certainly of the view that the 42nd Amendment Act should not be repeated lock, stock and barrel. Some of the entries in the Ninth Schedule should be retained. As regards other provisions in the Act, some of my friends have already spoken about them and I support them that the provision of social justice, free legal aid, participation of labour in man-

agement, protection of wild life and forests etc. should be retained. Left to me, I would even like that Education should remain in the concurrent list. The present Bill would be fulfilling an immediate requirement. I congratulate the Minister and the Government on this measure and welcome this Bill.

As regards Art 31D, it was absolutely unnecessary to include it. There are enough laws on the statute book to deal with anti-social activities. 31D was intended simply to enlarge the scope of preventive detention and to make it an instrument of oppression and suppression of political opposition. The scope was so wide that even legitimate criticism of Government and trade union activities could be brought within its purview.

I would like to have a clarification from the hon. Minister on one point and it needs his serious consideration. There is a history of the legislation especially of the case law with regard to the fundamental rights and the question of compensation on property. It goes to show that the supreme court changed its opinion many times. In Shankar Prasad's case supreme court decided that fundamental rights can be amended. Again in Sajjan Singh's Case the supreme court observed that fundamental rights can be amended. In Golaknath's case the supreme court decided that fundamental rights cannot be amended. The decision was taken by a majority of one. In Keshavananda Bharati's case the supreme court by a majority of one again decided that the fundamental right can be amended but the basic features of the constitution could not be amended. Similarly various decisions were taken in the matter of compensation for property. In Bela Banerjee's case the supreme court decided that compensation should be just equivalent. Again in Vajravelu case it was decided that compensation must be paid at market value. In the Metal Corporation case the supreme court decided that compensation should be paid as just equivalent. Then in Santilal's case

the supreme court expressly overruled the Metal Corporation Case and said that the observations in Vajravelu's case were obiter.

Thus it would be seen that after the constitution came into force the supreme court has overruled its decision many times. It would be seen that in matters of Fundamental nature, the Supreme Court has overruled the decisions of the High Courts in 200 times. The Supreme Court has overruled its own decision more than a dozen times. If you take the history of the Privy Council, not on one occasion, during the last three hundred years it revised its own decision excepting in one Ecclesiastical Case. Therefore, in a matter of constitutional validity of the Constitutional amendment, there should not be a majority of one but at least there should be a majority of two for the purpose. In the Constitution itself, under Art. 145(5) there is a provision according to which majority of the judges present at the time of hearing decide the fate of the case. Supreme Court is supreme in its own sphere. But, when legislative policy is guided by the decision public conscience is never satisfied if judgments are overruled by a majority of one. In all constitutional cases, a special majority of two is necessary to make the judgments binding. As regards Mr. Pai's assertion that it was improper for the members of the Government to criticise the magistrate or the judiciary, I may remind him of the Privy Council in *Ambard vs. Attorney General* "Justice is not a cloistered mixture, she must be allowed to suffer the scrutiny and outspoken comments of ordinary men." So, it is not as if we cannot criticise the magistrate, but criticism should not be malicious in putting motives. But, so far as the judgment is concerned there is no general immunity. While you can say definitely about it as to what it has done, you can't comment in a pending case.

MR. SPEAKER: You must conclude now.

SHRI JAGANNATH SHARMA: So, Sir, I thank you and support the Bill and congratulate the Minister emphasising that formation of bench be left to court, but special majority of two must be provided for invalidation of constitutional law.

SHRI RAM JETHMALANI (Bombay North-West): Am I likely to get a chance?

MR. SPEAKER: You are at the end. You are very much below. And you are not likely to get a chance.

SHRI RAM JETHMALANI: You may lessen the time of the other hon. Members.

MR. SPEAKER: Even then I do not think you will get a chance. I am going by the list.

SHRI RAM JETHMALANI: Kindly see that everybody gets the chance. It is very unfair.

MR. SPEAKER: What can I do?

SHRI RAM JETHMALANI: It is not fair to Members who have to sit for the whole afternoon without getting a chance to speak and without being told that they will not get a chance.

MR. SPEAKER: What can I do? Mr. Ravi.

SHRI VAYALAR RAVI (Chirayinkil): Mr. Speaker Sir, the approach of the party has already been explained by my colleagues. The object of the Bill has been also explained in their speeches. I do not want to go deep into that.

There are pronouncements made by learned judges in their judgment that the basic structures of our Constitution cannot be changed. There may be certain distortions, it is true in the Forty-second Amendment. We still hold the view that all the amendments are not wrong. There are cer-

tain good features in that. The Law Minister himself has admitted that there are certain good features in the 42nd amendments. Some of the hon. Members while speaking had made an attack against the Congress Party and said that everything which was made in 30 years must go lock stock and barrel.

It means the Marxists Party which is supposed to be the party belonging to the working class when they said it, they wanted participation of workers in management also must go, and do not want to support. I do admit that our Constitution has got some good structures to keep the unity of the country. Of course that has been eroded by certain amendments to Forty-Second Amendment. I am glad that you are going to do away with the right of the Central Government to deploy armed forces in the States without the consent of the States as it has been eroded as at present.

In the same way, there is some check and balance in the Constitution. That check and balance is being done by the State, the Centre and the Judiciary. We have to restore the rights that had been eroded. At the same time I really appreciate what the hon. Member from the Janata Party said just now. Sir, when you were in the Supreme Court, sometimes we had to criticise here the inconsistencies in the judgements. The decision in Shankar Prasad case was reversed in the Golaknath case. If a decision already in existence is overruled by the Supreme Court it should not be by a single majority. That is why this amendment had been made. It is being questioned by Shri Somnath Chatterjee: what is the sanctity in this number? When we make amendments, we need two-thirds majority in this House itself. You cannot question that. Another important point was about laws in the Union List enacted by Parliament. Different High Courts give differing judgements on the same law on one Union Subject. I feel that only the Supreme

Court should have the authority to decide on the constitutionality of the Union laws. I fully endorse the principle of the independence of the judiciary. May I remind Shri Somnath Chatterjee that for the first time in the history of India, a Chief Minister has been indicted by the High Court for contempt of court because he said that judiciary was an instrument of feudalism in India. It was Mr. EMS, the leader of his Party, The party's leader, A. K. Gopalan, said on the floor of the House that this Constitution must be changed lock, stock and barrel I am surprised that the Marxist party spokesmen now come and say: judiciary is the only fair system in the Constitution. Is it professional tactics?

SHRI SOMNATH CHATTERJEE:

You have poor understanding; emergency had perverted you. Have a dialogue with me if you want to learn.... (Interruptions) For 19 months, you raised not only your hands but your two feet also to support her.

SHRI VAYALAR RAVI: I am referring to the criticism made against my party. I am saying what the Chief Minister Nambudiripad of your party did. Now you have changed and you are making new pronouncements. The other point I want to make is about the supremacy of Parliament. Where is the will of the people expressed? People's will is reflected on the floor of this House; it is expressed here; there is no other place. This very Lok Sabha comes into being by the expressed will of the people. The expression was that Congress must go out of power and Janata must come; that is the will of the people and it is being accepted. We need not say that there is another place or another way in which the will of the people is expressed. He spoke of tyranny. We saw their tyranny in 1967 in Bengal and Kerala and we will not forget that tyranny when the CPM were controlling those states; we know hundreds of youngmen had been killed on the streets of Cal-

cutta and also in Kerala. Now these people talk of tyranny during the emergency. None of them went to jail; they were taking salaries as members of Parliament. I can appreciate if people sitting on those benches speak about those days because they were put in the jail. Madhu Limaye and Sharad Yadav resigned their seats; I appreciate to their courage. Why did you want resign? You were taking salary as members here. How many of you were jailed? None of you were jailed. You were also enjoying emergency and sitting here and drawing salary as members.

I conclude by referring the concept of collective responsibility of the cabinet. It is a basic question and they are accusing the former Prime Minister that she wanted to perpetuate dictatorial rule in the country. You should not go back to that position. Replying to a call attention motion, the hon. Home Minister said:

"Mr. Ravi raised a matter, namely, it was a matter of cabinet responsibility. I would say: no; it was not. This is wholly within the jurisdiction of the ministry concerned."

This was about the action taken against senior Secretaries to the Government. Mr. Shanti Bhushan may be presiding over the Law Ministry, but the Home Minister says he can take action against Mr. Shanti Bhushan's Secretaries without his knowledge or without the permission of the Prime Minister or the Cabinet. He can call any file in any Ministry on the basis of some anonymous complaint in the name of corruption. It means Home Minister has virtual control over every ministry. This is the worst of form of dictatorship which is emerging. Is this going to be your pattern? How is it different from what happened during emergency? It is the same. Your allegation before the Shah Commission is that there was concentration of power in one individual. But under the Janata Government, there is concentration of

[Shri Vayalar Ravi]

power in the Home Minister's hands. You are only repeating what was happening in the past. I warn you, don't do it. You were saying that during emergency there was tyranny, people's voice was suppressed and they were not getting justice and they were being put in jail. But how are things different now? Here is the photograph of a 16 year old boy fractured by police firing was handcuffed in hospital. This boy was shot inside the polytechnic in Meerut and he was handcuffed in the hospital on 2nd. On 6th bail application was moved and the court said, "there is no case". Then handcuffs were removed. Is it not tyranny? Is there any difference between the emergency days and today? You are repeating the same thing.

Another complaint you made during emergency was that the official machinery was being misused to bring crowds for the meetings of the ex Prime Minister etc. What are you doing today? On coming Friday, to support Mr. Charan Singh on his birthday, orders are being issued to all the RTOs in Meerut, Haryana and other places to bring five lakh people to Delhi. So, you are doing the same thing. Mrs. Gandhi said, when the 42nd Amendment was moved, "Freedom is not licence". Today Shri Morarji Desai is saying, "There is no absolute freedom, no absolute right". Can you distinguish between the two? So, it is the spirit of democracy which you should inherit. Without that, if you simply speak of democracy and bring amendments, you will not be able to give the fruits of democracy to the people. I appeal to you: Please involve and imbibe the spirit of democracy that has been cherished for the last 90 years and inherited from the freedom movement. It is not the creation of an individual; it is the creation of the Indian people through the sufferings of the freedom movement. It has to be preserved.

With these words, I support the Bill

श्री श्याम सुन्दर बास (सीतामढ़ी) : अध्यक्ष महोदय, माननीय विधि मंत्री द्वारा यहां पर जो संविधान संशोधन विधेयक लाया गया है मैं उसका समर्थन करता हूँ। इस बिल के आने से पूर्व हमारे मन में यह आशा थी कि एक बड़ा वृहद विधेयक लाया जायेगा जिसके द्वारा, 42वें संविधान संशोधन अधिनियम से जो कुछ किया गया है, वह सारा का सारा हटा दिया जायेगा। यह भी कहा जा रहा है कि 42वें संविधान संशोधन अधिनियम के द्वारा जो कुछ किया गया था उसमें कुछ धाराएं ऐसी भी हैं जिनसे हमको कोई आपत्ति नहीं है। इसका निष्कर्ष निकलता है कि जब हमारा एलेक्शन मेनिफेस्टो इश्यु किया गया था तब उतना ध्यान नहीं दिया गया था लेकिन जब यह संविधान संशोधन विधेयक पास किया गया था वह पार्लमेन्ट का एक्मटेडेड टाइम था और जनता का मैनडेट समाप्त हो चुका था इसलिए उस समय जो कुछ भी अच्छा या बुरा किया गया वह लाक, स्टाक एंड बैरल रोजेक्ट कर देना चाहिए। हो सकता है कि माननीय विधि मंत्री जी, उनके मामले या सरकार के मामले जो कठिनाइयां रही हों, उन के कारण इस पीसमील लेजिस्लेशन को लेकर आगे बढ़ रहे हैं, लेकिन मैं यह निवदन करना चाहता हूँ—जैसा कि उन्होंने आश्वासन भी दिया है कि अगले बजट सेशन में वे समूचा काम्प्रीहेन्सिव बिल लेकर आयेगे, इस दृष्टि से हमें इस वर्तमान बिल को देखना चाहिये। इस बिल का मुझे एक ही उद्देश्य लगता है कि हाई कोर्ट और सुप्रीम कोर्ट की जो पावर्स छीनी गई थीं, उनको फिर से रेस्टोर किया जाय। लेकिन इसमें भी, श्रीमन्, कुछ अपूर्णताएं रह गई हैं। क्योंकि जिस समय कोर्ट की पावर्स और पार्लियामेन्ट की पावर्स के बारे में विवाद खड़ा हुआ कि सावरेनिटी पार्लियामेन्ट में है या सावरेनिटी पीपुल में है, इसके लिये आर्टिकल 368 में 4 तथा 5 संशोधन किये गये। एमजैसी के समय किये गये उन संशोधनों को यदि रद्द नहीं

किया जाता है तो इसका एक मात्र अर्थ होगा कि पार्लियामेंट की जो सोवरेनिटी है—धारा 368 में दो धाराओं को जोड़ कर जो संशोधन किया गया था, यदि हम उस को मानते हैं—तो हम पार्लियामेंट की सोवरेनिटी को अधिक ही मान कर चलते हैं। इस विवाद का अब अन्त करना चाहिए। इस सदन में दोनों पक्षों की विचारधारा के बहुत से लोग हैं। ऐसे लोग भी हैं जो मानते हैं कि सोवरेनिटी जनता में निवास करती है, सोवरेनिटी पार्लियामेंट में निवास नहीं करती है, क्योंकि यहां कांस्टीचूशन पहले दिया गया है और उस कांस्टीचूशन के तहत लोक सभा का गठन होता है, लोक सभा कांस्टीचूशन का क्रियेशन है। ऐसी हालत में अगर लोक सभा या पार्लियामेंट अपनी अमेण्डिंग पावर्स से या कांस्टीचूशनल पावर्स से खुद ही सब चीजों को बदलने लगे तो वह न्याय की दृष्टि से युक्ति-मंगत नहीं होगा और न कांस्टीचूशन बनाने वालों की ऐसी मंशा थी। जिस समय कांस्टीचूशनल असेम्बली में कांस्टीचूशन की अमेण्डिंग पावर्स पर वहम चल रही थी, उस समय डा० अम्बेदेकर, सरदार पटेल, आचार्य कृपलानी, श्री बृजेश्वर प्रसाद आदि महानुभावों के भाषणों के अनेकों उद्धरण दिये जा सकते हैं जिन में स्पष्ट होता है कि उस समय कांस्टीचूशनल असेम्बली इस बात को मान कर चल रही थी कि उस क्षण सोवरेनिटी उन के पास थी, क्योंकि उनको यह अधिकार प्राप्त था कि लेजिस्लेचर, जुडीशियरी और एक्जीक्यूटिव इन तीनों की सीमाओं को निर्धारित करें और इन सीमाओं को उस समय निर्धारित किया गया।

MR. SPEAKER: Please give 5 minutes for the hon. Minister to reply.

SHRI NIRMAL CHANDRA JAIN (Seoni): We propose that time be extended for this discussion. It cannot be hustled through, as the 42nd Amendment was done. We had given the names day before yesterday; and if we

are not given the opportunity we will be really sorry for it. I, therefore, request that the time be extended.

