

CONSTITUTION AMENDMENT
BILL*

Amendment of articles 56 and 156)

श्री लिमये (बांक) : मैं प्रस्ताव करता हूँ कि भारत के संविधान का और संशोधन करने वाले विधेयक को पुर स्थापित करने की अनुमति दी जाये ।

MR. DEPUTY-SPEAKER: The question is:

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

The motion was adopted.

श्री मधु लिमये : मैं विधेयक पेश कर रहा हूँ ?

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CONSTITUTION AMENDMENT
BILL—Contd.

(Insertion of new article 83A) by
Shri C. K. Chandrappan.

MR. DEPUTY-SPEAKER: We shall take up further consideration of the following motion moved by Shri C. K. Chandrappan on the 23rd August, 1974:

"That the Bill further to amend the Constitution of India be taken into consideration."

He had just started on that day. He may now continue.

SHRI C. K. CHANDRAPPAN (Tellicherry): Sir, I have moved this Bill with a view to make our democracy more meaningful so that the Constitution could provide that the elected representatives are accountable to the people. Today when we are discussing this Bill, there is a lot of discussion going on in our country about electoral reforms. I may also recall the recent incidents in Gujarat. It is a State where the ruling party enjoyed massive majority but still they could not continue to rule. There was an agitation and finally the Assembly had to be dissolved. Today a movement is going on in Bihar demanding the dissolution of the Assembly. My party has taken a definite position about this kind of agitations. Whatever may be the motivations behind these agitations, we think they show a certain inherent weakness of our Constitution, which does not provide a democratic method by which the elected representatives of the people will be accountable to the people. Today once somebody is elected for 5 years he is free to do anything by way of corruption, nepotism, favouritism etc. He can even be of immoral character. A person like Mr. Tul Mohan Ram is still sitting with us in Parliament. We have, therefore, to initiate a democratic process by which if the

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[Shri C. K. Chandrappan]

elected members misbehave and forfeit the confidence of the people who elected them, the people should be able to act in a constitutional manner to recall them. I am not saying this just because this is there in several constitutions in the world like Switzerland, USA and all socialist countries. My point is, if such a provision is included in our Constitution, our political life will be cleaner. The right to recall will be a guarantee for that. Our democratic institutions will be more strengthened and the people will be more vigilant about their duties in a democracy.

I do not want to keep one thing vague. There are people who think that the Bihar agitation is an agitation to recall the members because they have become corrupt and are not behaving properly. I do not think so. The agitation which has been let loose in Bihar is an attempt to unleash mobocracy, to create anarchy and subvert the democratic institutions. It will definitely pave the way for fascism in our country. When a member is elected from a constituency, there are a definite number of people who are electing that member. They should be given the right to recall him in whatever manner that may be prescribed for this purpose. Mr. Jayaprakash Narayan's agitation is not that. He is mobilising people from somewhere and using them to force the legislators to resign. That is not what is meant by the right recall. Our party has taken a consistent position with regard to electoral reforms. We believe that democracy in our country can be strengthened by expanding the base of democracy. That is why we always demand for voting rights from the year of 18. We also demand that proportional representation should be constitutionally guaranteed and electoral laws amended to give effect to that. Then only the right to recall will have any meaning. Today there is a possibility of

a member getting elected from a constituency even though he secures only a very small percentage of the votes. It happens in our country in many constituencies that 10 or 12 candidates are contesting the total votes polled is only 30 or 40 per cent and the successful candidate gets only a portion of these 30 or 40 per cent. So, he cannot genuinely say that he is a real representative from that constituency. So, the right to recall should be a part of the total electoral reform that we will bring about in our country to make the electoral system more democratic and more meaningful.

If we adopt this right of recall, it will arm the people with an additional power. The people will be vigilant if they have the constitutional right to recall a member and they will exercise this right when a particular member in Parliament or the State Legislature is not discharging his responsibilities to their full satisfaction. In this way, a member would be accountable to his constituents. Like the Soviet law, there should be a method by which a member can report to the electorate what he has done in Parliament or the State legislature during every session. Now it is left to the discretion of the member to decide whether in the next five years he should even show his face to the electorate. There are many members who do not do that even now. Under the present system of elections the caste, community, religion, money and so many other factors decide whether a member will be re-elected, not his work in the legislature or his performance in the constituency as the representative of the people. When we say that the right of recall should be there, we mean that there should be a provision by which the elected members will go back and report to the people from time to time of their activities so that the electors will know what their representatives are doing.

It is also a corrective measure. Then many of the members will not dare to do what they are now doing. Defection is a common phenomenon now in our country. I know there is a Bill pending to prevent defection. That Bill seems to be a mockery of democracy. It is not at all clear whether that Bill could be implemented and in what way it will be implemented. If we can find out a way as to how we will incorporate this right to recall in the Constitution and the concrete rules with regard to that, then that will create a better atmosphere in the country.

What happens when there is no right to recall? Then, this kind of movement which is taking place in Bihar, which has taken place in Gujarat and which took place long ago in Kerala, in 1959, will be encouraged. There is no point in blaming the people because they do not have any other constitutional methods by which they can exercise their right. In 1959, in Kerala, when there was a properly-elected Government in power, a movement was unleashed against that Government. It was spearheaded by the Congress party, the present Prime Minister who was the President of the ruling party at that time and the Government was brought down. It was referred to in Parliament for so many days. Even at that time, many persons who respected the democratic wishes of the people pointed out that this would lead to a bad precedent and that this would lead to scuttling of democracy at a later stage. It might have been expedient for the ruling party at that time to bring down a democratically-elected Government which was headed by the Communist Party of India in 1959 in Kerala.

In 1973, a similar practice was indulged in by the people in Gujarat. Today, in a much bigger way, the threat to democracy is posed in Bihar and the people say that the

agitation will be spread to other parts of the country also. When they agitate over the demand that the elected representatives should go or the elected Assembly should be dissolved, it is, of course, an attempt to scuttle the democratic institution. But, at the same time, they can point out that there is no constitutional method by which they can recall back those elected representatives who have been proved to be corrupt in the eyes of the electorate. So, this weakness will remain and it will instigate the processes in our country which will endanger democracy in our country. That why I say that the right to recall should be incorporated in the Constitution.

Now, when I speak of this right of recall, certain basic things should also be pointed out. When we say that there should be electoral reforms to strengthen democracy, it cannot happen in a vacuum. It can happen only in relation to certain socio-economic changes which the policies of the Government will initiate. When we say that there are corrupt practices indulged in during elections, at the time of election campaigns, and even after a candidate is elected, when he is compelled to defect from one party to another and he is induced to defect, that is, money plays a big role, how can all this be prevented is a very important thing. Even when we incorporate the right to recall, money influence can play a negative role in the operations of the right to recall. What we believe is that certain fundamental economic changes should be brought about in our country: first, Government should put an end to the parallel economy, to the operation of black money; Government should consciously make propaganda with the cooperation of all the political parties to see that the influence of caste and religion does not play a vital role in the elections; they should also ensure that the black money is com-

[Shri C. K. Chandrappan]

pletely eliminated from the national life. If these influences are not eliminated, even with all good amendments or good changes that we may incorporate in the electoral law or even in the Constitution, we will not be able to bring about any desired change to strengthen democracy in our country.

Our Party, the Communist Party, had considered this problem from the very beginning and our Party had taken a position from the very inception of the Party; in its programme it has been stated:

"It will grant universal and equal suffrage to all male and female citizens in the elections to Parliament, Legislative Assemblies and local bodies through secret ballot. The principle of proportional representation will be adopted in all elections, and the right to recall all elected representatives by the majority of electors will be established."

This is what our Party has thought about electoral reforms which, in our opinion, will help our democracy to thrive in future. Today people like Shri Jayaprakash Narayan and others who are unleashing this movement in Bihar for the dissolution of the Bihar Assembly say, as if they are talking something very new, that they are for a total revolution, for bringing about a total change. But, if you look at the facts, it is not so. All those people who are today supporting Shri Jayaprakash Narayan and his movement were once the protagonists of the present Constitution and they always thought that any change in the Constitution like proportional representation or right to recall would only help the Communists in our country, and they tried to win political power in our country through Constitutional methods. But today they find that their reactionary combination could

not come to power utilising even the present Constitution, and that frustration, that disappointment, is now leading them to a position where they are striking at the very root of the Constitution, the very root of democracy and democratic institutions. That is why we say that this movement is not a movement for strengthening democracy; this movement is a reactionary movement to strengthen the hands of reaction and pave the way for fascism. What we want by way of this amendment and similar things is strengthening the Constitution, strengthening democracy and democratic institutions in our country; we want to make democracy hundred per cent meaningful and make the people the real masters in the democracy and the elected representatives the servants of the people. This is the purpose of this Bill and I commend the Bill for the consideration of the House.

MR DEPUTY-SPEAKER : Motion moved:

"That the Bill further to amend the Constitution of India be taken into consideration."

There is an amendment given notice of by Shri M C Daga. Is he moving that?

SHRI M C. DAGA (Pali): Yes, Sir, I beg to move:

"That the Bill be circulated for the purpose of eliciting opinion thereon by the 2nd March, 1975." (1)

MR. DEPUTY-SPEAKER: If you wish, you may speak on it.

श्री मूल चन्द डागा : उपाध्यक्ष महोदय, आजकल जो यह संविधान के खिलाफ गलियाँ में और सड़कों पर निर्गम लिए जाते हैं उन के आघार पर श्री चन्द्रप्पन एक बड़ा बिल लेकर आ गए हैं और कह रहे हैं कि संविधान के अन्दर ऐसी क्लॉक लगा दी जाय जिस से

इसे आज सिस्टर चन्द्रपत चुनना और कर आता है और कानून के लोग कत इच्छते हैं और एक अस्तित्व प्राप्त कर और और इन उद्देश्यों के लिए तो उनका चुनाव खत्म हो जाय। मैं उन से जानना चाहता हूँ कि यह कौन सा लेजिस्लेशन आप माना चाहते हैं? खुद हा जो बात यह कह रहे थे वह माफ नहीं है। आप चाहते हैं कि ऐसा लेजिस्लेशन लाया जाय तो क्या लेजिस्लेशन लाया जाय? क्या आप के दिमाग में बात थी इस बिल को लाते हुए कि ऐसा बिल लाया जाय? कौन सा आप ऐसा लेजिस्लेशन लाना चाहते हैं जिस से राइट आफ रिकाल का परपक्ष सर्व हो जाय? मेरे ध्यान से उन के अपने दिमाग में यह बात अभी भी माफ नहीं है कि हम किस प्रकार से इस चीज को करें। आज तीन चार लाख आदमी जो हम को वोट देने के लिए आते हैं कौन सा तरीका एडाप्ट किया जाय कि वह हम को रिकाल कर ले?

मैं एक बात कहना चाहता हूँ कि हिन्दुस्तान में जो चुनाव होते हैं वे पार्टी सिस्टम के आधार पर होते हैं। कांग्रेस पार्टी या दूसरी पार्टी, जनसम, या डी एम के अपना अपना चुनाव घोषणापत्र निकालती है और उस चुनाव घोषणापत्र के आधार पर पार्टियां चुनाव लड़ती हैं। रिजल्ट एनाउंस होता है तो यह होगा कि कांग्रेस पार्टी के इतने लोग जीते, सी पी आई या जनसम के इतने जीते, इतने हरे। तो आप पार्टी सिस्टम के आधार पर एक आदमी को जाचिये। पार्टी ने प्रत्येक जनत के सामने एक अपना चुनाव घोषणापत्र रखा। जनता पार्टी को वोट देती है कि इस पार्टी के ये लोगस ये आवजेक्ट्स हैं और इन के आधार पर उस की रीति नीति और उस के काम करने के तरीके में जनत अपना विश्वास प्रकट करती है। जनता देखती है कि स्टेबल गवर्नमेंट कौन सी बनेगी, मजबूत गवर्नमेंट कौन सी बनेगी और उस आधार पर वह अपने वोट देती है। लेकिन यह आप ने इस में एक बात कह दी रिकाल की। एक आवाज यहाँ रिकाल की उठा दी। गुजरात

में एक दम बड़ा शिक्का लगा। मैं समझता हूँ यह इसलिए नहीं उठाना गया। ये समझे कोई सबकों पर तय करने के लिए नहीं हैं। मीड में चिन्तन नहीं होता। हिन्दुस्तान अनेक प्रमों का देश है। मान लीजिए एक जाति का आदमी चुन कर आ गया, दूसरी जाति वालों ने आन्दोलन शुरू कर दिया कि इस को रिकाल करो। मैं समझता हूँ सिस्टर चन्द्रपत बड़ा प्रग आदमी हैं, उन्होंने एक सजेशन दे दिया लेकिन यह किस तरह से अमल में आ सकता है यह बात सामने नहीं आई। इसीलिए मैंने उस पर यह कहा कि इस के ऊपर पब्लिक ओपिनियन जाननी चाहिए कि आखिर चाहते क्या हैं? डिफेक्शन कमेटी में यह बात आई तो उन्होंने भी इस को मना किया। उन्होंने कहा कि हम रिकाल के प्राविजन से ऐसी नहीं करते हैं। डिफेक्शन कमेटी में हिन्दुस्तान के सारे बड़े बड़े लाइयर्स थे, उन्होंने भी अपनी यह राय दी कि हम इस रिकाल के प्राविजन से सहमत नहीं हैं, यह हमारे यहाँ पासिबल नहीं है। उन्होंने इस राय को अपनी मीटिंग में जाहर किया कि राइट आफ रिकाल के लिए हम ऐसी नहीं करते। उन की राय में आप के सामने कोट करता हूँ:

"We do not consider this necessary or feasible. In any case, the legislation in respect of disqualification of a defector recommended by us would in effect the same purpose in a quicker or less cumbersome manner"