श्री श्याम सुन्दर दास : मेरे कहने का तात्पर्य यह था कि जो संविधान उस समय बनाया गया, उस में तीनों की सीमाओं को तय किया गया था और अगर मुझे ठीक से स्मरण है, तो उस समय श्री बृजेश्वर प्रसाद ने यह कहा था कि इस सभा को पूर्ण अधिकार प्राप्त है कि इन तीनों को कितने अधिकार दिये जायें। फ्यूचर में आने वाली पार्लियामेंट को यह अधिकार प्राप्त नहीं होगा।

एक बात यह कही जाती है—चूंकि कांस्टीचूशन में स्पष्टतः यह लिखा हुआ है कि उनको अमेण्डमेंट का कितना अधिकार है। अध्यक्ष महोदय, आप स्वयं जज रह चुके हैं और जहां तक मुझे मालूम है आप से इस विषय पर अनेकों निर्णय भी दिये हैं—यदि रिटन कांस्टीचूशन में मर्यादा स्पष्ट घोषित न हो, एक्सप्रेस-मैनर में न दी गई हो, तो यह मानना पड़ेगा कि मर्यादा वहां अन्तर्निहित है। इस बात को आपने मान लिया है और बहुत सारे प्रोनाउन्समेन्ट्स भी इस सम्बन्ध में हैं। अब जहां तक इस विधेयक का सम्बन्ध है यह हाईकोर्ट और सुप्रीम कोर्ट को कुछ हद तक अधिकार सौंपता है, लेकिन अमेण्डमेंट की शक्ति जो धारा 368 में 42वें संशोधन के द्वारा जोड़ दी गई थी, उसके सम्बन्ध में कहीं कोई चर्चा नहीं है। न उसके सम्बन्ध में ला-मिनिस्टर ने अपनी स्पीच में कोई चर्चा की है और न ही इस विधेयक में कहीं कोई चर्चा है। जब तक उसके सम्बन्ध में संशोधन नहीं होगा, तब तक जुडीशियरी अपने पांव पर खड़ी नहीं हो सकती है।

मैं एक दूसरी चीज कहना चाहता हूं। 1950 से लेकर 1969 तक संविधान के बीस संशोधन हुए थे। लेकिन जब कांग्रेस का बटवारा हुआ और श्रीमती इंदिरा गांधी

[श्री श्याम सुन्दर दास]

सर्व शक्तिसम्पन्न बनीं उस समय से आठ वर्ष की अवधि में 22 संशोधन संविधान के कर दिए गए और उन संशोधनों का एकमात्र उद्देश्य यह था कि राज्य सत्ता जो काले घन और काली राजनीति के बल पर हथियारी गई थी, छल और प्रपंच करके हड़पी गई थी उसको बनाए रखा जाए, जिस वर्ग-स्वार्थ के हाथ में यह सत्ता कठपुतली बनी हुई थी उस वर्ग-स्वार्थ के हितों की रक्षा की जाए और प्रजातंत्र को नष्ट करना उसका एक अनिवार्य अंग था, रिपब्लिक को नष्ट करके अपनी राज्य सत्ता को वे चलाना चाहते थे। उनकी कोशिश यह थी कि पहले तो सत्ता उनके हाथों में बनी रहे और उनके हाथ में न रहे तो संजय गांधी के हाथ में रहे और अगर संभव हो सके तो राहुल गांधी के लिए भी रास्ता बना दिया जाए।

ये जो शक्तियां हैं वे आज भी मौजूद हैं। इस वास्ते वर्तमान संसद को होशियार रहना होगा और श्रीमती इंदिरा गांधी के अपदस्थ होने से यह नहीं समझ लेना चाहिए कि वह वर्ग जिसने प्रजातन्त्र के ऊपर आक्रमण किया था वह समाप्त हो गया है। वह समाप्त नहीं हुआ है। इस वास्ते वर्तमान सरकार और वर्तमान संसद को ऐसे इंस्टीट्यूशनल और कॉन्स्टीट्यूशनल सेफगार्ड रखने पड़ेंगे ताकि भविष्य में कोई भी राज्य सत्ता अपने को बनाए रखने के लिए संविधान के साथ खिलवाड़ न कर सके, संविधान का रेप न कर सके, इसको इमैसकुलेट न कर सके।

इन शब्दों के साथ मैं इस संविधान संशोधन विधेयक का समर्थन करता हूँ।

MR. SPEAKER: The Law Minister

SHRI NIRMAL CHANDRA JAIN: We had proposed that the time be extended.

MR. SPEAKER: In the third reading I will try to give as many Members as possible five minutes each.

THE MINISTER OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI SHANTI BHUSHAN): In view of the fact that there has been almost universal support to the contents of the Bill, I would be extremely brief in my reply particularly as many hon. Members want to speak in the third reading of the Bill.

I am happy that Dr. Seyid Muhammad has made a statement before the House that he would not stand on false prestige. He has also made some disclosures to the House that there were various amendments contained in the Forty-second Amendment which were not even recommended by the Swaran Singh Committee of which he happened to be a member, and that he himself had said that article 31D was in a way a method to institutionalise things which were prevalent during the emergency.

Mr. Somnath Chatterjee the hon. Member from the Maxist Party, was very keen about an approach which he described as "lock, stock and barrel". I do not consider it necessary to deal with it. Shri Vayalar Ravi was doubtful about it and I myself had this feeling at some time, since one of the amendments introduced by the Forty-second Amendment whatever its worth, was that the State shall take steps by suitable legislation or in any other way to secure the participation of workers in the management of undertakings, establishments or other organisations engaged in industry.

SHRI SOMNATH CHATTERJEE: I cannot allow this to go unchallenged. If this is the attitude of the Law Minister today that we are opposed to the participation of workers in management, if I may say so this is not only unfair, this is an attempt to mislead the people of this country. What we have said is that except certain things in the directive principles, we cannot allow this Forty-second Amendment to

remain as it is. We want you to make the Constitution an effective instrument. You are now taking the support of Shri Vayalar Ravi. Is this the attitude of the Janata Government? Let us know it. I have been clamouring for the rights of labour during the last several years in my own humble way. Today, I find in his anxiety to get the support of the Congress party for the Constitution Amendment, the Minister is joining hands with them.. (Interruptions).

SHRI C. M. STEPHEN (Idukki): He is a standing counsel for them. Let them be considerate to him.

SHRI SHANTI BHUSHAN: I was myself going to say that probably, that was not the intention of Shri Somnath Chatterjee. Evidently, belonging to a party which is wedded to the welfare of workers, he could not possibly have intended that this right, even though in the form of Directive Principle which was created in favour of the workers should go. He did not mean by suggesting that lock, stock and barrel approach that the Directive Principles should go. What he was suggesting was something different....

SHRI SOMNATH CHATTERJEE: I shall make it a fundamental right, not a Directive Principle.

SHRI SHANTI BHUSHAN: Then, the hon. Member from Anna DMK party tried to support this principle of two-thirds majority which has been applied to the Supreme Court and the High Court in regard to questioning the validity of the State laws and the Central laws. I have not been able to quite appreciate as to on what basis he said that, after all, if the two Houses of Parliament while getting through a Constitutional measure have applied the principle of two-thirds majority why should the same principle not be applied to judicial decisions. I would like to appeal to the hon. Member to consider as to an approach which has to be applied necessarily to a legislative Constitutional measure....

SHRI A. BALA PAJANOR: A Member belonging to his party has also said the same thing.

MR. SPEAKER: He was not speaking for the Treasury Benches.

SHRI SHANTI BHUSHAN: After all, the principle of two-thirds majority, so far as the exercise of judicial power is concerned so far as the exercise of such power by the courts is concerned the courts do not decide on the basis of a partisan approach. They have to decide on the basis of an intellectual approach; they have to apply an honest mind. Each judge is equal in the eyes of law. Therefore, to apply two-thirds majority....

SHRI A. BALA PAJANOR: I said about the statement made by Justice Beg, the Chief Justice of India. He must answer the point raised by me.

SHRI SHANTI BHUSHAN: The hon. Member has also made some complaint against the Government machinery which has been assisting me in so far as the drafting of the legislation is concerned. I have not been able to understand as to why the hon. Member should have any complaint against the machinery which is assisting me. If he has any complaint he should have against me. I take the fullest responsibility for whatever happens in my Ministry. I have no complaint against my machinery which has been assisting me with great ability, with great utility, in the best possible manner that could be expected of them. I have not been able to appreciate as to why he should have any complaint against the machinery which helps me.

I am grateful to the hon. Members Shri Vijay Kumar Malhotra and Shri Kanwar Lal Gupta for their whole-hearted support not only to the contents of the Bill but to the approach which has been adopted. They have lightened my task because they have explained to the hon. Members of the House why the Bill has been brought forward in this manner. Certain points have been raised by Shri Kanwar Lal Gupta in regard to Emergency

[Shri Shanti Bhushan]

provisions. I would like to take this opportunity to make it clear that so far as the next Bill is concerned which is proposed to be introduced in the next session, it will also contain provisions which will deal with the Emergency provisions of the Constitution, as to what exactly are the changes which have to be made in regard to the Emergency provisions, so that the kind of Emergency which this country saw during the last two years 1975 to 1977, this country may never see it again. This is what is sought to be done and we will be bringing a Bill which will contain ample measures in that regard in the next Session.

Some points were raised in regard to article 368, namely, amendment of the Constitution whether the court should have any authority to question those amendments whether Parliament which may, of course, be supreme in a sense can become more supreme than even the people of India. Hon. Members are aware of the kind of amendment which had been brought, the Thirty-Ninth Amendment. That is now a part of history; not only is it known to all the hon. Members of this House, but, perhaps, each and every citizen of India is aware of this Thirty-Ninth Amendment which was struck down by the Supreme Court. Now although article 368 is not a matter which is contained in the present Bill today, I would like to pose this problem before the hon. Members: would they like that article 368 should be amended or the Amendment should be continued which will make it possible for an amendment like the Thirty-Ninth Amendment to be brought once again before the Parliament and to be adopted by the Parliament? It was said that, after all people have thrown away those people who had brought the Thirty-Ninth Amendment and who were responsible for various things. But may I ask, if an amendment is brought which let us say, does away with elections altogether and which purports to declare that a person shall

be the King Emperor or the Queen Empress of this country and that he or she will be succeeded to by the Crown Prince and so on and that there shall be no elections, and so on where will the people get an opportunity to throw those people according to the democratic methods? Therefore, I hope, the hon. Members on the other side would ponder over these things and would consider as to whether they would still today, like to extend any support to clauses (4) and (5) of article 368 which have been introduced in the Constitution by the Forty-Second Amendment.

Hon. Member, Shri Kanwar Lal Gupta, has also referred to the pledge in regard to the deletion of fundamental right of property. I would like to say that that matter is also under consideration and something will be done at the appropriate time.

MR. SPEAKER: I think you have covered all the points.

SHRI SHANTI BHUSHAN: If you are satisfied that I have covered all the points, then I have certainly covered all the points.

MR. SPEAKER: Before I put the motion for consideration to the vote of the House this being a Constitution (Amendment) Bill, voting has to be by Division. Let the lobbies be cleared.

The lobbies have been cleared. The question is: "That the Bill further to amend the Constitution of India be taken into consideration".

The Lok Sabha divided:

SHRI A. BALA PAJANOR: It is 272. We lack the majority of the total membership of the House.

PROF. P. G. MAVALANKAR (Gandhinagar): The figure is yet to be corrected.

SHRI VASANT SATHE (Akola): You can do the calculation later on. Under the Rules. You have to declare the

result of the Division as it appears there.

MR. SPEAKER: I am getting the final figure. That will show that everything is all right. There is no difficulty.

SHRI M. N. GOVINDAN NAIR (Tri-vandrum): The machine is not working. It has not shown my vote. This 271 is not the correct number of the people who have voted in favour.

SHRI VASANT SATHE: Then declare the result as it is there and then you can come with the correction.

SHRI C. M. STEPHEN: I wish to raise a point of order. I want to bring this matter to your notice. There are three types: One is, voting correctly. Another is, the vote is not recorded or absence is noted. The third is, wrong button being pressed. These are the three cases.

Now, Sir, with respect to those cases where absence is noted or voting has not taken place, it is blank. The rule is, the Member concerned must rise up and verbally inform you about that. The point is this. After the result of the voting appears on the Indicator Board, the result of the Division shall be announced by the Speaker. It shall not be challenged. I submit, Sir, that it is more than five minutes that it came out on the Indicator Board. It has got to be announced. It is not announced and none of the procedure is going ahead. Nobody rises up and says, I have wrongly voted.

THE PRIME MINISTER (SHRI MORARJI DESAI): This machine did not work. I voted for 'Aye' and it did not come.

SHRI C. M. STEPHEN: It is for the Prime Minister to say that he has voted wrongly. My point is this.

MR. SPEAKER: Under which rule you are saying this?

SHRI C. M. STEPHEN: 367A. Sub-clause (3). It says:

"A member who is not able to cast his vote by pressing the button provided for the purpose due to any reason considered sufficient by the Speaker, may, with the permission of the Speaker, have his vote recorded verbally by stating whether he is in favour of or against the motion, before the result of the Division is announced."

It is not enough that he writes to you. It is necessary that he rises up and says it.

MR. SPEAKER: The rule says:

"A member who is not able to cast his vote by pressing the button provided for the purpose due to any reason considered sufficient by the Speaker, may, with the permission of the Speaker, have his vote recorded verbally."

You might stand up and announce.

SHRI C. M. STEPHEN: It is not in writing. That is what I say.

MR. SPEAKER: You can announce verbally whether you are in favour or against the Motion.

SHRI C. M. STEPHEN: What is shown there is the correct thing, unless it is corrected in the manner given in the Rule book.

SHRI MORARJI DESAI: May I say, Sir, that so far during the last 20 years, nobody said that in this House that you should stand up and announce this. The slips were circulated on which they can write and that is why this has been the practice. I have no quarrel with what the hon. Member says; if the rule is there and it has to be observed, let it be observed now. I did say when he pointed out, that this machine did not work, I voted for 'Aye' and it did not come.

MR. SPEAKER: Everything will be done properly.

SHRI KANWAR LAL GUPTA: If you want to oppose it, oppose it openly.

SHRI R. VENKATARAMAN (Madras South): Mr. Speaker, Sir, the chronology of the procedure is set down in Rule 367A. Sub-clause (2) says:

"After the result of the voting appears on the indicator board, the result of the Division shall be announced by the Speaker and it shall not be challenged."

Sub-clause (3) is for a Member whose vote has not been recorded. It is only to protect that Member that he has voted or not voted in a particular way that Sub-clause (3) is provided. But so far as voting is concerned, Sub-clause (2) prevails and that is the correct interpretation. What I would suggest is that if they want, they can move for revising and that this decision be set aside. It is for the House to agree, but I am sorry to say that the Speaker cannot avoid first announcing what has appeared on the indicator board; only then other people who want to make changes can be permitted to do so.

MR. SPEAKER: As I read it, I consider Sub-clause (3) as a proviso to Sub-clause (2), otherwise it becomes meaningless. Sub-clause (3) is a proviso to Sub-clause (2). If somebody says that his vote has not been recorded, that will be taken into consideration before the announcement is made.

SHRI R. VENKATARAMAN: If, it were a proviso, it would have been stated 'Provided that'. But, here sub-clause (2) and sub-clause (3) are separate clauses.

SHRI VASANT SATHE: Sub-clause (2) says:

"After the result of the voting appears on the indicator board, the result of the Division shall be announced by the Speaker and it shall not be challenged."

Therefore, it is mandatory, not optional. If says:

"...shall be announced by the Speaker and it shall not be challenged."

You cannot have any choice. Then comes sub-clause (3):

"A member who is not able to cast his vote...."

This is for Members who have not been able to cast their votes like the Prime Minister or those who have cast their votes in the negative. Therefore, the first thing is to declare the result. After that is done, these corrections can be made with your permission, but not before that, otherwise you will be setting a new precedent. There will always be Members whose vote has either been recorded wrongly or has not been recorded. Please follow the rules.

MR. SPEAKER: I am following the rules.

17 hrs.

SHRI A. BALA PAJANOR: Mr. Speaker, Sir....