यह बात कर रहे हैं—श्री गोविन्द मेनन, श्री सी० के० दफतरी, श्री एस० मोहनकुमार मंगलम। चन्द्रपत साहब, इन में ज्यादा साउथ के थे, आप इस बात को एप्रेशिएट करेंगे। उन्होंने यह राय दी है कि ऐसा नहीं होना चाहिये। जब डिफेक्शन कमेटी ने अपनी प्रोजबल निकाली तो उन्होंने कहा कि हम इस से ऐसी नहीं करते हैं। हिन्दुस्तान के 56 करोड़ लोगों में से 18-19 करोड़ लोग चुनाव में जाते हैं—आप कैसे खाव करेंगे? मान लीजिये मैं गांव में जाता हूँ और मैं लोगों

[श्री मून चन्द डागा]

से कहता हूँ कि मैं बड़ा काम करता हूँ। वे कहते हैं ठीक है, आप बहुत काम करते होंगे, हमारे लिये फूड ला कर दीजिये। मैं उन से कहता हूँ कि डिस्ट्रीब्यूशन के काम के लिये एम० एल० ए० से कहिये, इस पर वे कहते हैं कि आप काम्पीटेन्ट नहीं हैं—तब क्या स्थिति होगी। आप ने कहा है कि हर आदमी को गाव में जाकर काम करना चाहिये—ठीक है, मैं गाव में जाता हूँ। लोग कहते हैं कि यहाँ पाठशाला खुलवाइये। यदि मैं उन से कहना हूँ कि यह काम तो एम० एल० ए०, प्रधान या जिला प्रमुख का है वे कहेंगे—अगर आप पाठशाला नहीं खोल सकते हैं तो आप बिलकुल नाकाबिल हैं। मैं उन से कहता हूँ—माई, मेरा काम पार्लियामेंट में जो बहम होनी है, उस में हिम्मा लेना है। वे उम्हें हम कुछ नहीं जानते। जहाँ लोग समझने नहीं है, वहाँ कैसे काम चलेगा; वे उम्हें कि आप वापस आजाइये, आप इस काम के लायक नहीं हैं। एम० पी० का काम सदन में काम करना है—अटल बिहारी जी जेल में मिलने गये, इन का काम गाव गाव में जा कर अगर वहाँ राशन नहीं मिलता है तो उस की व्यवस्था करना नहीं है। अगर ये कहते हैं कि मेरा काम तो पार्लियामेंट में इस खराबी के लिये सरकार के खिलाफ़ नो-कॉन्फिडेंस मोशन लाना है, एडजार्नमेंट मोशन लाना है—तब उस का क्या नतीजा निकलेगा। ये इस के लिये कहा तक जिम्मेदार है ?

16 hrs.

आप ने अपनी स्पीच में कहा है—मान लिये हम ने जनता के सामने कोई घोषणा की थी आश्वासन दिये थे या हवाई किले बाँधे थे कि हम तुम्हारे लिए नहर में पानी ला देंगे। अब वह काम अगर नहीं होता है तो जनता कहेंगी तुम ने तो बड़ी घोषणाये की थी, चलिए, वापस आजाइये, इस में तुम्हारा कुसूर है मेम्बर कहता है कि मेरा कुसूर नहीं है यह मेरी पार्टी का घोषणा पत्र है, उस ने नहीं किया है। इस पर आप कहते हैं कि

राइट आफ रिकाल है, जनता आप को पसन्द नहीं करती है, इसलिए आप वापस आजाइए। इस में मेरा क्या कुसूर है। जब यहाँ पार्टी सिस्टम है तो पार्टी को इस के लिए जिम्मेदार ठहराए। मैं आप से पूछता हूँ—कौन से मुल्क में डिफेक्शन नहीं होता है ? आया-राम और गया-राम पंजाब और हरियाणा में शुरू हुए और आज कल का वोटर तो यू ही देख लेता है कि आप कौन सी पार्टी में हैं। वह अपने आप समझ जायगा कि आप दल-बदलू है या कैसे आदमी हैं, अगर आप ठीक नहीं हैं तो आप को बैसे ही डिस्क्रेडिट कर देगा। इस लिए आप नई बात क्यों ले रहे हैं। पैसा लेने-देने की बात राइट-आफ-रिकाल से कैसे रूक सकती है, यह तो करप्शन को बढ़ाने की बात है। आप के सविधान के अनुमार पांच मान के लिए चुनाव होता है—अगर कोई मेम्बर ठीक काम नहीं करता है तो उस में डिस्क्वालिफिकेशन का प्रावोजन है, उस को डिस्क्वालिफाइ किया जा सकता है। अगर कोई मेम्बर मर्डर करता है, कोई करप्शन का काम करता है तो उस को निकाला जा सकता है। लाइसेंस स्कैंडल की चर्चा चल रही है, अगर किसी ने कोई गलत काम किया है, तो उस को डिबार किया जा सकता है, लेकिन इस के लिए राइट आफ रिकाल का कानून बनाने की क्या जरूरत है।

अहमदाबाद और गुजरात में क्या हुआ और आज वहाँ क्या हो रहा है ? नीकरशाही का राज है, वहाँ पर जनता का राज नहीं रहा..

श्री अटल बिहारी वाजपेयी (स्वालयर).
जन्दी से चुनाव कराइए।

श्री मूलचन्द डागा : चुनाव तो हो जायेंगे। लेकिन चुनी हुई सत्ता को हटाने से क्या लाभ हुआ। हम बिहार में भी यही बात कह रहे हैं—अगर वहाँ करप्शन है तो जनता अपने आप दो साल के बाद फेक देगी, लेकिन राइट आफ रिकाल का प्रावोजन करने से तो कोई फायदा नहीं होगा।

इस लिए मैं आप के राइट आफ रिक्ल के प्रोवीजन से सहमत नहीं हूँ। फिर भी यदि आप चाहते हैं तो इस को जनमत के लिए प्रसारित कीजिए, ताकि लोग जान जायें कि राइट आफ रिक्ल क्या है, उसके बाद इस के बारे में निर्णय होना चाहिए, वरना मैं इस के बिलकुल खिलाफ हूँ।

SHRI S. P. BHATTACHARYYA (Uluberia): Mr. Deputy Speaker, Sir, I fully support this Resolution of Right to Recall. But, I do not support the viewpoints that have been put in. In our country, at present, the voters have no right to demand the recall of their elected representative for a period of five years. But, what we want is this that the voters should be given the right to have a control over their elected representatives with a view to see that the promise given by them at the time of seeking their votes is fulfilled by their elected representative. The voters may at the same time know that their representative has really worked according to the wish and their interests are looked after by him. That must be their attitude. Therefore, let us give this right to the people of our country to recall their elected representative. In our present situation, if there were such a right to recall, then the situation in Gujarat and Bihar would have been quite different. When once the voters have elected a representative of a party then they are bound to support him and he is bound to support the party. But, in Gujarat, though there was a majority Government of the Congress Party, the people of Gujarat got disgusted with the corruption, high prices etc., and so, they demanded that Government must go and a fresh election must be held. In the absence of such a right to recall by the people, naturally, there would be such a movement by the people and the Government would be compelled to go.

The same is the case with regard to Bihar. In Bihar, there is corrup-

tion and nobody can deny that. In Bihar, you would see that they have to rule by their ordinances; they are quarrelling with each other for getting more share of power or money or whatever it may be.

Now, Shri Jayaprakash Narayan resorted to his movement to change the Government by the will of the people. In such a situation, if there was a provision for the right to recall, than things would have been otherwise. The people would have demanded that each of the elected representative must go. They would have compelled the Government to go and a new Government could have been formed by now. That is not done now. Then what is the way for the people? They must give expression to their feelings. In Bihar the people are disgusted because there is corruption; there is unemployment; there is poverty; people find it difficult because of high prices and there is starvation death also. The people must wake up to see that the change is brought about. If the right—the constitutional right—of recall is given to the people, they can bring about a change in the administration of Government. This is one of the best methods of ensuring this. It is there in the socialist countries. It is there in Soviet Russia. The representatives are always responsible to the voters; not only at the time of election but throughout the period they must be responsible to the voters. So this is a good amendment.

Then buying of votes will be more difficult. Whoever has got money may buy votes. But if votes are bought and then the voters find that they have been cheated, they will again have the right of recall. So buying of votes will be more difficult; also getting votes by force or coercion or by rigging, as was done in West Bengal, will be more difficult. The voters will have a greater right to exert their opinion and corruption will be rendered less possible in elections.

[Shri S. P. Bhattacharyya]

But the main thing is the economic system of our country which is dominated by big landlords, big hoarders and big monopolists. They control the whole economy. This must go and the people must have their real right to ensure their development for their better existence. It is one of the fundamental points for real democracy in the country that the right of recall should be available for every voter. So I fully support the amendment.

श्री एम० राम गोपाल रेड्डी : (निजामाबाद) : उपाध्यक्ष जी, जो बिल रखा गया है यह देश में अनार्की पैदा करने के लिए ही लाया गया है और कुछ नहीं है। क्योंकि हम देख रहे हैं रिकाल कैसे होता है। जनरल इलेक्शन के बाद कोई वार्ड-इलेक्शन आये तो जहां विरोधी दल का कडीडेट होता है वहां कांग्रेस जीत जाता है, और जहां कांग्रेस की सीट होती है तो वहां विरोधी दल वाला जीत जाता है। इसलिए पूरे देश में अगर रिकाल मान लें तो अपोजीशन वालों को सिवाय इस के और कोई काम नहीं रहेगा। जब रिकाल का कोई प्रोजीशन ही नहीं है तो बिहार और दूसरी जगहों पर जो गड़बड़ कर रहे हैं उस से उन लोगों के ख्यालात मालूम हो जाते हैं। हर पांच साल बाद चुनाव होता है और वोटों को मालूम है कि जिस को हम बोट दे रहे हैं वहां पांच साल तक रह सकता है। फिर यह कहना कि 6 महीने के बाद वोट अपने ख्यालात बदल दे यह ठीक नहीं है। स्विटजरलैंड का उदाहरण दिया गया है, वहां की जनसंख्या बहुत कम है। हमारे देश में अगर किसी पार्टी को पावर सौंपी गई है तो दूसरे दिन से ही हमारे यहां ऐजिटेशन शुरू हो जाता है। उस पार्टी को पांच साल तक अपनी पौलिसीज को चलाने का मौका देना चाहिए। आप चुनाव के 6 महीने पहले सरकारी पार्टी को गलतियां जनता के सामने रख सकते हैं। आज स्थिति यह है कि रूलिंग पार्टी अगर कोई काम करना

चाहती है तो उस को ला ऐंड आर्डर का मुकाबला करना पड़ता है और शांति से काम करने का मौका अपोजीशन वाले नहीं देते। बिहार से कई मुसीबत आयीं उस की किसी को कोई चिन्ता नहीं है, बल्कि दुबारा चुनाव चाहते हैं। इसलिए विरोधी दल में जितनी पार्टिज हैं उन को पांच साल तक शांति से इंतजार करना चाहिए, न कि इस तरह से ला ऐंड आर्डर प्रौब्लम पैदा की जाय। बिहार के एम० एल० एज० को इस्तीफा देने के लिए मजबूर किया जा रहा है। अगर अपोजीशन के लीडर्स इस स्टैप को अच्छा समझते हैं तो लोक सभा की सीट उन को खाली कर के बाई-इलेक्शन लड़ना चाहिए, तब मालूम हो जायगा कि स्थिति क्या है। किसी दूसरे को आप क्यों मजबूर करते हैं इस्तीफा देने के लिए? पहले खुद करें।

डिफेक्शन्स कमेटी की रिपोर्ट में दो, तीन जगह जिक्र आया है, और उन्होंने साफ कहा है:

“Some of the Constitution like those of Switzerland, Romania, Czechoslovakia, USSR and some of the States of USA, have a provision for removing a public functionary, including an elected representative, before the end of his term of office. On this analogy, a similar provision to be incorporated in our Constitution was strongly advocated by some of the members of the Committee. The Committee as a whole, however, is not convinced that this provision would be advisable or practicable for this country.”

तो अपोजीशन के मेम्बर्स जो कहते हैं डिफेक्शन्स कोर्ट में जा कर तकरीबन सब युनानिमस हो गए। क्योंकि अपोजीशन में हैं इसलिए कुछ लोगों को खुश करना चाहते हैं। लेकिन जब पावर में आये तो वह खुद नहीं चाहेंगे कि इतनी जल्दी जल्दी चुनाव हो।

दूसरी जगह वह कहा गया है :

"A Code of Conduct for political parties. The predominant view in the Committee has throughout been that regardless of the legislative and constitutional measures against political defections, a lasting solution to the problem can only come from the adherence by political parties to a code of conduct or set of conventions that took into account the fundamental proprieties and decencies that ought to govern the functioning of democratic institutions."

तो हमारे देश में जो इलेक्टोरेट है वह सही तरीके से वोट दे रहा है। ऐसे वक्त से हर वक्त चुनाव की बात करना ठीक नहीं है। बदकिस्मती में अपने देश में विरोधी पार्टियाँ लोगों में गड़बड़ करने की कोशिश करती हैं, कभी-कभी घराब और बंध कराते हैं। क्या इस तरह का प्रोपोगन्डा अच्छा है? अगर माननीय वाजपयी जी का लडका होता तो क्या वह उस को कालेज जाने से रोक्ते? मैं जब आंध्र से लोक सभा के लिए जीता तेलंगाना प्रजा समिति के मुकाबले में तो वहाँ जब स्कूल कालेज बन्द थे तो मैं ने अपने लडके को दिल्ली में पढ़ने के लिए भर्ती करा दिया। होता यह है कि नए कालेज बन्द होने से गरीब लोगों के बच्चा ही नुकसान होता है, और किसी के बच्चा वा नहीं क्योंकि वह तो दूसरी जगह अपने बच्चों को पढा सकता है। इसलिए प्रोपोजिशन का स्टन्ट है, और मैं माननीय वाजपयी जी में निवेदन करता हूँ कि वह अपने बच्चा को वापस ले ले।

*SHRI M. KATHAMUTHU (Nagapattinam). Mr. Deputy-Speaker, Sir, while extending my wholehearted support to the Constitution (Amendment) Bill of my hon. friend, Shri C. K. Chandrappan, through which he seeks to provide for the right of recall to the people of our country, I wish to place before this House a few suggestions of mine.