MR. SPEAKER: Mr. Gopal..... (Interruptions).

What is all this? Is this going to be a debate?

SHRI K. GOPAL (Karur): One of the hon. Members on that side passed some uncharitable remarks on us. I request that it should not go on record.

SHRI A. BALA PAJANOR: I am helping you.

As far as Mr. Stephen is concerned, he has correctly stated and that has been agreed to by the hon. Prime Minister. But when Mr. Venkataraman and Mr. Sathe spoke, they referred to sub-rule (2) without reading reference to sub-rule (3). Both have to be read together. Sub-rule (3) says:

"A member who is not able to cast his vote by pressing the button provided for the purpose due to any reason considered sufficient by the Speaker, may, with the permission of the Speaker, have his vote re-

corded verbally by stating whether he is in favour of or against the motion, before the result of the Division is announced."

So every Member has a right to appear before you and say, 'I have voted wrongly and my vote may be recorded.' The same thing on the other side.

MR. SPEAKER: I have followed you.

PROF. P. G. MAVALANKAR: The point is very simple. All the four sub-rules of Rule 367 have to be read together and Rule 367 is strengthened by the practice in the House and the practice in the House is what you have been saying that if any one finds that there is some mistake in the button, as the hon. Prime Minister said, or by mistake some one pushes some other thing, all that he has to do is that he gets a slip and writes it and it is as good as verbal vote and there is no need to get up and say.... (Interruptions).

SHRI VAYALAR RAVI: Mr. Mavalankar was telling you the practice. But it is not the practice even so, a practice can never override the rule.

SHRI M. N. COVINDAN NAIR: I am not interested in this practice business. I am a full-fledged Member of this House and on every issue I have a right to vote in favour or against. But because your machinery is bad, my right to vote cannot be denied and my vote should be recorded.

MR. SPEAKER: Now, Reporters, please take down.

I have heard the point of order. I see no substance in the point of order.

Sub-rule (2) of rule 367A mentions:

"After the result of the voting appears on the indicator board, the result of the Division shall be announced by the Speaker and it shall not be challenged."

Please underline the words 'it shall not be challenged.'

If sub-rule (3) is not taken as a proviso to sub-rule (2), then the entire sub-rule (2) becomes meaningless. Therefore, I am considering sub-rule (3) as a proviso to sub-rule (2). That being so, correction is permissible. I have got it now.

Division No. 7]

AYES 16.43 hrs.

Agrawal, Shri Satish
Aghan Singh, Shri
Ahmed, Shri Halimuddin
Ahmed Hussain, Shri
Ahuja, Shri Subhash
Alagesan, Shri C. V.
Alhaj, Shri M. A. Hannan
Amat, Shri D.
Amin, Prof. R. K.
Argal, Shri Chhabiram
Austin, Dr. Henry
Bagri, Shri Mani Ram
Bahuguna, Shri H. N.
Bahuguna, Shrimati Kamala
Bairagi, Shri Jena
Bal, Shri Pradyumna
Balak Ram, Shri
Balbir Singh, Chowdhry
Baldev Prakash, Dr.
Barakataki, Shrimati Renuka Devi
Barnala, Shri Surjit Singh
Barrow, Shri A. E. T.
Bashir Ahmed, Shri
Basu, Shri Chitta
Bateshwar Hemram, Shri
Berwa, Shri Ram Kanwar
Bhadoria, Shri Arjun Singh
Bhagat Ram, Shri
Bhakta, Shri Manoranjan
Bhanwar, Shri Bhagirath
Bharat Bhushan, Shri
Bhattacharya, Shri Dinen
Bhattacharyya, Shri Shyamaprasanna
Bhuvarahan, Shri G.
Birendra Prasad, Shri

Boddepaulli, Shri Rajagopala Rao	Dhandayuthapani, Shri V.
Bonde, Shri Nanasahib	Dhara, Shri Sushil Kumar
Borole, Shri Yashwant	Dharia, Shri Mohan
Brahm Perakash, Chaudhury	Dhillon, Shri Iqbal Singh
Burande, Shri Gangadhar Appa	Dhondge, Shri Keshavrao
Chakravarty, Prof. Dilip	Dhurve, Shri Shyamlal
Chand Ram, Shri	Digal, Shri Sribatcha
Chandan Singh, Shri	Digvijoy Narain Singh, Shri
Chandra Shekhar, Shri	Durga Chandra, Shri
Chandra Shekhar Singh, Shri	Dutt, Shri Asoke Krishna
Chandra Pal Singh, Shri	Engti, Shri Biren
Chandrappan, Shri C. K.	Fazlur Rehman, Shri
Chandravati, Shrimati	Ganga Bhakt Singh, Shri
Charan Narzary, Shri	Ganga Singh, Shri
Charan Singh, Shri	Gattani, Shri R. D.
Chatterjee, Shri Somnath	Godara, Ch. Hari Ram Makkasar
Chaturbuj, Shri	Gopal, Shri K.
Chaturvedi, Shri Shambhu Nath	Gore, Shrimati Mrinal
Chaudhary, Shri Motibhai R.	Gotkhinde, Shri Annasaheb
Chaudhry, Shri Ishwar	Gounder, Shri Venugopal
Chaudhury, Shri Rudra Sen	Govindjiwala, Shri Parmanand
Chauhan, Shri Nawab Singh	Gowda, Shri S. Nanjesha
Chavan, Shrimati P.	Goyal, Shri Krishna Kumar
Chavda, Shri K. S.	Guha, Shri Samar
Chhetri, Shri Chhatra Bahadur	Gupta, Shri Kanwar Lal
Chikkalingiah, Shri K.	Haren Bhumij, Shri
Choudhari, Shri K. B.	Harikesh Bahadur, Shri
Choudhury, Shrimati Rashida Haque	Hukam Ram, Shri
Chowhan, Shri Bharat Singh	Inder Singh, Shri
Chunder, Dr. Pratap Chandra	Jagjivan Ram, Shri
Dabhi, Shri Ajitsinh	Jain, Shri Kacharulal Hemraj
Dandavate, Prof. Madhu	Jain, Shri Kalyan
Danwe, Shri Pundalik Hari	Jain, Shri Nirmal Chandra
Das, Shri S. S.	Jaiswal, Shri Anant Ram
Dasgupta, Shri K. N.	Jethmalani, Shri Ram
Dawn, Shri Raj Krishna	Joshi, Dr. Murlī Manohar
Deo, Shri P. K.	Kailash Prakash, Shri
Deo, Shri V. Kishore Chandra S.	Kakade, Shri Sambhajirao
Desai, Shri D. D.	Kamakshaiyah, Shri D.
Desai, Shri Hitendra	Kamble, Shri B. C.
Desai, Shri Morarji	Kannan, Shri P.
Deshmukh, Shri Ram Prasad	Kapoor, Shri L. L.
Deshmukh, Shri Sheshrao	Kar, Shri Sarat
	Kaushik, Shri Purushottam

Kesharwani, Shri N. P.	Munda, Shri Karia
Khan, Shri Ghulam Mohammad	Murahari, Shri Godey
Khan, Shri Ismail Hossain	Murmu, Father Anthony
Khan, Shri Kunwar Mahmud Ali	Murugaiyan, Shri S. G.
Khan, Shri Mahmood Hasan	Nahar, Shri Bijoy Singh
Khan, Shri Mohd. Shamsul Hasan	Nahata, Shri Amrit
Kishore Lal, Shri	Nair, Shri M. N. Govindan
Kolanthaivelu, Shri R.	Nathu Singh, Shri
Kolur, Shri Rajshekhar	Nathwani, Shri Narendra P.
Kosalram, Shri K. T.	Nayar, Shri Laxmi Narain
Krishan Kant, Shri	Nayar, Dr. Sushila
Krishnappa, Shri M. V.	Negi, Shri T. S.
Kundu, Shri S.	Pai, Shri T. A.
Kureel, Shri R. L.	Pajanor, Shri A. Bala
Lahanu Shidava Kom, Shri	Pandey, Shri Ambika Prasad
Lakshminarayanan, Shri M. R.	Pandeya, Dr. Laxminarayan
Lal, Shri S. S.	Pandit, Dr. Vasant Kumar
Lalu Prasad, Shri	Paraste, Shri Dalpat Singh
Laskar, Shri Nihar	Parmai Lal, Shri
Limaye, Shri Madhu	Parmar, Shri Natwarlal B.
Mahala, Shri K. L.	Parulekar, Shri Bapusaheb
Mahale, Shri Hari Shankar	Patel, Shri Ahmed M.
Mahi Lal, Shri	Patel, Km. Maniben Vallabhba
Malhotra, Shri Vijay Kumar	Patel, Shri Meetha Lal
Malik, Shri Mukhtiar Singh	Patel, Shri Nanubhai N.
Mallick, Shri Rama Chandra	Patidar, Shri Rameshwar
Mandal, Shri Mukunda	Patil, Shri Balasaheb Vikhe
Mangal Deo, Shri	Patil, Shri Chandrakant
Manohar Lal, Shri	Patil, Shri S. D.
Mathur, Shri Jagdish Prasad	Patnaik, Shri Biju
Mavalankar, Prof. P. G.	Patnaik, Shri Sivaji
Meduri, Shri Nageswara Rao	Patwary, Shri H. L.
Mehta, Shri Praśānnbhai	Phirangi Prasad, Shri
Mhalgi, Shri R. K.	Pipil, Shri Mohan Lal
Mirdha, Shri Nathu Ram	Pradhan, Shri Amar Roy
Miri, Shri Govind Ram	Pradhan, Shri Gananath
Mishra, Shri Janeshwar	Pradhan, Shri Pabitra Mohan
Mishra, Shri Shyamnandan	Pradhani, Shri K.
Modak, Shri Bijoy	Qureshi, Shri Mohd. Shafi
Mohan Baiya, Shri	Raghavendra Singh, Shri
Mohanarāṅgam, Shri Ragavalu	Raghavji, Shri
Mond. Hayat Ali, Shri	Raghu Ramaiah, Shri K.
Mohsin, Shri F. H.	Rai, Shri Gauri Shankar
Mukherjee, Shri Samar	Rai, Shri Narmada Prasad

Rai, Shri Shiv Ram	Sathe, Shri Vasant
Raj Keshar Singh, Shri	Satya Deo Singh, Shri
Raju, Shri P. V. G.	Sayian Wala, Shri Mohinder Singh
Rakesh, Shri R. N.	Sen, Shri Prafulla Chandra
Ram, Shri R. D.	Seyid Muhammad, Dr. V. A.
Ram Charan, Shri	Shah, Shri D. P.
Ram Gopal Singh, Chaudhury	Shah, Shri Surath Bahadur
Ram Kinkar, Shri	Shaiza, Shrimati Rano M.
Ram Kishan, Shri	Shakya, Shri Daya Ram
Ram Murti, Shri	Shakya, Dr. Mahadeepak Singh
Ram Sagar, Shri	Sharma, Shri Jagannath
Ramachandran, Shri P.	Sharma, Shri Rajendra Kumar
Ramaswamy, Shri S.	Sharma, Shri Yagya Datt
Ramdas Singh, Shri	Shastri, Shri Bhanu Kumar,
Ramapati Singh, Shri	Shastri, Shri Ram Dhari
Ramji Singh, Dr.	Shastri, Shri Y. P.
Ranjit Singh, Shri	Shejwalkar, Shri N. K.
Rao, Shrimati B. Radhabai Ananda	Sheo Narain, Shri
Rao, Shri J. Rameshwar	Sher Singh, Prof.
Rao, Shri Jagannath	Sheth, Shri Vinodbhai B.
Rao, Shri M. S. Sanjeevi	Shinde, Shri Annasaheb P.
Rao, Shri M. Satyanarayan	Shrikrishna Singh, Shri
Rao, Shri Raje Vishveshvar	Shukla, Shri Madan Lal
Rathor, Dr. Bhagwan Dass	Sikander Bakht, Shri
Ravi, Shri Vayalar	Singh, Dr. B. N.
Ravindra Pratap Singh, Shri	Sinha, Shri C. M.
Reddy, Shri K. Vijaya Bhaskara	Sinha, Shri H. L. P.
Reddy, Shri M. Ram Gopal	Sinha, Shri Satyendra Narayan
Reddy, Shri S. R.	Somani, Shri Roop Lal
Rothuama, Dr. R.	Somani, Shri S. S.
Saeed Murtaza, Shri	Somasundaram, Shri S. D.
Saha, Shri A. K.	Stephen, Shri C. M.
Saha, Shri Gadadhar	Subramaniam, Shri C.
Sahoo, Shri Ainthu	Sukhendra Singh, Shri
Sai, Shri Larang	Suman, Shri Ramji Lal
Sai, Shri Narhari Prasad Sukhdeo	Suman, Shri Surendra Jha
Saini, Shri Manohar Lal	Suraj Bhan, Shri
Saksena, Prof. Shibban Lal	Surendra Bikram, Shri
Saran, Shri Daulat Ram	Swamy, Dr. Subramaniam
Sarangi, Shri R. P.	Swatantra, Shri Jagannath Prasad
Sarda, Shri S. K.	Talwandi, Shri Jagdev Singh
Sarkar, Shri S. K.	Tan Singh, Shri
Sarsonia, Shri Shiv Narain	Tej Pratap Singh, Shri
Satapathy, Shri Devendra	Thiagarajan, Shri P.

19-12-1977

385 Constitution AGRAHAYANA 28, 1899 (SAKA) (44th Amendment) 386
Bill

Thorat, Shri Bhausahab
Tirkey, Shri Pius
Tiwari, Shri Brij Bhushan
Tiwary, Shri D. N.
Tiwary, Shri Madan
Tiwary, Shri Ramanand
Tripathi, Shri Madhav Prasad
Tyagi, Shri Om Prakash
Unnikrishnan, Shri K. P.
Vajpayee, Shri Atal Bihari
Varma, Shri Ravindra
Venkataraman, Shri R.
Verma, Shri Brijlal
Verma, Shri Chandradeo Prasad
Verma, Shri Hargovind
Verma, Shri Mritunjay Prasad
Verma, Shri Phool Chand
Verma, Shri R. L. P.
Verma, Shri Sukhdeo Prasad
Yadav, Shri Jagdambi Prasad
Yadav, Shri Narsingh
Yadav, Shri Ramji Lal
Yadav, Shri Sharad
Yadav, Shri Vinayak Prasad
Yadava, Shri Roop Nath Singh
Yadvendra Dutt, Shri

NOES

Arunachalam, Shri M.

MR. SPEAKER: Subject to correction the result of the division is:

Ayes: 324; Noes: 001.

The motion is carried by a majority of the total membership of the House and by a majority of not less than two-thirds of the members present and voting.

The motion was adopted.

SHRI VASANT SATHE: Out of 283, how do you get 324?...*(Interruptions)*.

SHRI VAYALAR RAVI: On a point of order, Sir, You have announced the

voting in favour as 324. Mr. Stephen has pointed out that members whose votes have not been recorded should stand up for the benefit of the members and get their vote recorded. But you have denied us the opportunity to know how many members are actually present. What is the guarantee for a member like me to know that 324 members are actually present and have voted for the motion?...*(Interruptions)* They never got up and said that their voting was recorded or not recorded. Are you satisfied that there were so many persons present.

SHRI VASANT SATHE: My point of order is this. We know from this that so many persons are present. How do you get 324? Kindly tell us.

MR. SPEAKER: Coming to the procedural points of order, I have followed the precedents and I have accepted the representation made by Members in writing. Therefore, this point of order does not arise.

SHRI VASANT SATHE: No, no....*(Interruptions)*

MR. SPEAKER: You cannot go on shouting every time. I am not allowing it. You have raised a point of order and I overrule it....*(Interruptions)* In some cases the machines do not work....*(Interruptions)*

SHRI VASANT SATHE: I protest against this procedure; I walk out.