Sir, this Amendment is very very essential for the healthy growth of democracy in our country. At present, the people have the right to elect their representatives to the State Assembly and to the Lok Sabha. But they have no right to recall either their M.L.A. or their M.P. Only when the people have both these rights, it can be said that they are enjoying full democratic rights. This amending Bill seeks to remove this deficiency in our Constitution. That is why I feel that the Government should have no hesitation in accepting this amending Bill.

While replying to the Debate, the hon. Law Minister may argue that this issue was discussed threadbare and at great length during the Constituent Assembly days before it was rejected. After elaborately discussing the different aspects of this issue, the Constituent Assembly had felt that this was not feasible. But, during 27 years of our independent existence, the political climate and the economic situation have changed considerably. Our Constitution itself has been amended several times. It is axiomatic that the laws of the country should reflect the spirit of the times. The laws cannot afford to be rigid; they should meet the requirements of the people. Flexibility should be the essential feature of law-making in a democracy. On this ground also, this amending Bill of my hon. friend should carry the approval of the House.

Coming to the other argument that Switzerland is a small country where this principle is in operation, and the vastness of our country stands in the way of implementing this principle, I would like to point out that Russia is equally a large country where this principle is in operation. How to implement this can be discussed in great detail later on. A special committee can be constituted to go into this question and suggest practical methods for implementing this. I am firmly of the view that this argument

*The original speech was delivered in Tamil.

[Shri M. Kathamuthu]

of vastness of our country also will not stand the test. There cannot be anything substantial in the way of the Government for accepting now the spirit behind this principle and later on implementing it.

On another count also, this amending Bill is very very important. As it stands now, once an M.L.A. or M.P. is elected, he gets a licence to act as he likes for a period of five years. He can neglect the interests of his constituents. He can indulge in corruption and such other malpractices. But the voters have no right to recall him for his misdeeds. They have to tolerate him for five years. The representatives of the people in Gujarat relegated the interests of the people to the background and regaled themselves in the pleasures that power gave them. But the people could not react to this in a constitutional manner because they had no power to recall them. They were left with no alternative except to take recourse to streets for the recall of the Assembly. Tamil Nadu is another example. If the people, who have the right to elect their representatives, have no right to recall them in the event of their proved misdeeds, then it is no democracy. Similarly, if there is constitutional provision of the right of recall, it will also act as a deterrent; it will act as a safety valve of democracy. It will act as a deterrent because the M.L.A. or the M.P. will be constantly remembering their responsibility to the people, their assurances to the people at the time of their election, and their commitment to the people. If they fail, instead of taking to streets, the people will recall them; thus, it is a safety valve of democracy.

Sir, from these points you will agree with me that constitutional right to recall will strengthen democracy in our country. I would appeal to the hon. Minister of Law that the

Government should accept this amending Bill in principle and in its spirit and how to implement it can be worked out later on.

With these words, I support this Bill.

श्री अटल बिहारी वाजपेयी (ग्वालियर):
उपाध्यक्ष महोदय, मैं इस विधेयक का समर्थन करने के लिए खड़ा हुआ हूँ।

उपाध्यक्ष महोदय, जब हमारा संविधान बना, तब निर्वाचित प्रतिनिधियों को वापस बुलाने के अधिकार को उस में समावेश किया जाए, यह सुझाव रखा गया था, किन्तु उसे स्वीकृत नहीं किया गया, लेकिन तब से बहुत भा पानी यमुना नदी में पहुँच गया है। उस के बाद हम 32 बार संविधान में संशोधन कर चुके हैं। हम क्रांतिकारी युग में रहते हैं। संविधान का बदलती हुई परिस्थितियों के अनुरूप होना होगा, बदलना होगा। क्या लो-तंत्र वा अर्थ यह है कि मतदाता को पांच वर्षों में एक बार मत देने का अधिकार और आठ पांच वर्ष तक वह यह न देखे कि उस का चुनाव हुआ प्रतिनिधि क्या कर रहा है? उपाध्यक्ष महोदय, लो-तंत्र वा आधर है एकाउन्टेबिलिटी, चुने हुए प्रतिनिधि जनता के प्रति उत्तरदायित्व। हम कहते हैं कि स्वतंत्रता की रक्षा के लिए सतत जागरण आवश्यक है। तो क्या लो-तंत्र की रक्षा के लिए जनता का पांच साल साना जरूरी है। 4 साल और 364 दिन तक जनता सोती रहे और मतदान के दिन जाग जाए और अपने मतों का उपयोग करे। लोग को देखना होगा कि उनके द्वारा चुने हुए प्रतिनिधि ठीक काम करते हैं या नहीं? वे चुने जाते हैं सेवा के लिए और अगर वे सेवा बनाते हैं तो क्या किया जाए। वे चुने जाते हैं काम के लिए और अगर काम की बजाए वे काम इन्टरुप करते हैं, तो क्या मतदाता मूक-दर्शक रहे ?

श्री एम० राम गोपाल रेड्डी:
वाजपेयी जी, हम काम करते हैं।

श्री कदल बिहारी बाबूदेवी : तो फिर आप को वापस नहीं बुलाया जाएगा, आप निश्चिन्त रहिए, लेकिन तुलमोहन राम जी जैसे जनता के प्रतिनिधि चुन कर आ जाएं और चुन कर अगर लाइसेंसों का घुटाला करें और 70 हजार रुपया खा जाएं, ससद को बदनाम करें, अपने नाम को कलंकित करें, तो जिस क्षण की जनता ने श्री तुलमोहन राम को भेजा है, क्या उसे वापस बुलाने का अधिकार नहीं होना चाहिए। कांग्रेस पार्टी श्री तुलमोहन राम के खिलाफ कार्यवाही करने की तैयार नहीं है। संसद की सदस्यता से उसे हटाना तो अलग रहा, उसे गिनना करने के लिए भी प्रस्तुत नहीं। तो क्या जनता के हाथ में कोई अधिकार रहेगा या नहीं, या जनता पांच साला तक चुप बंठी रहे ? यह लोकतंत्र का अर्थ नहीं हो सकता है। लोकतंत्र, केवल पान गाल में एं बाग बोट देने के अधिकार का नाम नहीं है। जिन प्रतिनिधि की जनता के प्रति जिम्मेदारी हानी चाहिए, जिम्मेदार देयी जानी चाहिए।

उपाध्यक्ष महोदय, प्रश्न विद्वान्त का है कि जो चुनकर भेजता है, क्या उसे वापस बुलाने का अधिकार हो ? स्वीटजरलैंड छोटा देश है, इसलिए उसकी बात यहां लागू नहीं कर सकते, सोवियत रूस तो बड़ा देश है, इसलिए लागू नहीं करते, वह कम्युनिस्ट देश है, इसलिए लागू नहीं करते। तो आप लोकतंत्र में कोई नई बात क्यों नहीं कर के दिखाते। हमारे देश में आज जैसी परिस्थिति है, दुनिया में कहीं नहीं है। राजनीति दूषित हो गई है और लोग सड़कों पर आ रहे हैं (खूबबान)। हम ला रहे हैं। मगर हमारे साथ लागू क्यों आ रहे हैं ? क्योंकि आप विफल हो गए हैं। जनता अपना असंतोष कैसे प्रकट करे। गुजरात की विधन भंग करनी पड़ी और यह बात अलग है कि श्री चन्द्रप्यन की पार्टी ने उस समय उस का समर्थन किया था लेकिन आज वह बिहार में उस का समर्थन

नहीं कर रही है। मैं इस विवाद में नहीं जाना चाहता लेकिन अगर वापस बुलाने का अधिकार हो, तो मतदान किया जा सकता है ताकि ऐसे शौके अधिक न आएं। लेकिन शब्द दूर रिक्वाल हो तो यह बात चुने हुए प्रतिनिधि पर अकुश के रूप में काम करेगी, उसे मजबूर करेगी जनता के प्रति जिम्मेदार रहने के लिए। आज तो वह समझता है कि पांच साल तक हमें कौन हटा सकता है। मैं समझता हूँ कि यह एक जीवन्त लोकतंत्र का लक्षण नहीं है। रुढ़िवादी लोकतंत्र से हट कर जीवित और जागृत लोकतंत्र के अनुरूप यह संशोधन हमें स्वीकार करना चाहिए और जनता को अपने द्वारा चुने गए प्रतिनिधि को वापस बुलाने का अधिकार देना चाहिए, फिर लोगों को सड़कों पर आने से रोका जा सकता है, फिर जनता की राय से लाक्षणिक तरीके से विवादप्रस्त प्रश्न हल हो सकते हैं और अष्टाचारी सदस्य को सीधी राह पर रखा जा सकता है। अगर आप चाहे तो यह संशोधन कर सकते हैं कि रिक्वाल संसद 50 परसेन्ट वोट होना जरूरी है, मैं यहाँ तक जाने के लिए तैयार हूँ। अभी तो आप 32 फीनदी पर चुन कर आ जाते हैं, 44 फीनदी पर चुन कर आ जाते हैं लेकिन आप रिक्वाल को जरा कठिन बना दीजिए कि जब तक 50 फीनदी वोट नहीं मिलेगी रिक्वाल की है बात नहीं मानी जाएगी।

लेकिन यह बात स्वीकार करनी चाहिए कि इससे संसद सदस्यों आदि में जिम्मेदारी की भावना बढ़ेगी। जनता को भी उन पर नजर रखने की सारथकता का अनभव होगा। अभी तो जनता समझती है कि एक बार चुन लिया अब हम को उसे हटा नहीं सकते, अब जो चाहे यह करे और प्रतिनिधि समझता है कि हम सब करने के लिए स्वतन्त्र है। मझे पता नहीं कि मंत्री महोदय या महोदय को न हथका जाबाब देने वाला है लेकिन मैं समझता हूँ कि किसी को भी जल्दवाजी में जाबाब नहीं देना चाहिए, स पर थोड़ा विचार विनिमय कर लें

विश्व-प्रभाव और कल्याण-कर्मों के अभाव में राज्य संघी (आ० संसदीय संघी) :
कर रहे हैं।

श्री अटल बिहारी वाजपेयी : खुला विभाग है, यह तो मुझे आज ही पता लगा है। सरकार ने इसके बारे में अभी कोई फैसला नहीं किया है। कम्युनिस्ट पार्टी की मांग है जरा सम्मेलन कर इसके ठोस राइयें का कर्माणि; म्युनिस्ट पार्टी के बिहार में जो मॉमॉरेंडम दिया है उस में यह भी है कि रिक्तता का अधिभार जनता को होना चाहिये और इस मांग को ठोकरा दिया तो वे नाराज हो जायेंगे और आपकी मुश्किल हो जायगी।

आप सिद्धांत रूप में यह बात मान लें। श्री चन्द्रपन ने भी कहा है कि उसको फिर तरह से लागू किया जाये इसके लिये पार्लियामेंट बनाने, बनानी और बनाने के समय हम ब्योरो पर विचार कर सकते हैं। चुनाव बनाने में संशोधन जरूरी है। प्रधान मंत्री एवं तरफ कहती हैं कि हम चर्चा के लिये तैयार हैं और दूसरी तरफ कहती हैं कि लिस्ट सिस्टम हिन्दुस्तान में नहीं चल सकता जब आपने दिमाग बना ही लिया है तो चर्चा क्या करोगे यह भी उन्होंने कहा है कि प्रोपोशेनल रिप्रिजेंटेशन भारत के लिये व्यावहारिक नहीं है अगर जो कुछ चल रहा है यही व्यावहारिक है तो इतना अर्थ यह है कि चुनाव प्रणाली में संशोधन की कोई गुंजाइश नहीं है। इतना मेरा निवेदन है कि जल्दवाजी में मत दरिये थोड़ा समय ले लीजिये और संविधान में ऐसे संशोधन स्वीकार करिये जिन से संविधान एवं लचीला दस्तावेज बने जो वक्त के तलाशों को पूरा कर सके।

SHRI RANABHADUR SINGH (Sidhi): Sir, I rise to support Shri Chandrappan's amendment to the constitution. I feel that after 27 years of our democratic functioning in our country we are groping towards a solution of our problems and necessarily when we look to the problems we seek

to find whether the democratic institutions that we have so far evolved are standing up to the demands that are put on them. In this context, Shri Chandrappan's amendment comes as a welcome thing.

I, of course, carry the reservation in my mind that the question of the mechanics of implementing this amendment requires very serious consideration, because the logistics involved in this are so tremendously big and no experiment of this sort has been done elsewhere yet. But I support him because I feel that if, as a people, we close our eyes to the fact that the Constitution has to remain a thing which changes with us and fulfils our requirements, if we convert it into a fossilized skeleton, then we undermine our very belief in democratic institutions and our belief in democracy itself. So, I think it would be well that the Government gives this amendment its very serious consideration, that this amendment should come up in the nature of Government proposal that it should find the widest publicity and that Government should elicit the opinion of the people over the whole country, of all the different parties, the major constitutional lawyers of this country, and after having gone through the whole gamut of consultation, I think it would be well if the Government came up with an appropriate Bill which would give a redress to the people of this country.