Shri Vasant Sathe then left the House.

MR. SPEAKER: We take up clauses. There are some amendments.

SHRI JAGANNATH RAO: The amendments will come up when we take up each clause.

MR. SPEAKER: I shall first take up clause 2. Let the lobbies be cleared.

SHRI R. VENKATARAMAN (Madras South): Since the voting machine is not working properly I suggest that

[Shri R. Venkataraman]

under Rule 367B, the voting may be in the lobbies.

SHRI VAYALAR RAVI: I suggest that those members in whose case the machine did not work properly may be asked to stand up and say whether they are for 'Aye' or 'No'. Then we can count those people.

MR. SPEAKER: That is a good suggestion. We will do that. May I read out the procedure as to how the button is pressed? Probably some of the members may not have been familiar with it. The procedure is:

"A push button set containing a pilot light and three push buttons—Yellow for 'Aye', Red for 'No' and black button for 'Abstain'—together with a push switch suspended by a wire has been provided at the seat of each member. In the case of seats with desks, the push button is fixed on the top of the desk and the push switch is suspended inside the desk. In the case of seats without desks, the push button switch is fixed on the railing of the front seat and the push switch suspended in the receptacle.

When the Chair orders division to be held, the Secretary on whose table a key board for operating the automatic vote recording equipment is installed presses a button. With the pressing of the button, a gong sounds which is signal to the members for casting their votes. Each member has to press the push switch and then operate one of the three buttons according to his choice. The push button and the push switch must be kept pressed simultaneously until the gong sounds for the second time after 10 seconds. The passage of the time of 10 seconds is indicated by the rhythmic lighting of the 12 red bulbs one after the other on the Time Indicator Boards installed in the corners of the press gallery."

So, I hope that is sufficient information. Before I put the Clause 2 of the bill, I have to say that this being a Constitution Amendment Bill voting has to be by division, after lobbies are cleared.

The lobbies have now been cleared. The question is:

"That clause 2 stand part of the Bill."

The Lok Sabha divided.

THE MINISTER OF PARLIAMENTARY AFFAIRS AND LABOUR (SHRI RAVINDRA VARMA): Sir, you may kindly ask those Members who have not pressed the button, and those whose machines did not work to stand up.

SHRI C. M. STEPHEN: I have to make a submission. It is clear that this is a non-controversial Bill. All the sections are supporting this Bill; but we must not give an impression that in the matter of counting there is something wrongly done. For example, the total votes now shown as recorded is only 308. Last time you allowed 324 votes. Not that anybody is opposing, but there should be no doubt lingering. Therefore, if anybody wants to make a correction one by one they can stand and check with the board, whether his voting has been recorded correctly, or not.

MR. SPEAKER: Members who think their vote has not been recorded, or has been recorded wrongly may kindly stand one by one, and mention it.

SHRI A. BALA PAJANOR: There may be some discrepancies.

MR. SPEAKER: Member may want to ensure it. Otherwise, they may think that their voting has been wrongly shown.

Division No 8

AYES 17.16 hrs.

Agrawal, Shri Satish
Aghan Singh, Shri

Ahmed. Shri Halimuddin	Chandra Shekhar Singh, Shri
Ahmed Hussain, Shri	Chandra Pal Singh, Shri
Ahuja, Shri Subhash	Chandrappan, Shri C. K.
Alagesan, Shri O. V.	Chandravati, shrimati
Alhaj, Shri M. A. Hannan	Charan Narzary Shri
Amat, Shri D.	Charan Singh, Shri
Amin, Prof. R. K.	Chatterjee, Shri Somnath
Argal, Shri Chhabiram	Chaturbhuj, Shri
Arif Beg. Shri	Chaturvedi, Shri Shambhu Nath
Arunachalam, Shri M.	Chaudhry, Shri Motibhai R.
Austin, Dr. Henry	Chaudhry, Shri Ishwar
Bagri, Shri Mani Ram	Chaudhury, Shri Rudra Sen
Bahuguna, Shri H. N.	Chauhan, Shri Nawab Singh
Bahuguna, Shrimati Kamaia	Chavda, Shri K. S.
Bairagi, Shri Jena	Chhetri, Shri Chhatra Bahadur
Bal, Shri Pradyumna	Chikkalingiah, Shri K.
Balak Ram, Shri	Choudhury, Shrimati Rashida Haque
Balbir Singh, Chowdhry	Chowhan, Shri Bharat Singh
Baldev Prakash, Dr.	Chunder, Dr. Pratap Chandra
Barakataki, Shrimati Renuka Devi	Dandavate, Prof. Madhu
Barnala, Shri Surjit Singh	Darwe, Shri Pundalik Hari
Barrow, Shri A. E. T.	Das, Shri S. S.
Bashir Ahmad, Shri	Dasgupta, Shri K. N.
Basu, Shri Chitta	Dawn, Shri Raj Krishna
Bateshwar Homren., Shri	Deo, Shri P. K.
Berwa, Shri Ram Kanwar	Deo, Shri V. Kishore Chandra S.
Bhadoria, Shri Arjun Singh	Desai, Shri Hitendra
Bhagat Ram, Shri	Deshmukh, Shri Ram Prasad
Bhanwar, Shri Bhagirath	Deshmukh, Shri Sheshrao
Bharat Bhushan, Shri	Dhandayuthapani, Shri V.
Bhattacharya, Shri Dinen	Dhara, Shri Sushil Kumar
Bhattacharyya, Shri Shyamaprasanna	Dharia, Shri Mohan
Bhuvarahan, Shri G.	Dhillon, Shri Iqbal Singh
Birendra Prasad, Shri	Dhondge, Shri Keshavrao
Boddepalli, Shri Rajagopala Rao	Dhurve, Shri Shyamlal
Bonde, Shri Nanasahib	Digal, Shri Sribatcha
Borole, Shri Yashwant	Digvijoy Narain Singh, Shri
Bosu, Shri Jyotirmoy	Durga Chand, Shri
Brahm Perkash, Chaudhury	Dutt, Shri Asoke Krishna
Burande, Shri Gangadhar Appa	Enggti, Shri Biren
Chakravarty, Prof. Dilip	Faleiro, Shri Eduardo
Chand Ram, Shri	Fazlur Rehman, Shri
Chandan Singh, Shri	Ganga Bhakt Singh, Shri
Chandra Shekhar, Shri	Ganga Singh, Shri

Gattani Shri R. D.
 Girjanandan Singh, Shri
 Godara, Ch. Hari Ram Makkasar
 Gopal, Shri K.
 Gore, Shrimati Mrinal
 Gotkhinde, Shri Annasaheb
 Gounder, Shri Venugopal
 Govindjiwala, Shri Parmanand
 Gowda, Shri S. Nanjesha
 Goyal, Shri Krishna Kumar
 Guha, Shri Samar
 Gupta, Shri Kanwar Lal.
 Haren Bhumij, Shri
 Harikesh Bahadur, Shri
 Heera Bhai, Shri
 Hukam Ram, Shri
 Inder Singh, Shri
 Jagjivan Ram, Shri
 Jain, Shri Kacharulal Hemraj
 Jain, Shri Kalyan
 Jain, Shri Nirmal Chandra
 Jaiswal, Shri Anant Ram
 Jethmalani, Shri Ram
 Joshi, Dr. Murli Manohar
 Kailash Prakash, Shri
 Kakade, Shri Sambhajirao
 Kamble, Shri B. C.
 Kapoor, Shri L. L.
 Kar, Shri Sarat
 Kaushik, Shri Purushottam
 Kesharwani, Shri N. P.
 Khan, Shri Ghulam Mohammad
 Khan, Shri Ismail Hossain
 Khan, Shri Knuwar Mahmud Ali
 Khan, Shri Mohamood Hasan
 Khan, Shri Mohd. Shamsul Hasan
 Khrime, Shri Riching Khendu
 Kishore Lal, Shri
 Kolanthaivelu, Shri R.
 Kolur, Shri Rajshekhar
 Kosalram, Shri K. T.
 Krishan Kant, Shri
 Krishnappa, Shri M. V.

Kundu, Shri S.
 Kureel, Shri R. L.
 Kushwaha, Shri Ram Naresh
 Lahanu Shidava Kom, Shri
 Lal, Shri S. S.
 Lalji Bhai, Shri
 Lalu Prasad, Shri
 Laskar, Shri Nihar
 Limaye, Shri Madhu
 Mahala, Shri K. L.
 Mahale, Shri Hari Shankar
 Mahi Lal, Shri
 Malhotra, Shri Vijay Kumar
 Malik, Shri Mukhtiar Singh
 Mallick, Shri Rama Chandra
 Mandal, Shri B. P.
 Mandaj Shri, Mukunda
 Mangal Deo, Shri
 Manohar Lal, Shri
 Mathur, Shri Jagdish Prasad
 Mavalankar, Prof. P. G.
 Meduri, Shri Nageshwara Rao
 Mehta, Shri Prasannbhai
 Mhalgi, Shri R. K.
 Mirdha, Shri Nathu Ram
 Miri, Shri Govind Ram
 Mishra, Shri Janeshwar
 Mishra, Shri Shyamnandan
 Modak, Shri Bijoy
 Mohan Bhaiya, Shri
 Mohanarangam, Shri Ragavalu
 Mohd. Hayat Ali, Shri
 Mohsin, Shri F. H.
 Mukherjee, Shri Samar
 Munda, Shri Govinda
 Munda, Shri Karia
 Murahari, Shri Godey
 Murmu, Father Anthony
 Murthy, Shri Kusuma Krishna
 Murugaiyan, Shri S. G.
 Nahar, Shri Bijoy Singh
 Nahata, Shri Amrit
 Narendra Singh, Shri

Nathu Singh, Shri
 Nathuni Ram, Shri
 Nathwani, Shri Narendra P.
 Nayak, Shri Laxmi Narain
 Nayar, Dr. Sushila
 Negi, Shri T. S.
 Pai, Shri T. A.
 Pajanor, Shri A. Bala
 Pandey, Shri Ambika Prasad
 Pandeya, Dr. Laxminarayan
 Pandit, Dr. Vasant Kumar
 Paraste, Shri Dalpat Singh
 Parmar, Shri Natwarlal B.
 Parulekar, Shri Bapusahab
 Patel, Shri Ahmed M.
 Patel, Km. Maniben Vallabhbhai
 Patel, Shri Meetha Lal
 Patel, Shri Nanubhai N.
 Patidar, Shri Rameshwar
 Patil, Shri Chandrakant
 Patil, Shri S. D.
 Patnaik, Shri Biju
 Patnaik, Shri Sivaji
 Patwary, Shri H. L.
 Phirangi Prasad, Shri
 Pipil, Shri Mohan Lal
 Pradhan, Shri Amar Roy
 Pradhan, Shri Gananath
 Pradhan, Shri Pabitra Mohan
 Pradhani, Shri K.
 Qureshi, Shri Mohd. Shafi
 Raghavendra Singh, Shri
 Raghavji, Shri
 Raghu Ramaiah, Shri K.
 Rai, Shri Gauri Shankar
 Rai, Shri Narmada Prasad
 Rai, Shri Shiv Ram
 Raj Keshar Singh, Shri
 Raj Narain, Shri
 Rakesh, Shri R. N.
 Ram, Shri R. D.
 Ram Charan, Shri
 Ram Gopal Singh, Chaudhury

Ram Kinkar, Shri
 Ram Kishan, Shri
 Ram Murti, Shri
 Ram Sagar, Shri
 Ramachandran, Shri P
 Ramaswamy, Shri S.
 Ramdas Singh, Shri
 Ramapati Singh, Shri
 Ramji Singh, Dr.
 Ranjit Singh, Shri
 Rao, Shrimati B. Radhabai Ananda
 Rao, Shri J. Rameshwar
 Rao, Shri Jagannath
 Rao, Shri M. S. Sanjeevi
 Rao, Shri M. Satyanarayan
 Rao, Shri Raje Vishveshvar
 Rathor, Dr. Bhagwan Dass
 Ravi, Shri Vayalar
 Ravindra Pratap Singh, Shri
 Reddy, Shri G. Narsimha
 Reddy, Shri M. Ram Gopal
 Roy, Dr. Saradish
 Saeed Murtaza, Shri
 Saha, Shri A. K.
 Saha, Shri Gadadhar
 Sahoo, Shri Ainthu
 Sai, Shri Larang
 Sai, Shri Narhari Prasad Sukhdeo
 Saini, Shri Manohar Lal
 Saksena, Prof. Shibban Lal
 Saran, Shri Daulat Ram
 Sarangi, Shri R. P.
 Sarda, Shri S. K.
 Sarkar, Shri S. K.
 Sarsonia, Shri Shiv Narain
 Satapathy, Shri Devendra
 Satya Deo Singh, Shri
 Sayian Wala, Shri Mohinder Singh
 Sen, Shri Prafulla Chandra
 Seyid Muhammad, Dr. V. A.
 Shah, Shri D. P.
 Shah, Shri Surath Bahadur
 Shaiza, Shrimati Rano M.

Shakya, Shri Daya Ram
 Shakya, Dr. Mahadeepak Singh
 Shanti Devi, Shrimati
 Sharma, Shri Jagannath
 Sharma, Shri Rajendra Kumar
 Sharma, Shri Yagya Datt
 Shastri, Shri Bhanu Kumar
 Shastri, Shri Ram Dhari
 Shastri, Shri Y. P.
 Shejwalkar, Shri N. K.
 Sheo Narain, Shri
 Sher Singh, Prof.
 Sheth, Shri Vinodbhai B.
 Shinde, Shri Annasaheb P.
 Shrangare, Shri T. S.
 Shrikrishna Singh, Shri
 Shukla, Shri Madan Lal
 Sikander Bakht, Shri
 Singh, Dr. B. N.
 Sinha, Shri C. M.
 Sinha, Shri H.L.P.
 Sinha, Shri Purna
 Sinha, Shri Satyendra Narayan
 Somani, Shri Roop Lal
 Somani, Shri S. S.
 Somasundaram, Shri S. D.
 Stephen, Shri C. M.
 Subramaniam, Shri C.
 Sukhendra Singh, Shri
 Suman, Shri Ramji Lal
 Suman, Shri Surendra Jha
 Sunna Sahib, Shri A.
 Suraj Bhan, Shri
 Surendra Bikram, Shri
 Swamy, Dr. Subramaniam
 Swatantra, Shri Jagannath Prasad
 Talwandi, Shri Jagdev Singh
 Tan Singh, Shri
 Tej Pratap Singh, Shri
 Thorat, Shri Bhausahab
 Tirkey, Shri Pius
 Tiwari, Shri Brij Bhushan

Tiwary, Shri D. N.
 Tiwary, Shri Madan
 Tiwary, Shri Ramanand
 Tripathi, Shri Madhav Prasad
 Tyagi, Shri Om Prakash
 Unnikrishnan, Shri K. P.
 Vajpayee, Shri Atal Bihari
 Varma, Shri Ravindra
 Vasist, Shri Dharma Vir
 Venkataraman, Shri R.
 Verma, Shri Brijlal
 Verma, Shri Chandradeo Prasad
 Verma, Shri Hargovind
 Verma, Shri Mritunjay Prasad
 Verma, Shri Phool Chand
 Verma, Shri R. L. P.
 Verma, Shri Sukhdeo Prasad
 Yadav, Shri Jagdambi Prasad
 Yadav, Shri Narsingh
 Yadav, Shri Ramji Lal
 Yadav, Shri Sharad
 Yadava, Shri Roop Nath Singh
 Yadvendra Dutt, Shri

NOES

NIL

MR. SPEAKER: Subject to correction, the result of the division is: Ayes: 327; Noes: nil.