श्री टी० सोहन लाल (करौनवाग) :
इस संशोधन का मैं समर्थन नहीं कर सकता हूँ क्योंकि मैं समझता हूँ कि जिस पार्टी से ये तालुक रखने हैं अगर उनके उसूलों पर जाया जाय तो यह संशोधन बिल्कुल बेकार साबित होता है। यह कहा गया है कि जनता जिसको चुन कर भेजती है उस उसको वापिस बुलाने का भी हक है। लेकिन आप यह भी देखें कि हमारे संविधान ने पांच साल का समय रख दिया है। अगर यह बात है तो आप इस बात को भी स्वीकार क्यों नहीं करते हैं कि

इसके अन्दर यह भी होना चाहिये कि जब एक बार चुन दिया तो फिर चाहे पंद्रह साल तक भी वह वापिस नहीं बुलाना चाहनी है तो पंद्रह साल तक भी वह मेम्बर रहे। क्यों आप ऐसा भी नहीं सोचते हैं। अगर आप इसको स्वीकार नहीं करते हैं तो इसका साफ मतलब यह है कि इसके अंदर कोई दूसरी ही भावना काम कर रही है। जितने भी भाषण हुये हैं, उन से साफ जाहिर होता है कि इब 25 सालों के अन्दर कांग्रेस के अलावा हिन्दुस्तान की जनता का किसी भी दूसरी पार्टी में विश्वास नहीं पनप पाया है और निराश हो कर चूँकि ये जानते हैं कि चुनाव हम जीत नहीं सकते इसलिये बाबेला मचाने का कोई तरीका निकाला जाय। क्या आप समझते हैं कि इससे कुर्रप्शन नहीं बढ़ेगा या कुर्रप्शन नहीं चलेगा? एक आदमी जो चुन कर आता है ताम परसेट परता इतना माफ मतलब है कि 70 मरनेट तो उसके पहले ही खिलाफ है। अब नोस परसेट में से भी आप प्रेक मेल करके उसके खिलाफ बाबेला मचवा सकते है। आज कौन नहीं जानता। 67 गरीब आदमी के लिये चुनाव लडा। कितना मुश्किल है। अब नहीं अगर वह चुन कर आ जाता है तो अर्बान आदमी अपने पैरों पर इतना भार धरवा में इतना करेगा कि उन कि नियम रहेगा। मुश्किल हा जाएगा। गरीब पादमी की राज भी क्या जान है। उनको रोडा तक नहीं मिलती है और वह राटा के लिये सब कुछ करने के लिये नैयार हा जाता है एलेक्शन मे यह रातदिन हा रहा है जन सब वाले करा करते है। खुलेआम बाट खरीदते है। इम हालत में जा जनता की स्पेर्ट से यहा चुन कर आता है उनका हिलाना मामूला बात हो जाएगा।

रूम का हवाला दिया गया है। वहाँ वन पार्टी चल है वहा जिस एक कॅडीडेट को खड़ा किया जाता है उसो को सब बीट देते हैं। वहा का मुकाबला नहीं होता है। वहा बलाना मामूली बात है। पाँच आँदर आ जाँका तो

जनता आवाज उठा देगी और उनको वापिस बुला लेगा। यहा आजकल क्या हो रहा है लोगों को बुला बुला कर एलाइज आयोजित की जाती है और यह तब है जब कि तब पाँच साल का कानून है। अब कही अगर यह हो जाएगा जो आप चाहते हैं ता यहा रोजाना सडकों के उर रेलिया नहीं होगा। आज आपके खिलाफ, कल मेरे खिलाफ, पर ठीकिसा और के खिलाफ। तब यह मामूला बात हो जायगी आप तो जानते ही है कि एजेसिया रेलीज के लिये खुल गई है। आपने कमा नहीं सोचा हांगा कि एक लाख दे कर बीस हजार आदमियों को रेली कराई जा सकती है। यह जाँ हो रहा है इमको आप क्या नजरों से आँकल कर देते है। अब इतना पैसा कौन खर्च कर सकता है? श्री चन्द्रपान क्या ऐसा करवा पायेगे। धनवान जब चाहे करवा ले। अगर आप बिना पैसे के करवाना चाहिये तो कितने आदमी आपके पास आ पाएँगे? फिर वही यहा पर होगा कि जिन के पास नगदनारायण हागा वहा चुनकरके आएँगे और अगर नहीं भी चुने गए तब फिर क्या हागा कि वे एक बाबेला मचवा देगे जा मही नुमाइश जनता ने चुन कर के भेजा हागा। उग का वापस कराने का तराका नियाल लेगे। बहुत बडा कुर्रप्शन इम के अंदर हा जाएगा।

हा, एक चीज में मान सकता हू। आज यह होता है कि 30 परसेट पर भी आदमी चुन कर के आ जाते है। 6 फंडाडेड खडे हो जाते है वोट बट जाते है। तो यह चीज ता डीक है कि 51 परसेट का आदमी चुन कर के अगर यह अये। पावदी लगा देगे ता यह जितनी पार्टी आ ज बी हुई है इन सब का अलग जाना पडेगा और यहा पर एफ या दा पार्टी अपोजीशन में रहेगी, तब जा कर ये कुछ कारगर हो सकत है। क्योंकि ये दक्कटा नहीं हो सकने। 25 सालों में हम ने देखा कि ये कमी इक्डे हुये भा तो फेर आपस म चकर बला चकर आप जानते जो हाँता है, मे हाउम में कहना नहीं चाहता। बीसे कहने

[श्री टी० सोहन लाल]

के लिये सब कहते हैं लेकिन कौन पार्टी है जो कह दे कि हम ईमानदारों से काम करते हैं? है कोई कहने वाले यहाँ पर अगर असलियत देखी जाय तो हाउस के अंदर प्रचार करने की बात तो दूसरी है और यहाँ ये करते हैं, मगर असलियत कुछ और ही है। मानते हैं कि हम खराब हैं, हम में खराबियाँ हैं। लेकिन वह खराबियाँ आप में भी हैं।

श्री एस० ए० शमीम (श्रीनगर): यानी हम सब चोर हैं?

श्री टी० सोहन लाल : बिनकुल। अगर आप में हिम्मत है तो एलेक्शन आ रहा है, उम के लिये तैयारी कीजिये, जनता में जाइये जनता को बतलाइये और आप को मौका मिला एक दफे 1967 के अंदर जब यहाँ पर 16 राज्य थे तो 16 में से 10 राज्यों में आप को बहुमत मिला। तब क्या आपने एक साल भी पूरा चलाया? क्या आः का हिम्मत है इकूमत चलाने की? तो यह कहने वाली बात दूसरी है। कार्य रूप में आने वाला बात जनता में जाने सही पता लग सकती है। जैसा मैंने अभी कहा कि फिर यहाँ पर पैस बलि आयेगे जिन का कि आज आप विरोध करते हैं। मैं नहीं कह सकता कि कहा तक गह। मानते हैं विरोध करते हैं। या दिवालेटा विरोध करते हैं। क्यों कि प्रचार की बात तो दूसरा है।

तो अब क्यों कि तमाम पाठियाँ बोल चुकी तो मैं तो एक बात समझा हूँ कि आगे आने वाले एलेक्शन में प्रचार का एक जरिया बनाने के लिये इन अमेंडमेंट का प्राव लाये हैं; इस के अलावा और कुछ अनुभवित इस में नहीं है। जा तरीका अब है, पांच साल के अंदर में मानता हूँ कि गलतियाँ भी होती हैं, उन तो दूर भी किया जा सकता है, पांच साल के बाद आप कह सकते हैं कि यह आदमी गलत है, हमने ये गलतियाँ की हैं। उस के अंदर के अंदर आप यह चीज जा कर बताएँगे, जनता ठीक समझेगी तो उस को हटा देगी।

PROF. MADHU DANAVATE (Rajapur): Mr. Deputy-Speaker, Sir, when the 24th Constitution (Amendment) Bill was placed before this House, Many of us had said while supporting that that, in order that the Constitution may not come in the way of social and economic changes by peaceful methods within the framework of the Constitution, the Constitution must always be kept flexible and there must be certain provisions in the Constitution by which people's will can be effectively reflected through Constitutional methods. It was precisely because of this that we had supported the 24th Constitution (Amendment) Bill, and on the same lines I fully support the Constitution (Amendment) Bill that has been placed before this House by my esteemed friend, Shri C. K. Chandrappan.