The motion is carried by a majority of the total membership of the House and by a majority of not less than two thirds of the Members present and voting.

The Motion was adopted.

Clause 2 was added to the Bill.

MR. SPEAKER: Clause 3. Let the Lobbies be cleared.... The Lobbies have been cleared.

The question is:

“That Clause 3 stand part of the Bill.”

The Lok Sabha divided

[17.27 hrs.]

[Division No. 9]

AYES

Agrawal, Shri Satish
 Aghan Singh, Shri
 Ahmed, Shri Halimuddin
 Ahmed Hussain, Shri
 Ahuja, Shri Subhash
 Alagesan, Shri O. V.
 Alhaj. Shri M. A. Hannan
 Amat, Shri D.
 Amin, Prof. R. K.
 Argal, Shri Chhabiram
 Arif Beg, Shri
 Arunachalam, Shri M.
 Austin, Dr. Henry
 Bagri, Shri Mani Ram
 Bahuguna, Shri H. N.
 Bahuguna, Shrimati Kamala
 Bairagi, Shri Jena
 Bal, Shri Pradyumna
 Balak Ram, Shri
 Balbir Singh, Chowdhry
 Barakataki, Shrimati Renuka Devi
 Barnala, Shri Surjit Singh
 Barrow, Shri A. E. T.
 Bashir Ahmad, Shri
 Basu, Shri Chitta
 Bateshwar Hemram, Shri
 Berwa, Shri Ram Kanwar
 Bhadoria, Shri Arjun Singh
 Bhagat Ram, Shri
 Bhanwar, Shri Bhagirath
 Bharat Bhushan, Shri
 Bhattacharya, Shri Dinen
 Bhattacharyya, Shri Shyamaprasanna
 Bhuvarahan, Shri G.
 Birendra Prasad, Shri
 Boddepalli, Shri Rajagopala Rao
 Bonde, Shri Nanasahib
 Borole, Shri Yashwant
 Bosu, Shri Jyotirmoy

Brahm Perakash, Choudhury
 Burande, Shri Gangadhar Appa
 Chakravarty, Prof. Dilip
 Chand Ram, Shri
 Chandan Singh, Shri
 Chandra Shekhar, Shri
 Chndra Shekhar Singh, Shri
 Chandra Pal Singh, Shri
 Chandrappan, Shri C. K.
 Chandravati, Shrimati
 Charan Narzzary, Shri
 Charan Singh, Shri
 Chatterjee, Shri Somnath
 Chaturbhuj, Shri
 Chaturvedi, Shri Shambhu Nath
 Chaudhary, Shri Motibhai R.
 Chaudhry, Shri Ishwar
 Chaudhury, Shri Rudra Sen
 Chauhan, Shri Nawab Singh
 Chavan, Shrimati P.
 Chavda, Shri K. S.
 Chhetri, Shri Chhatra Bahadur
 Chikkalingiah, Shri K.
 Chowhan, Shri Bharat Singh
 Chunder, Dr. Pratap Chandra
 Dandavate, Prof. Madhu
 Danwe, Shri Pundalik Hari
 Das, Shri S. S.
 Dasgupta, Shri K. N.
 Dawn, Shri Raj Krishna
 Deo, Shri P. K.
 Deo, Shri V. Kishore Chandra S.
 Desai, Shri Hitendra
 Deshmukh, Shri Sheshrao
 Dhandayuthapani, Shri V.
 Dhara, Shri Sushil Kumar
 Dharia, Shri Mohan
 Dhillon, Shri Iqbal Singh
 Dhondge, Shri Keshavrao
 Dhurve, Shri Shyamlal
 Digal, Shri Sribatcha
 Digvijoy Narain Singh, Shri
 Durga Chand, Shri

Dutt, Shri Asoke Krishna	Kolur, Shri Rajshekhar
Engti, Shri Biren	Kosalram, Shri K. T.
Fazlur Rehman, Shri	Krishan Kant, Shri
Ganga Bhakt Singh, Shri	Krishnappa, Shri M. V.
Ganga Singh, Shri	Kundu, Shri S.
Gattani, Shri R. D.	Kureel, Shri R. L.
Godara, Ch. Hari Ram Makkasar	Kushwaha, Shri Ram Naresh
Gopal, Shri K.	Lahanu Shidava Kom, Shri
Gore, Shrimati Mrinal	Lal, Shri S. S.
Gotkhinde, Shri Annasaheb	Lalji Bhai, Shri
Gounder, Shri Venugopal	Lalu Prasad, Shri
Govindjiwala, Shri, Parmanand	Laskar, Shri Nihar
Gowda, Shri S. Nanjesha	Limaye, Shri Madhu
Goyal, Shri Krishna Kumar	Mahala, Shri K. L.
Guba, Shri Samar	Mahale, Shri Hari Shankar
Gupta, Shri Kanwar Lal	Mahi Lal, Shri
Haren Bhumji, Shri	Malhotra, Shri Vijay Kumar
Haren Bhumij, Shri	Malik, Shri Mukhtiar Singh
Heera Bhai, Shri	Mallick, Shri Rama Chandra
Hukam Ram, Shri	Mandal, Shri B. P.
Inder Singh, Shri	Mandal, Shri Mukunda
Jagjivan Ram, Shri	Mangal Deo, Shri
Jain, Shri Kacharulal Hemraj	Manohar Lal, Shri
Jain, Shri Kalyan	Mathur, Shri Jagdish Prasad
Jain, Shri Nirmal Chandra	Mavalankar, Prof. P. G.
Jaiswal, Shri Anant Ram	Meduri, Shri Nageswara Rao
Jethmalani, Shri Rarr	Mehta, Shri Prasannbhai
Joshi, Dr. Murli Manohar	Mhalgi, Shri R. K.
Kailash Prakash, Shri	Mirdha, Shri Nathu Ram
Kakade, Shri Sambhajirao	Miri, Shri Govind Ram
Kamble, Shri B. C.	Mishra, Shri Janeshwar
Kannan, Shri P.	Mishra, Shri Shyamnandan
Kapoor, Shri L. L.	Modak, Shri Bijoy
Kar, Shri Sarat	Mohan Bhaiya, Shri
Kaushik, Shri Purushottam	Mohanarangam, Shri Ragavalu
Khan, Shri Ghulam Mohammad	Mohsin, Shri F. H.
Khan, Shri Ismail Hossain	Mukherjee, Shri Samar
Khan, Shri Kunwar Mahmud Ali	Munda, Shri Govinda
Khan, Shri Mahmood Hasan	Munda, Shri Karia
Khan, Shri Mohd. Shamsul Hasan	Murahari, Shri Godey
Khrime, Shri Rinching Khandu	Murmu, Father Anthony
Kishore Lal, Shri	Murthy, Shri Kusuma Krishna
Kolanthavelu, Shri R.	

Murugaiyan, Shri S. G.
 Nahar, Shri Bijoy Singh
 Nahata, Shri Amrit
 Narendra Singh, Shri
 Nathu Singh, Shri
 Nathuni Ram, Shri
 Nathwani, Shri Narendra P.
 Nayak, Shri Laxmi Narain
 Nayar, Dr. Sushila
 Negi, Shri T. S.
 Pai, Shri T. A.
 Pandey, Shri Ambika Prasad
 Pandeya, Dr. Laxminarayan
 Pandit, Dr. Vasant Kumar
 Paraste, Shri Dalpat Singh
 Parmar, Shri Natwarlāl B.
 Parulekar, Shri Bapusaheb
 Patel, Shri Ahmed M.
 Patel, Mrs. Maniben Vallabhbbhai
 Patel, Shri Meetha Lal
 Patel, Shri Nanubhai N.
 Patidar, Shri Rameshwar
 Patil, Shri Chandrakant
 Patil, Shri S. D.
 Patnaik, Shri Biju
 Patnaik, Shri Sivaji
 Patwary, Shri H. L.
 Phirangi Prasad, Shri
 Pipil, Shri Mohan Lal
 Pradhan, Shri Amar Roy
 Pradhan, Shri Gananath
 Pradhan, Shri Pabitra Mohan
 Pradhani, Shri K.
 Qureshi, Shri Mohd. Shafi
 Raghavendra Singh, Shri
 Raghavji, Shri
 Raghu Ramaiah, Shri K.
 Rahi, Shri Ram Lal
 Rai, Shri Gauri Shankar
 Rai, Shri Narmada Prasad
 Raj Keshar Singh, Shri
 Raj Narain, Shri
 Rakesh, Shri R. N.
 Ram, Shri R. D.

Ram Charan, Shri
 Ram Gopal Singh, Chaudhury
 Ram Kinkar, Shri
 Ram Kishan, Shri
 Ram Murti, Shri
 Ram Sagar, Shri
 Ramachandran, Shri P.
 Ramaswamy, Shri S.
 Ramdas Singh, Shri
 Ramji Singh, Dr.
 Ranjit Singh, Shri
 Rao, Shrimati B. Radhabai Ananda
 Rao, Shri J. Rameshwar
 Rao, Shri Jagannath
 Rao, Shri M. Satyanarayan
 Rao, Shri Raje Vishveshvar
 Rasheed Masood, Shri
 Rathor, Dr. Bhagwan Dass
 Ravi, Shri Vayalar
 Ravindra Pratap Singh, Shri
 Reddy, Shri G. Narsimha
 Roy, Dr. Saradish
 Saeed Murtaza, Shri
 Saha, Shri A. K.
 Saha, Shri Gadadhar
 Sahoo, Shri Ainthu
 Sai, Shri Larang
 Saini, Shri Manohar Lal
 Saksena, Prof. Shibban Lal
 Saran, Shri Daulat Ram
 Sarangi, Shri R. P.
 Sarda, Shri S. K.
 Sarkar, Shri S. K.
 Sarsonia, Shri Shiv Narain
 Satapathy, Shri Devendra
 Satya Deo Singh, Shri
 Sayian Wala, Shri Mohinder Singh
 Sen, Shri Prafulla Chandra
 Seyid Muhammed, Dr. V. A.
 Shah, Shri D. P.
 Shah, Shri Surath Bahadur
 Shaiza, Shrimati Rano M.
 Shakya, Shri Daya Ram
 Shanti Devi, Shrimati

Sharma, Shri Jagannath
 Sharma, Shri Rajendra Kumar
 Sharma, Shri Yagya Datt
 Shastri, Shri Bhanu Kumar
 Shastri, Shri Y. P.
 Shejwalkar, Shri N. K.
 Shao Narain, Shri
 Sher Singh, Prof.
 Sheth, Shri Vinodbhai B.
 Shinde, Shri Annasaheb P.
 Shrangare, Shri T. S.
 Shrikrishna Singh, Shri
 Shukla, Shri Madan Lal
 Sikandar Bakht, Shri
 Singh, Dr. B. N.
 Sinha, Shri C. M.
 Sinha, Shri H. L. P.
 Sinha, Shri Purna
 Sinha, Shri Satyendra Narayan
 Somani, Shri Roop Lal
 Somani, Shri S. S.
 Somasundaram, Shri S. D.
 Stephen, Shri C. M.
 Subramaniam, Shri C.
 Sukhendra Singh, Shri
 Suman, Shri Ramji Lal
 Suman, Shri Surendra Jha
 Suraj Bhan, Shri
 Surendra Bikram, Shri
 Swamy, Dr. Subramaniam
 Talwandi, Shri Jagdev Singh
 Tan Singh, Shri
 Tej Pratap Singh, Shri
 Thiagarajan, Shri P.
 Thorat, Shri Bhausahab
 Tirkey, Shri Pius
 Tiwari, Shri Brij Bhushan
 Tiwary, Shri D. N.

Tiwary, Shri Madan
 Tiwary, Shri Ramanand
 Tripathi, Shri Madhav Prasad
 Tyagi, Shri Om Prakash
 Unnikrishnan, Shri K. P.
 Vajpayee, Shri Atal Bihari
 Varma, Shri Ravindra
 Vasisht, Shri Dharma Vir
 Venkataraman, Shri R.
 Verma, Shri Brijlal
 Verma, Shri Hargovind
 Verma, Shri Mritunjay Prasad
 Verma, Shri Phool Chand
 Verma, Shri R. L. P.
 Verma, Shri Sukhdeo Prasad
 Yadav, Shri Jagdambi Prasad
 Yadav, Shri Narsingh
 Yadav, Shri Ramji Lal
 Yadav, Shri Sharad
 Yadava, Shri Roop Nath Singh
 Yadvendra Dutt, Shri

NOES: Nil

MR. SPEAKER: Subject to correction, the result* of the division is: Ayes 314; Noes nil.

The motion is carried by a majority of the total membership of the House and by a majority of not less than two-thirds of the Members present and voting.

The motion was adopted.

Clause 3 was added to the Bill.

MR. SPEAKER: Is it the pleasure of the House that those Clauses to which there is no amendment may be put together to the vote of the House?

SEVERAL HON. MEMBERS: Yes.

DR. SUSHILA NAYAR (Jhansi): Sir, this is a Constitution Amendment

*The following Members also recorded their votes for AYES: Sarvashri Narhari Prasad Sukhdeo Sai, Chandradeo Prasad Verma, Shiv Ram Rai, Giriyanandan Singh, N. P. Keshawani, Ram Dhari Shastri, Dr. Baldev Prakash, Dr. Mahadeepak Singh Shaky, Sarvashri Jagannath Prasad Swatantra, Ram Prasad Deshmukh, Mohd. Hayat Ali, M. N. Govindan Nair, A. Sunna Sahib, Eduardo Faliero, A. Bala Pajanor, and Shrimati Rashida Haque Choudhury.

Bill. Each clause should be put separately to vote.

MR. SPEAKER: If some hon. Member is objecting, I am not going to do that. I will put each Clause separately to vote.

MR. SPEAKER: Clause 4. Let the lobbies be cleared.

Now, the lobbies have been cleared. The question is:

"That Clause 4 stand part of the Bill."

The Lok Sabha divided

[17.33 hrs.]

Division No. 10]

AYES

Agrawal, Shri Satish
Aghan Singh, Shri
Ahmed, Shri Halimuddin
Ahmed Hussain, Shri
Ahuja, Shri Subhash
Aiyagesan, Shri O. V.
Alhaj, Shri M. A. Hannan
Amat, Shri D.
Amin, Prof. R. K.
Argal, Shri Chhabiram
Arif Beg, Shri
Arunachalam, Shri M.
Austin, Dr. Henry
Bagri, Shri Mani Ram
Bahuguna, Shri H. N.
Bahuguna, Shrimati Kamala
Bairagi, Shri Jena
Bal, Shri Pradyumna

Balak Ram, Shri
Balbir Singh, Chowdhry
Baldev Prakash, Dr.
Barakataki, Shrimati Renuka Devi
Barnala, Shri Surjit Singh
Barrow, Shri A. E. T.
Basu, Shri Chitta
Bateshwar Hemram, Shri
Berwa, Shri Ram Kanwar
Bhadoria, Shri Arjun Singh
Bhanwar, Shri Bhagirath
Bharat Bhushan, Shri
Bhattacharya, Shri Dinen
Bhattacharyya, Shri Shyamaprasanna
Bhuvarahan, Shri G.
Birendra Prasad, Shri
Boddepalli, Shri Rajagopala Rao
Bonde, Shri Nanasahib
Borole, Shri Yashwant
Bosu, Shri Jyotirmoy
Brahm Perkash, Chaudhury
Burande, Shri Gangadhar Appa
Chakaravarty, Prof. Dilip
Chand Ram, Shri
Chandan Singh, Shri
Chandra Shekhar, Shri
Chandra Shekhar Singh, Shri
Chandrappan, Shri C. K.
Chandravati, Shrimati
Chandre Gowda, Shri D. B.
Charan Narzary, Shri
Charan Singh, Shri
Chatterjee, Shri Somnath
Chaturbhuj, Shri
Chaturvedi, Shri Shambhu Nath
Chaudhary, Shri Motibhai R.
Chaudhry, Shri Ishwar
Chaudhury, Shri Rudra Sen
Chauhan, Shri Nawab Singh
Chavan, Shrimati P.
Chavda, Shri K. S.
Chhetri, Shri Chhatra Bahadur
Chaudhury, Shrimati Rashida Haque

Chowhan, Shri Bharat Singh
 Chunder, Dr. Pratap Chandra
 Dabhi, Shri Ajitsinh
 Dandavate, Prof. Madhu
 Danwe, Shri Pundalik Hari
 Das, Shri S. S.
 Dasgupta, Shri K. N.
 Dawn, Shri Raj Krishna
 Deo, Shri P. K.
 Deo, Shri V. Kishore Chandra S.
 Desai, Shri Hitendra
 Deshmukh, Shri Ram Prasad
 Deshmukh, Shri Sheshrao
 Dhandayuthapani, Shri V.
 Dhara, Shri Sushil Kumar
 Dharia, Shri Mohan
 Dhillon, Shri Iqbal Singh
 Dhondge, Shri Keshavrao
 Dhurve, Shri Shyamlal
 Digal, Shri Sribatcha
 Digvijoy Narain Singh, Shri
 Durga Chand, Shri
 Dutt, Shri Asoke Krishna
 Engti, Shri Biren
 Faleiro, Shri Eduardo
 Fazlur Rehman, Shri
 Ganga Bhakt Singh, Shri
 Ganga Singh, Shri
 Gattani, Shri R. D.
 Girjanandan Singh, Shri
 Godara, Ch. Hari Ram Makkasar
 Gopal, Shri K.
 Gore, Shrimati Mrinal
 Gotkhinde, Shri Annasaheb
 Govindjiwala Shri Parmanand
 Gowda, Shri S. Nanjesha
 Goyal, Shri Krishna Kumar
 Guha, Shri Samar
 Gupta, Shri Kanwar Lal
 Haren Bhumij, Shri
 Harikesh Bahadur, Shri
 Heera Bhai, Shri

Hukam Ram, Shri
 Inder Singh, Shri
 Jagjivan Ram, Shri
 Jain, Shri Kacharulal Hemraj
 Jain, Shri Kalyan
 Jain, Shri Nirmal Chandra
 Jaiswal, Shri Anant Ram
 Jethmalani, Shri Ram
 Joshi, Dr. Murli Manohar
 Kailash Prakash, Shri
 Kakade, Shri Sambhajirao
 Kamble, Shri B. C.
 Kannan, Shri P.
 Kapoor, Shri L. L.
 Kar, Shri Sarat
 Kaushik, Shri Purushottam
 Kesharwani, Shri N. P.
 Khan, Shri Ghulam Mohammad
 Khan, Shri Ismail Hossain
 Khan, Shri Kunwar Mahmud Ali
 Khan, Shri Mahmood Hasan
 Khan, Shri Mohd. Shamsul Hasan
 Khrime, Shri Rinching Khandu
 Kishore Lal, Shri
 Kolanthaivelu, Shri R.
 Kolur, Shri Rajshekhar
 Kosalram, Shri K. T.
 Krishan Kant, Shri
 Krishnappa, Shri M. V.
 Kureel, Shri R. L.
 Kushwaha, Shri Ram Naresh
 Lahanu Shidava Kom, Shri
 Lal, Shri S. S.
 Lalji Bhai, Shri
 Lalu Prasad, Shri
 Laskar, Shri Nihar
 Limaye, Shri Madhu
 Mahala, Shri K. L.
 Mahale, Shri Hari Shankar
 Mahi Lal, Shri
 Malhotra, Shri Vijay Kumar
 Malik, Shri Mukhtiar Singh
 Mallick, Shri Rama Chandra

Mandal, Shri B. P.	Patel, Shri Nanubhai N.
Mandal, Shri Mukunda	Patidar, Shri Rameshwar
Mangal Deo, Shri	Patil, Shri Chandrakant
Manohar Lal, Shri	Patil, Shri S. D.
Mathur, Shri Jagdish Prasad	Patnaik, Shri Biju
Mavalankar, Prof. P. G.	Patnaik, Shri Sivaji
Meduri, Shri Nageswara Rao	Patwary, Shri H. L.
Mehta, Shri Prasannbhai	Phirangi Prasad, Shri
Mhalgi, Shri R. K.	Pipil, Shri Mohan Lal
Miri, Shri Govind Ram	Pradhan, Shri Amar Roy
Mishra, Shri Janeshwar	Pradhan, Shri Pabitra Mohan
Mishra, Shri Shyamnandan	Pradhani, Shri K.
Modak, Shri Bijoy	Qureshi, Shri Mohd. Shafi
Mohan Bhaiya, Shri	Raghavendra Singh, Shri
Mohanarangam, Shri Ragavalu	Raghu Ramaiah, Shri K.
Mohd. Hayat Ali, Shri	Rahi, Shri Ram Lal
Mohsin, Shri F. H.	Rai, Shri Gauri Shankar
Mukherjee, Shri Samar	Rai, Shri Narmada Prasad
Munda, Shri Karia	Raj Keshar Singh, Shri
Murahari, Shri Godey	Raj Narain, Shri
Murmu, Father Anthony	Eakesh, Shri R. N.
Murthy, Shri Kusuma Krishna	Ram, Shri R. D.
Nahar, Shri Bijoy Singh	Ram Charan, Shri
Nahata, Shri Amrit	Ram Gopal Singh, Chaudhury
Nair, Shri M. N. Govindan	Ram Kinkar, Shri
Narendra Singh, Shri	Ram Kishan, Shri
Nathu Singh, Shri	Ram Murti, Shri
Nathuni Ram, Shri	Ram Sagar, Shri
Nathwani, Shri Narendra P.	Ramachandran, Shri P.
Nayak, Shri Laxmi Narain	Ramdas Singh, Shri
Nayar, Dr. Sushila	Ramji Singh, Dr.
Negi, Shri T. S.	Ranjit Singh, Shri
Pai, Shri T. A.	Rao, Shrimati B. Radhabai Ananda
Pajanor, Shri A. Bala	Rao, Shri J. Rameshwar
Pandey, Shri Ambika Prasad	Rao, Shri Jagannath
Pandeya, Dr. Laxminarayan	Rao, Shri M. S. Sanjeevi
Pandit, Dr. Vasant Kumar	Rao, Shri M. Satyanarayan
Paraste, Shri Dalpat Singh	Rathor, Dr. Bhagwan Dass
Parmar, Shri Natwarlal B.	Ravi, Shri Vayalar
Parulekar, Shri Bapusaheb	Ravindra Pratap Singh, Shri
Patel, Shri Ahmed M.	Reddy, Shri G. Narsimha
Patel, Km. Maniben Vallabhbai	Roy, Dr. Saradish
Patel, Shri Meetha Lal	Saeed Murtaza, Shri

Saha, Shri A. K.	Sinha, Shri H. L. P.
Saha, Shri Gadadhar	Sinha, Shri Purna
Sahoo, Shri Ainthu	Sinha, Shri Satyendra Narayan
Sai, Shri Larang	Somani, Shri Roop Lal
Saini, Shri Manohar Lal	Somani, Shri S. S.
Saksena, Prof. Shibban Lal	Somasundaram, Shri S. D.
Saran, Shri Daulat Ram	Stephen, Shri C. M.
Sarangi, Shri R. P.	Subramaniam, Shri C.
Sarda, Shri S. K.	Sukhendra Singh, Shri
Sarkar, Shri S. K.	Suman, Shri Ramji Lal
Sarsonia, Shri Shiv Narain	Suman, Shri Surendra Jha
Satapathy, Shri Devendra	Suraj Bhan, Shri
Satya Deo Singh, Shri	Surendra Bikram, Shri
Sayian Wala, Shri Mohinder Singh	Swamy, Dr. Subramaniam
Sen, Shri Prafulla Chandra	Swatantra, Shri Jagannath Prasad
Seyid Muhammad, Dr. V. A.	Talwandi, Shri Jagdev Singh
Shah, Shri D. P.	Tej Pratap Singh, Shri
Shah, Shri Surath Bahadur	Thiagarajan, Shri P.
Shaiza, Shrimati Rano M.	Thorat, Shri Bhausahab
Shakya, Shri Daya Ram	Tirkey, Shri Pius
Shakya, Dr. Mahadeepak Singh	Tiwari, Shri Brij Bhushan
Shanti Devi, Shrimati	Tiwary, Shri D. N.
Sharma, Shri Jagannath	Tiwary, Shri Madan
Sharma, Shri Rajendra Kumar	Tiwary, Shri Ramanand
Sharma, Shri Yagya Datt	Tripathi, Shri Madhav Prasad
Shastri, Shri Bhanu Kumar	Tyagi, Shri Om Prakash
Shastri, Shri Ram Dhari	Vajpayee, Shri Atal Bihari
Shastri, Shri Y. P.	Varma, Shri Ravindra
Shejwalkar, Shri N. K.	Vasisht, Shri Dharma Vir
Sheo Narain, Shri	Venkataraman, Shri R.
Sher Singh, Prof.	Verma, Shri Brijlal
Sheth, Shri Vinodbhai B.	Verma, Shri Chandradeo Prasad
Shinde, Shri Annasaheb P.	Verma, Shri Hargovind
Shrangare, Shri T. S.	Verma, Shri Mritunjay Prasad
Shrikrishna Singh, Shri	Verma, Shri Phool Chand
Shukla, Shri Madan Lal	Verma, Shri R. L. P.
Sikandar Bakht, Shri	Verma, Shri Sukhdeo Prasad
Singh, Dr. B. N.	Yadav, Shri Jagdambi Prasad
Sinha, Shri C. M.	Yadav, Shri Narsingh
	Yadav, Shri Ramji Lal
	Yadav, Shri Sharad
	Yadava, Shri Roop Nath Singh

NOES

NIL

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

Ayes 313; Noes 'Nil'; Abstention 3.

The motion is carried by a majority of the total membership of the House and by a majority of not less than two-thirds of the Members present and voting.

The motion was adopted.

Clause 4 was added to the Bill.

MR. SPEAKER: Clause 5....

SHRI C. M. STEPHEN: Under rule 155, you can put all the Clauses together to the vote of the House.

MR. SPEAKER: There was an objection from Dr. Sushila Nayar.

SHRI C. M. STEPHEN: Rule 155 clearly says:

"...Provided that the Speaker may, with the concurrence of the House, put clauses and/or schedules, or clauses and/or schedules as amended, as the case may be, together to the vote of the House in which case the result of the voting shall be taken as applicable to each clause or schedule separately and so indicated in the proceedings;

"Provided further that if a member requests that any clause or schedule, or any clause or schedule as amended, as the case may be, be put separately, the Speaker shall put that clause or schedule, or clause or schedule as amended, as the case may be, separately.

What Clause does the hon. Member want to be put to the vote of the House?

DR. SUSHILA NAYAR: This rule applies only for the constitutional amendment.

MR. SPEAKER: Rule 155 speaks about the constitution amendment Bill. It says that even if one Member objects to it, I have to put it again.

Is it the pleasure of the House that I should put all the Clauses together to the vote of the House?

SEVERAL HON. MEMBERS: Yes, Sir.

MR. SPEAKER: Then, I will put all the clauses together to the vote of the House.

Let me first take up Clauses which have no amendments. On Clause 5 there is an amendment by Dr. Ramji Singh. Are you pressing.

DR. RAMJI SINGH: No, Sir.

SHRI SHANTI BHUSHAN: After Clause 6, I have an amendment to move.

MR. SPEAKER: I am putting Clause 5 and then the other clauses together to vote. Your amendment is for a new Clause 6A.

SHRI SHANTI BHUSHAN: That is for introduction of a new Clause 6A.

DR. SUSHILA NAYAR: Each one has to be put separately.

MR. SPEAKER: If you want each one to be put down separately, I shall do so.

The following Members also recorded their votes for AYES: Sarvshri S. Kunda, Narhari Prasad Sukhdeo Sai, Padvendra Dutt, Shiv Ram Rai, Raghavji, Raje Vishveshvar Rao, Chandra Pal Singh, Tan Singh, Govinda Munda, Gananath Pradhan, Ramapati Singh, S. G. Murugaiyan, Bhagat Ram, Venugopal Gounder and A. Sunn Sahib.

SEVERAL HON. MEMBERS: No. Sir.

MR. SPEAKER: Then I shall put clause 5, 6, 7; 8, 9 and 10 together.

The question is:

"That Clause 5, 6, 7, 8; 9 and 10 stand part of the Bill".

Let the Lobbies be cleared.

The Lok Sabha divided

Division No. 11] [17.39 hrs.

Agrawal, Shri Satish
 Aghan Singh, Shri
 Ahmed, Shri Halimuddin
 Ahmed Hussain, Shri
 Ahuja, Shri Subhash
 Alagesan, Shri O. V.
 Alhaj, Shri M. A. Hannan
 Amat, Shri D.
 Amin, Prof. R. K.
 Argal, Shri Chhabiram
 Arif Beg, Shri
 Austin, Dr. Henry
 Bagri, Shri Mani Ram
 Bahuguna, Shri H. N.
 Bahuguna, Shrimati Kamala
 Bal, Shri Pradyumna
 Balak Ram, Shri
 Balbir Singh, Chowdhry
 Baldev Prakash, Dr.
 Barakataki, Shrimati Renuka Devi
 Barnala, Shri Surjit Singh
 Barrow, Shri A. E. T.
 Bashir Ahmad, Shri
 Basu, Shri Chitta
 Bateswar Hemram, Shri
 Berwa, Shri Ram Kanwar
 Bhadoria, Shri Arjun Singh
 Bhagat Ram, Shri
 Bhanwar, Shri Bhagirath
 Bharat Bhushan, Shri
 Bhattacharya, Shri Dinen
 Bhattacharyya, Shri Shyamaprasanna

Bhuvarahan, Shri G.
 Birendra Prasad, Shri
 Boddepalli, Shri Rajagopala Rao
 Bonde, Shri Nanasaheb
 Borole, Shri Yashwant
 Bosu, Shri Jyotirmoy
 Brahm Perakash, Chaudhury
 Burande, Shri Gangadhar Appa
 Chakravarty, Prof. Dilip
 Chand Ram, Shri
 Chandan Singh, Shri
 Chandra Shekhar, Shri
 Chandra Shekhar Singh, Shri
 Chandra Pal Singh, Shri
 Chandrappan, Shri C. K.
 Chandravati, Shrimati
 Chandre Gowda, Shri D. B.
 Charan Narzary, Shri
 Charan Singh, Shri
 Chatterjee, Shri Somnath
 Chaturbhuj, Shri
 Chaturvedi, Shri Shambhu Nath
 Chaudhary, Shri Motibhai R.
 Chaudhry, Shri Ishwar
 Chaudhury, Shri Rudra Sen
 Chauhan, Shri Nawab Singh
 Chavan, Shrimati P.
 Chavda, Shri K. S.
 Chhetri Shri Chhatra Bahadur
 Chikkalingiah, Shri K.
 Choudhury, Shrimati Rashida Haque
 Chowhan, Shri Bharat Singh
 Chunder, Dr. Pratap Chandra
 Dabhi, Shri Ajitsinh
 Dandavate, Prof. Madhu
 Danwe, Shri Pundalik Hari
 Das, Shri S. S.
 Dasgupta, Shri K. N.
 Dawn, Shri Raj Krishna
 Deo, Shri P. K.
 Deo, Shri V. Kishore Chandra S.
 Desai, Shri Hitendra
 Deshmukh, Shri Ram Prasad
 Deshmukh, Shri Sheshrao

Dhandayuthapani, Shri V.
 Dhara, Shri Sushil Kumar
 Dharia, Shri Mohan
 Dhillon, Shri Iqbal Singh
 Dhondge, Shri Keshavrao
 Dhurve, Shri Shyamlal
 Digal, Shri Sribatcha
 Digvijoy Narain Singh, Shri
 Durga Chand, Shri
 Dutta, Shri Asoke Krishna
 Engti, Shri Biren
 Faleiro, Shri Eduardo
 Fazlur Rehman, Shri
 Ganga Bhakt Singh, Shri
 Ganga Singh, Shri
 Gattani, Shri R. D.
 Girjanandan Singh, Shri
 Godara, Ch. Hari Ram Makkasar
 Gopal, Shri K.
 Gore, Shrimati Mrinal
 Gotkhinde, Shri Annasaheb
 Gounder, Shri Venugopal
 Govindjiwala, Shri Parmanand
 Gowda, Shri S. Nanjesha
 Goyal, Shri Krishna Kumar
 Guha, Shri Samar
 Gupta, Shri Kanwar Lal
 Haren Bhumij, Shri
 Harikesh Bahadur, Shri
 Heera Bhai, Shri
 Hukam Ram, Shri
 Inder Singh, Shri
 Jagjivan Ram, Shri
 Jain, Shri Kacharulal Hemraj
 Jain, Shri Kalyan
 Jain, Shri Nirmal Chandra
 Jaiswal, Shri Anant Ram
 Jethmalani, Shri Ram
 Joshi, Dr. Murlj Manohar
 Kulash Prakash, Shri
 Kakaode, Shri Sambhajirao
 Kamble, Shri B. C.
 Kannan, Shri P.
 Kapoor, Shri L. L.

Kar, Shri Sarat
 Kaushik, Shri Purushottam
 Kesharwani, Shri N. P.
 Khan, Shri Ghulam Mohammad
 Khan, Shri Ismail Hossain
 Khan, Shri Kunwar Mahmud Ali
 Khan, Shri Mahmood Hasan
 Khan, Shri Mohd. Shamsul Hasan
 Khrime, Shri Rinching Khandu
 Kishore Lal, Shri
 Kolanthaivelu, Shri R.
 Kolur, Shri Rajshekhar
 Kosalram, Shri K. T.
 Krishan Kant, Shri
 Krishnappa, Shri M. V.
 Kundu, Shri S.
 Kushwaha, Shri Ram Naresh
 Laharu Shidava Kom, Shri
 Lal, Shri S. S.
 Lalji Bhai, Shri
 Lalu Prasad, Shri
 Laskar, Shri Nihar
 Limaye, Shri Madhu
 Mahala, Shri K. L.
 Mahale, Shri Hari Shankar
 Mahj Lal, Shri
 Malhotra, Shri Vijay Kumar
 Malik, Shri Mukhtiar Singh
 Mallick, Shri Rama Chandra
 Mandal, Shri Mukunda
 Mangaj Deo, Shri
 Manohar Lal, Shri
 Mathur, Shri Jagdish Prasad
 Mevalankar, Prof. P. G.
 Meduri, Shri Nageswara Rao
 Mehta, Shri Prasannbhai
 Mhalgi, Shri R. K.
 Mirdha, Shri Nathu Ram
 Miri, Shri Govind Ram
 Mishra, Shri Janeshwar
 Mishra, Shri Shyamnandan
 Modak, Shri Bijoy
 Mohan Bhaiya, Shri
 Mohanarangam, Shri Ragavala

Mohd, Hayat Ali, Shri
 Mohsin, Shri F. H.
 Mukherjee, Shri Samar
 Munda, Shri Govinda
 Munda, Shri Karia
 Murahari, Shri Godey
 Murmu, Father Anthony
 Murthy, Shri Kusuma Krishna
 Murugaiyan, Shri S. G.
 Nahar, Shri Bijoy Singh
 Nahata, Shri Amrit
 Nair, Shri M. N. Govindan
 Nathu Singh, Shri
 Nathuni Ram, Shri
 Nathwani, Shri Narandra P.
 Nayak, Shri Laxmi Narain
 Nayar, Dr. Sushila
 Negi, Shri T. S.
 Pai, Shri T. A.
 Pajanor, Shri A. Bala
 Pandey, Shri Ambika Prasad
 Pandeya, Dr Laxminarayan
 Pandit, Dr. Vasant Kumar
 Parasate, Shri Dalpat Singh
 Parmai Lal, Shri
 Parmar, Shri Natwarlal B.
 Parulekar, Shri Bapusaheb
 Patel, Shri Ahmed M.
 Patel, Km. Maniben Vallabbhai
 Patel, Shri Meetha Lal
 Patel, Shri Nanubhai N.
 Patidar, Shri Rameshwar
 Patil, Shri Balasaheb Vikhe
 Patil, Shri S. D.
 Patnaik, Shri Biju
 Patnaik, Shri Sivaji
 Patwary, Shri H. L.
 Phirangi Prasad, Shri
 Pipil, Shri Mohan Lal
 Pradhan, Shri Amar Roy
 Pradhan, Shri Gananath
 Pradhan, Shri Pabitra Mohan
 Pradhani, Shri K.
 Qureshi, Shri Mohd. Shafi

Raghavji, Shri
 Raghu Ramaiah, Shri K.
 Rahi, Shri Ram Lal
 Rai, Shri Gauri Shankar
 Raj Keshar Singh, Shri
 Raj Narain, Shri
 Rakesh, Shri R. N.
 Ram, Shri R. D.
 Ram Charan, Shri
 Ram Gopal Singh, Chaudhury
 Ram Kinkar, Shri
 Ram Kishan, Shri
 Ram Murti, Shri
 Ram Sagar, Shri
 Ramachandran, Shri P.
 Ramaswamy, Shri S.
 Ramdas Singh, Shri
 Ramapati Singh, Shri
 Ramji Singh, Dr.
 Ranjit Singh, Shri
 Rao, Shrimati B. Radhabai Ananda
 Rao, Shri J. Rameshwar
 Rao, Shri Jagannath
 Rao, Shri M. S. Sanjeevi
 Rao, Shri M. Satyanarayan
 Rao, Shri Raje Vishveshvar
 Rathor, Dr. Bhagwan Dass
 Ravi, Shri Vayalar
 Ravindra Pratap Singh, Shri
 Reddy, Shri G. Narsimha
 Roy, Dr. Saradish
 Saha, Shri A. K.
 Saha, Shri Gadadhar
 Sahoo, Shri Ainthu
 Sai, Shri Larang
 Sai, Shri Narhari Prasad Sukhdeo
 Saini, Shri Manohar Lal
 Saksena, Prof. Shibban Lal
 Saran, Shri Daulat Ram
 Sarangi, Shri R. P.
 Sarda, Shri S. K.
 Sarkar, Shri S. K.
 Sarsonia, Shri Shiv Narain
 Satapathy, Shri Devendra

Satya Deo Singh, Shri
 Sayian Wala, Shri Mohinder Singh
 Sen, Shri Prafulla Chandra
 Seyid Muhammad, Dr. V. A.
 Shah, Shri D. P.
 Shah, Shri Surath Bahadur
 Shaiza, Shrimati Rano M.
 Shakya, Shri Daya Ram
 Shakya, Dr. Mahadeepak Singh
 Shanti Devi, Shrimati
 Sharma, Shri Jagannath
 Sharma, Shri Rajendra Kumar
 Sharma, Shri Yagya Datt
 Shastri, Shri Bhanu Kumar
 Shastri, Shri Ram Dhari
 Shastri, Shri Y. P.
 Shejwalkar, Shri N. K.
 Sheo Narain, Shri
 Sher Singh, Prof.
 Sheth, Shri Vinodhbhai B.
 Shinde, Shri Annasaheb P.
 Shrikrishna Singh, Shri
 Shukla, Shri Madan Lal
 Sikander Bakht, Shri
 Singh, Dr. B. N.
 Sinha, Shri C. M.
 Sinha, Shri H. L. P.
 Sinha, Shri Purna
 Sinha, Shri Satyendra Narayan
 Somani, Shri Roop Lal
 Somani, Shri S. S.
 Somasundaram, Shri S. D.
 Stephen, Shri C. M.
 Subramaniam, Shri C.
 Sukhendra Singh, Shri
 Suman, Shri Ramji Lal
 Suman, Shri Surendra Jha
 Suraj Bhan, Shri

Surendra Bikram, Shri
 Swamy, Dr. Subramaniam
 Swatantra, Shri Jagannath Prasad
 Talwandi, Shri Jagdev Singh
 Tan Singh, Shri
 Tej Pratap Singh, Shri
 Thiagarajan, Shri P.
 Thorat, Shri Bhausahab
 Tirkey, Shri Pius
 Tiwari, Shri Brij Bhushan
 Tiwary, Shri D. N.
 Tiwary, Shri Madan
 Tiwary, Shri Ramanand
 Tripathi, Shri Madhav Prasad
 Tyagi, Shri Om Prakash
 Unnikrishnan, Shri K. P.
 Vajpayee, Shri Atal Bihari
 Varma, Shri Ravindra
 Venkataraman, Shri R.
 Verma, Shri Brijlal
 Verma, Shri Chandradeo Prasad
 Verma, Shri Hargovind
 Verma, Shri Mritunjay Prasad
 Verma, Shri Phool Chand
 Verma, Shri R. L. P.
 Verma, Shri Sukhdeo Prasad
 Yadav, Shri Jagdambi Prasad
 Yadav, Shri Narsingh
 Yadav, Shri Ramji Lal
 Yadav, Shri Sharad
 Yadava, Shri Roop Nath Singh
 Yadvandra Dutt, Shri

NOES

Nil

MR. SPEAKER: The result* of the division, subject to correction, is: Ayes: 322; Noes: Nil.

* (1) The result of the division is applicable to each of the clauses 5, 6, 7, 8, 9 and 10 separately.

(2) The following Members also recorded their votes for AYES: Sarvashri Shiv Ram Rai, Dharma Vir Vasisht, Narmada Prasad Rai, Jena Bairagi, B. P. Mandal, R. L. Kureel, Raghavendra Singh, A. Sunna Sahib, M. Arunachalam, T. S. Shrangare, and Saeed Murtaza.

(Mr. Speaker)

The motion is carried by a majority of the total membership of the House and by a majority of not less than two-thirds of the Members present and voting.

The motion was adopted.

Clauses 5, 6, 7, 8, 9 and 10 were added to the Bill.

†**Clause 6A (New)**

SHRI SHANTI BHUSHAN: May I now move my amendment No. 5.

MR. SPEAKER: Yes.

SHRI SHANTI BHUSHAN: I beg to move:

"Page 2,—

after line 17, insert—

'Amendment 6A. In article 226 of the of article Constitution, in clause (1) 226. the words, figures and letter "but subject to the provisions of article 131A and article 226A" shall be omitted.' (5)

MR. SPEAKER: The question is:

Page 2,

after line 17, insert—

'Amendment 6A. In article 226 of the of article Constitution, in clause (1) 226. the words, figures and letters "but subject to the provisions of article 131A and article 226A" shall be omitted.' (5)

The motion was adopted.

MR. SPEAKER: We take up clause 6A for voting.

Let the lobbies be cleared... Now, the Lobbies have been cleared.

The question is:

"That new clause 6A stand part of the Bill."

The Lok Sabha divided.

Division No. 12

17.42 hrs.

AYES

Agrawal, Shri Satish
 Aghan Singh, Shri
 Ahmed, Shri Halimuddin
 Ahmed Hussain, Shri
 Ahuja, Shri Subhash
 Alagesan, Shri O. V.
 Alhaj, Shri M. A. Hannan
 Amat, Shri D.
 Amin, Prof. R. K.
 Argal, Shri Chhabiram
 Arif Beg, Shri
 Arunchalam, Shri M.
 Austin, Dr. Henry
 Bagri, Shri Mani Ram
 Bahuguna, Shri H. N.
 Bahuguna, Shrimati Kamala
 Bairagi, Shri Jena
 Bal, Shri Pradyumna
 Balak Ram, Shri
 Balbir Singh, Chowdhry
 Baldev Prakash, Dr.
 Barakataki, Shrimati Renuka Devi

†In view of amendment No. 5, inserting new clause 6A, having been adopted by the House, new clause 6A was renumbered as clause 7 and the existing clauses 7 to 10 renumbered as 8 to 11 respectively, as patent errors under the direction of the Speaker.

Barnala, Shri Surjit Singh
 Barrow, Shri A. E. T.
 Basu, Shri Chitta
 Bateshwar Hemram, Shri
 Berwa, Shri Ram Kanwar
 Bhadoria, Shri Arjun Singh
 Bhagat Ram, Shri
 Bhanwar, Shri Bhagirath
 Bharat Bhushan, Shri
 Bhattacharya, Shri Dinen
 Bhattacharyya, Shri Shyamaprasanna
 Bhuvarahan, Shri G.
 Birendra Prasad, Shri
 Boddepalli, Shri Rajagopala Rao
 Bende, Shri Nanasahib
 Borole, Shri Yashwant
 Brahm Perakash, Chaudhury
 Burande, Shri Gangadhar Appa
 Chakravarty, Prof. Dilip
 Chand Ram, Shri
 Chandan Singh, Shri
 Chandra Shekhar, Shri
 Chandra Shekhar Singh, Shri
 Chandra Pal Singh, Shri
 Chandrappan, Shri C. K.
 Chandravati, Shrimati
 Chandre Gowda, Shri D. B.
 Charan Narzary, Shri
 Charan Singh, Shri
 Chatterjee, Shri Somnath
 Chaturbhuji, Shri
 Chaturvedi, Shri Shambhu Nath
 Chaudhary, Shri Motibhai R.
 Chaudhry, Shri Ishwar
 Chaudhury, Shri Rudra Sen
 Chauhan, Shri Nawab Singh
 Chavan, Shrimati P.
 Chavda, Shri K. S.
 Chhetri, Shri Chhatra Bahadur
 Chikkalingiah, Shri K.
 Choudhury, Shrimati Rashida Haque
 Chowhan, Shri Bharat Singh
 Chunder, Dr. Pratap Chandra

Dabhi, Shri Ajitsinh
 Dandavate, Prof. Madhu
 Danwe, Shri Pundalik Hari
 Das, Shri S. S.
 Dasgupta, Shri K. N.
 Dawan, Shri Raj Krishna
 Deo, Shri P. K.
 Deo, Shri V. Kishore Chandra S.
 Desai, Shri Hitendra
 Deshmukh, Shri Ram Prasad
 Deshmukh, Shri Sheshrao
 Dhandayuthapani, Shri V.
 Dhara, Shri Sushil Kumar
 Dharia, Shri Mohan
 Dhillon, Shri Iqbal Singh
 Dhondge, Shri Keshavrao
 Dhurve, Shri Shyamal
 Digvijoy Narain Singh, Shri
 Durga Chand, Shri
 Dutt, Shri Asoke Krishna
 Engli, Shri Biren
 Faleiro, Shri Eduardo
 Fazlur Rehman, Shri
 Ganga Bhakt Singh, Shri
 Ganga Singh, Shri
 Gattani, Shri R. D.
 Girjanandan Singh, Shri
 Godara, Ch. Hari Ram Makkasar
 Gopal, Shri K.
 Gore, Shrimati Mrinal
 Gotkhinde, Shri Annasaheb
 Gounder, Shri Venugopal
 Govindjiwala, Shri Parmanand
 Gowda, Shri S. Nanjesha
 Goyal, Shri Krishna Kumar
 Guha, Shri Samar
 Gupta, Shri Kanwar Lal
 Haren Bhumiji, Shri
 Harikesh Bahadur, Shri
 Heera Bhai, Shri
 Hukam Ram, Shri
 Inder Singh, Shri
 Jain, Shri Kacharulal Hemraj
 Jain, Shri Kalyan

Jain, Shri Nirmal Chandra	Mhalgi, Shri R. K.
Jaiswal, Shri Anant Ram	Mirdha, Shri Nathu Ram
Jethmalani, Shri Ram	Miri, Shri Govind Ram
Joshi, Dr. Murli Manohar	Mishra, Shri Janeshwar
Kailash Prakash, Shri	Mishra, Shri Shyamnandan
Kakade, Shri Sambhajirao	Modak, Shri Bijoy
Kamble, Shri B. C.	Mohan Baiya, Shri
Kanan, Shri P.	Mohanarangam, Shri Ragavala
Kapoor, Shri L. L.	Mohd. Hayat Ali, Shri
Kar, Shri Sarat	Mukherjee, Shri Samar
Kaushik, Shri Purushottam	Munda, Shri Govinda
Kesharwani, Shri N. P.	Munda, Shri Karia
Khan, Shri Ghulam Mohammad	Murahari, Shri Godey
Khan, Shri Ismail Hossain	Murmu, Father Anthony
Khan, Shri Kunwar Mahmud Ali	Murugaiyan, Shri S. G.
Khan, Shri Mamood Hasan	Nahar, Shri Bijoy Singh
Khan, Shri Mohd. Shamsul Hasan	Nahata, Shri Amrit
Khrime, Shri Rinching Khandu	Nair, Shri M. N. Govindan
Kishore Lal, Shri	Narendra Singh, Shri
Kolanthaivelu, Shri R.	Nathu Singh, Shri
Kolur, Shri Rajeshekhar	Nathuni Ram, Shri
Kosalram, Shri K. T.	Nathwani, Shri Narendra P.
Krishan Kant, Shri	Nayak, Shri Laxmi Narain
Krishnappa, Shri M. V.	Nayar, Dr. Sushila
Kureel, Shri R. L.	Negi, Shri T. S.
Lahanu Shidava Kom, Shri	Pai, Shri T. A.
Lal, Shri S. S.	Pajanor, Shri A. Bala
Lalji Bhai, Shri	Pandey, Shri Ambika Prasad
Lalu Prasad, Shri	Pandeya, Dr. Laxminarayan
Laskar, Shri Nihar	Pandit Dr. Vasant Kumar
Limaye, Shri Madhu	Paraste, Shri Dalpat Singh
Mahala, Shri K. L.	Parmar, Shri Natwarlal B.
Mahi Lal, Shri	Parulekar, Shri Bapusaheb
Malhotra, Shri Vijay Kumar	Patel, Shri Ahmed M.
Malik, Shri Mukhtiar Singh	Patel, Km. Maniben Vallabhbai
Mallick, Shri Rama Chandra	Patel, Shri Meetha Lal
Mandal, Shri B. P.	Patel, Shri Nanubhai N.
Mandal, Shri Mukunda	Patidar, Shri Rameshwar
Mangal Deo, Shri	Patil, Shri Chandrakant
Manohar Lal, Shri	Patil, Shri S. D.
Mathur, Shri Jagdish Prasad	Patnaik, Shri Biju
Mavalankar, Prof. P. G.	Patnaik, Shri Sivaji
Meduri, Shri Nageshwara Rao	Patwary, Shri H. L.
Mehta, Shri Prasannbhai	Phirangi Prasad, Shri

Pipil, Shri Mohan Lal	Saksena, Prof. Shibban Lal
Pradhan, Shri Amar Roy	Saran, Shri Dauiat Ram
Pradhan, Shri Gananath	Sarangi, Shri R. P.
Pradhan, Shri Pabitra Mohan	Sarda, Shri S. K.
Pradhani, Shri K.	Sarkar, Shri S. K.
Qureshi, Shri Mohd. Shafi	Sarsonia, Shri Shiv Narain
Raghavendra Singh, Shri	Satapathy, Shri Devendra
Raghavji, Shri	Satya Deo Singh, Shri
Raghu Ramaiah, Shri K.	Sayan Wala, Shri Mohinder Singh
Rahi, Shri Ram Lal	Sen, Shri Prafulla Chandra
Rai, Shri Gauri Shankar	Seyid Muhammad, Dr. V. A.
Rai, Shri Narmada Prasad	Shah, Shri D. P.
Rai, Shri Shiv Ram	Shah, Shri Surath Bahadur
Raj Keshar Singh, Shri	Shaiza Shrimati Rano M.
Raj Narain, Shri	Shakya, Shri Daya Ram
Rakesh, Shri R. N.	Shakya, Dr. Mahadeepak Singh
Ram, Shri R. D.	Shanti Devi, Shrimati
Ram Charan, Shri	Sharma, Shri Jagannath
Ram Gopal Singh, Chaudhury	Sharma, Shri Rajendra Kumar
Ram Kinkar, Shri	Sharma, Shri Yagya Datt
Ram Kishan, Shri	Shastri, Shri Bhanu Kumar
Ram Murti, Shri	Shastri, Shri Ram Dhari
Ram Sagar, Shri	Shastri, Shri Y. P.
Ramachandran, Shri P.	Shejwalkar, Shri N. K.
Ramaswamy, Shri S.	Sheo Narain, Shri
Ramdas Singh, Shri	Sher Singh, Prof.
Ramapati Singh, Shri	Sheth, Shri Vinodbhai B.
Ramji Singh, Dr.	Shinde, Shri Annasaheb P.
Ranjit Singh, Shri	Shrangare, Shri T. S.
Rao, Shrimati B. Radhabai Ananda	Shrikrishna Singh, Shri
Rao, Shri J. Rameshwar	Shukla, Shri Madan Lal
Rao, Shri M. S. Sanjeevi	Sikander Bakht, Shri
Rao, Shri M. Satyanarayan	Singh, Dr. B. N.
Rathor, Dr. Bhagwan Dass	Sinha, Shri C. M.
Ravi, Shri Vayalar	Sinha, Shri H. L. P.
Ravindra Pratap Singh, Shri	Sinha, Shri Purna
Reddy, Shri G. Narsimha	Sinha, Shri Satyendra Narayan
Roy, Dr. Saradish	Somani, Shri Roop Lal
Saeed Murtaza, Shri	Somani, Shri S. S.
Saha, Shri A. K.	Somasundaram, Shri S. D.
Sahoo, Shri Ainthu	Stephen, Shri C. M.
Sai, Shri Larang	Subramaniam, Shri C.
Sai, Shri Narhari Prasad Sukhdeo	Sukhendra Singh, Shri
Saini, Shri Manohar Lal	Suman, Shri Ramji Lal

Suman, Shri Surendra Jha
 Suraj Bhan, Shri
 Surendra Bikram, Shri
 Swamy, Dr. Subramaniam
 Swatantra, Shri Jagannath Prasad
 Talwandi, Shri Jagdev Singh
 Tan Singh, Shri
 Tej Pratap Singh, Shri
 Thiagarajan, Shri P.
 Thorat, Shri Bhausaheb
 Turkey, Shri Pius
 Tiwari, Shri Brij Bhushan
 Tiwary, Shri D. N.
 Tiwary, Shri Madan
 Tiwary, Shri Ramanand
 Tripathi, Shri Madhav Prasad
 Tyagi, Shri Om Prakash
 Unnikrishnan, Shri K. P.
 Vajpayee, Shri Atal Bihari
 Varma, Shri Ravindra
 Vasisht, Shri Dharma Vir
 Venkataraman, Shri R.
 Verma, Shri Brijlal
 Verma, Shri Chandradeo Prasad
 Verma, Shri Hargovind
 Verma, Shri Mritunjay Prasad
 Verma, Shri Phool Chand
 Verma, Shri R. L. P.
 Verma, Shri Sukhdeo Prasad
 Yadav, Shri Jagdambi Prasad
 Yadav, Shri Narsingh
 Yadav, Shri Ramji Lal
 Yadav, Shri Sharad
 Yadava, Shri Roop Nath Singh
 Yadendra Dutt, Shri

NOES: Nil

MR. SPEAKER: Subject to correction, the result* of the division is:
 Ayes 320; Noes—Nil; Abst. 2.

The motion is carried by a majority of the total membership of the House and by a majority of not less than two thirds of the members present and voting.

The motion was adopted.

Clause—6A was added to the Bill.

MR. SPEAKER: We take up clause 1.

SHRI SHANTI BHUSHAN: I move my amendment to clause 1.

Page 1, line 3,—

for "Forty-fourth" substitute—

"Forty-third" (4)

MR. SPEAKER: The question is:

Page 1, line 3—

for "Forty-fourth" substitute—

"Forty-third". (4)

The motion was adopted.

MR. SPEAKER: The question is:

"That clause 1, as amended, stand part of the Bill."

The motion was adopted.

Clause 1, as amended, was added to the Bill.

The Enacting Formula and the Title were added to the Bill.

SHRI SHANTI BHUSHAN: Sir, I beg to move:

"That the Bill, as amended, be passed."

MR. SPEAKER: Motion moved:

"That the Bill, as amended, be passed."

*The following Members also recorded their votes for AYES:

Sarveshri Hari Shankar Mahale, Raje Vishveshvar Rao, Sirbatcha Digal, Gadadhar Saha, and A. Sunna Sahib.

चौधरी बलबीर सिंह (होशियारपुर) :
अध्यक्ष महोदय, यह जो कांस्टीट्यूशन में हमने अमेंडमेंट पास किया है इसके बारे में जनता पार्टी के लीडर्स को कोई हक नहीं है कि वह किसी भी पार्टी में कम्प्रोमाइज़ करें क्योंकि जनता ने हमको पिछले चुनाव में मैन्डेट दिया है। पिछला चुनाव एक क्विज़ का रेफ़रेन्डम था और 42वां अमेंडमेंट उसका एक ड्यू था, और उसी बात पर कांग्रेस ने अपनी बात कही। और हमने अपनी बात कही। और लोगों ने हमारी बात को कि हम इसको बदल देंगे इस पर वोट दिया। इसलिये जो रेफ़रेन्डम हुआ था और जिस बात को लेकर जनता ने हमें वोट दिया उसको कैरी आउट करना चाहिये और उस पर कोई समझौता नहीं हो सकता।

PROF. P. G. MAVALANKAR (Gandhinagar): My point of order is this. Earlier in the day to-day, we were intimated certain time allocations for the second reading, third reading etc; and the time was fixed at 4.30 for voting. It now seems that because many Members are eager to leave, the time proposed to be spent for third reading is being reduced to almost zero. What will happen to people who want to speak at the third reading? It is also to be ensured that Members do not go, because this is a Constitution Amendment Bill, and voting by a certain number is required. If the House is not in a mood to spare one extra hour to-day for the third reading, the better course would be for the House to adjourn now, and to take it up tomorrow. Otherwise, at least I will not give up my right to speak at the third reading. Because so many Members from the Janata Party wanted to speak, you told us that all will be given time, i.e., one hour for the third reading. Now it is 5.45 p.m.

SHRI O. V. ALAGESAN: From our side also, we want to speak.

MR. SPEAKER: I am in the hands of the House, because I have no power

at all. Therefore I am putting it to the House. Is it the pleasure of the House to extend the time?

SOME HON. MEMBERS: Yes.

SOME HON. MEMBERS: No.

MR. SPEAKER: Is it the pleasure of the House to adjourn the third reading for tomorrow?

SHRI C. M. STEPHEN: I say this by way of abundant caution. Many Members have left. It may be risky to put this to the vote of the House. Many seats are vacant. It may be risky to put it to vote to-day. You must have two-thirds of the Members and more than 50 per cent and all that. I am just mentioning it to you if you can run the risk, you can do it.

THE MINISTER OF STEEL AND MINES (SHRI BIJU PATNAIK): Everybody has come together, because it is supposed to be passed to-day after third reading. If some of our friends wish to dilate on it, the House cannot stop it; nor can you do it, Sir. But I would request that they need not dilate. (*Interruptions*). If the hon. Member really wants to get this historic Bill passed to-day, it should be passed; and the Members who are outside should be called back, and voting taken.

THE MINISTER OF PARLIAMENTARY AFFAIRS AND LABOUR (SHRI RAVINDRA VARMA): It was announced even earlier, that we will go through all the 3 stages to-day. (*Interruptions*).

SHRI RAGAVALU MOHANARANGAM (Changalpattu): Those things are over. Many hon. Members have left. It is better to postpone it for tomorrow.

MR. SPEAKER: Have got 50 per cent of the Members?

SHRI C. M. STEPHEN: We have the right of speech at the third reading; and we do not want to exercise that right. (*Interruptions*).

PROF. P. G. MAVALANKAR: We will have it adjourned for tomorrow. We will have a proper atmosphere. It is better I think to postpone it for tomorrow.

SHRI RAVINDRA VARMA: Mr. Speaker, Sir, the House had decided earlier to go through all the three stages of the Bill today. Unfortunately, however, the time that was allotted for the Bill is over and we have not completed all the three stages. We, on his side, have no intention of denying anyone the right to speak at the third-reading stage. We do not want to follow the examples which we condemn and which we decry in others. We do not want to do that. Therefore, if the majority of the Members are willing to extend the discussion to tomorrow, then, it can be taken up tomorrow. The time can be extended by one hour. We may take it up tomorrow though it means considerable inconvenience to Members on this side. Since it is absolutely necessary that the Bill should pass and not fail, I would appeal to hon. Members to agree to extend the time and to take up the third-reading stage tomorrow morning.

SHRI C. M. STEPHEN: I want to seek a clarification. It is not a case of the opposition seeking an accommodation. We do not want to be accommodated at all. If the Government wants to put the motion for voting, you are very welcome to do it. It is only in a friendly mood, with the best of intentions, that I said that it may be risky to put it to vote. I am very sorry that this opportunity was taken by the Minister of Parliamentary Affairs to rub people on the wrong side. It could have been avoided with all grace. And therefore we do not want to be accommodated at all. We have no prayer that this may be adjourned. If the Government wants to put it to vote, of course, they can do so. But we insist that we must have a right of speech. Those of the Members who have right of speech, must be allowed. If you want to adjourn, we agree. If

you want to press it, we agree. If you want to proceed, we agree. We do not want to be accommodated at all.

MR. SPEAKER: Then, the next question is; How much more time should be allotted? Shall we take it up at 4.0 clock in the evening?

SHRI RAVINDRA VARMA: Immediately after the Question Hour.

MR. SPEAKER: There are Short Notice Questions etc. In the Lunch interval you may find it difficult to get the quorum.

THE MINISTER OF PETROLEUM AND CHEMICALS AND FERTILIZERS (SHRI H. N. BAHUGUNA): Can we shift the Short Notice Questions for the evening with the consent of the House? This can be taken up immediately.

MR. SPEAKER: That can be done, but there are many who get up and speak on many matters at that time. You know it. Whether there is Zero Hour or not, there are Zero talks.

SHRI RAVINDRA VARMA: After the Question Hour, one hour can be devoted to this Bill. Whatever other business is there, can follow immediately after this Bill is voted.

MR. SPEAKER: All right. We will take this up immediately after the Question Hour. That will be 12 O' clock. We will give two hours. Each speaker will be given only five minutes.

DR. SUSHILA NAYAR: Still there is one hour.

MR. SPEAKER: But a large number of Members want to speak.

So, the House stands adjourned till 11 A.M. tomorrow.

17.56 hrs.

[The Lok Sabha then adjourned till Eleven of the Clock on Tuesday December 20, 1977/Agrahayana 29, 1899 (Saka).]