Sir, there is no denying the fact that there is discontent among the people. On one occasion you had rightly observed in this House that 'Parliament has to be a barometer of the country'. Parliament can be a barometer of the country, the Constitution can be a barometer of the country, only if the Parliament and the Constitution reflect the will of the people, reflect people's hunger for change, reflect people's anger also. Every time people must not be compelled to go the streets to demand that a particular change must take place.

We are always told that the people's representatives are elected and that their tenure is five years. But on a number of occasions issues come up in the course of these five years which we had not foreseen at the time of elections; there is a conduct on the part of the people's representatives elected to the Legislatures and Parliament which people had not anticipated earlier. Therefore, if they act in a particular manner prejudicial to the interests of the community as a whole, then the people should have the right to demand that the representatives whom they have elected and who have violated their mandate must not con-

tinue for the whole tenure of five years; they must resign their seats and come back and seek the verdict of the poll. There are a number of countries with differing social patterns and ideologies which have accepted this particular provision of right to recall. You cannot compare the socialist countries of communist countries on the one side and Switzerland on the other. They have different social systems. They have different political set-up but even they have accepted the wisdom of this particular provision of right of recall. Very often we find in the legislatures that elected representatives, because there is no deterrent of right of recall, feel once they are elected to Parliament or State legislature it is a free licence or a permit given to them by the electorate to misrule for five years. They might have indulge into corruption or a number of mal-practices but they are not at all frightened. They feel in the five years the entire temper of the people will come down and they bank on that. They continue in that position for five years in the hope that peoples memory will be short and they will forget their misdeeds. If this situation is to be salvaged it is better that we have the right of recall.

Some friends have argued that this provision might be misused. I fully agree with the sentiment that the poor people will find it difficult if there are elections after every short interval. But there is other side of the picture. Probably, anticipating that this provision may be misused the framer of the Bill has rightly said:

"Provided majority of the electorate of the constituency from where the Member has been elected express their desire for recall of the Member in such a manner as parliament may by law provide."

Therefore, while framing that law there can be consultation among all

the political parties and the *modus operandi* can be determined by which there may not be misuse. You can put a number of restrictions, as Mr. Atal Bihari Vajpayee suggested, so as to make this particular provision 'fool-proof'. In that case it will be the best safety valve for the democratic institution.

My friend who spoke to defend this Bill unnecessarily went astray and brought into the picture 'Bihar movement' led by Shri Jayaprakash Narayan. I would like to tell Mr. Chandrappan even if he feels that such a combination of parties, as in Bihar, should not take place and people should not be forced to come under such hydrogenous combination even for the desired end, it is better that the right of recall is there. It is because this right is not there that extra-Parliamentary agitations are launched. If the right of recall is provided in the Constitution in that case people will not unnecessarily come on the street. I do not think people unnecessarily are prepared to offer sacrifices. They are not always prepared to face bullets and lathi-charge. They want constitutional methods to ventilate their differences. Here it was rightly expressed if rich people are able to manipulate the things then they will be able to manage certain majority, and then the right of recall can be exercised. The same argument can be advanced to general elections. On the contrary the right of recall might be a marginal phenomenon. The general elections is an overall phenomenon and there the richer elements will be able to mobilise power by the purse and manipulate the results. Therefore, probably the logic which my friend has put forward is more applicable to the general elections than to the exercise of the right of recall.

Once the right of recall is there in the Constitution, may be, it might not be exercised at all because, many

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people who indulge in a number of malpractices know that the sword of right of recall is hanging on their heads. Probably, for many of them indulging in malpractices, this will act as a deterrent and this will prevent them from acting in a manner that would be prejudicial to the interests of the Constitution, interests of Parliament and interests of the community at large.

Therefore, we must ultimately rely on the good faith of the people. I would conclude by quoting one instance that in the life of U.K., the Bill of Rights, Act of Settlement and Magna Carta had not merely been the cornerstones of the freedom of Britain but they were the cornerstones for the freedom of the entire era. Even they could be repealed in the British Parliament in a manner; they could repeal the Dock Act or they could even repeal the Trafficking Act. The people of Great Britain and Parliament of U.K. know that possessing the power is one thing and exercising it is another thing. Therefore, I am fully confident that if such wider powers are given to the electorate, they will not misuse them. But, on the contrary, such power given to the electorate will act as a deterrent and that itself will be a safety valve of democracy.

Therefore, without any hesitation, irrespective of what he has about Bihar agitation and about all of us and in spite of what he has said about us, I would give my unconditional support to the Bill he has forwarded. Ultimately, I would make an appeal to the new Minister, while concluding, that she is a new minister who has taken over charge of the Ministry of Law, Company Affairs and Justice.

In the past whenever such bills were brought forward, always from the treasury benches, the Minister

came forward with a plea that the spirit of the Bill is very sound. It is always a wise step that has been proposed. After all, we must weight the things and be guided by trial and error. Therefore, while accepting the spirit of the Bill, I hope she will not follow the same method. I think this is the first Bill to which she will be replying. I hope she will not follow the traditional beaten path and she will rise above the traditional method that has been followed so far in the House and she will take the credit of applying a very flexible mind to the propositions which has been proposed over here.

MR. DEPUTY-SPEAKER: I share your optimism. Mr. Hanumanthaiya.

SHRI K. HANUMANTHAIYA (Bangalore): Mr. Deputy-Speaker, Sir I listened to the speeches of the Leader of the Jan Sangh Party and my friend Prof. Dandavate.

We have to see objectively that the remedy proposed serves the purpose of the right of recall. The right of recall is a right which is exercised probably by one country apart from the countries under proletarian dictatorship.

It is not as thought every democracy in the world has examined and found it as a very suitable remedy. The main object behind this is to see that Members who are corrupt are not allowed to remain as Members. Even now, under the Constitution, you can see that if there is a crime committed by a particular Member of Parliament, he can be hauled up before a court of law, punished. That punishment will also entail his disqualification. There the only difficulty is to prove in a court of law that that particular person is guilty. If one Member has been accused of some crime, he may be convicted or may not be convicted. But, if he is convicted his membership automatically goes. Therefore, it is not as thought there is no remedy existing under the present law. Under our Constitution, there is provi-

sion for disqualification. The disqualifications are enumerated in the Electoral Law. Action can be taken against him whereby he may cease to be a Member of Parliament.

The right of recall has not been adopted in democratic countries. The type of constitution that prevails in Switzerland is a type of its own. There it is a different set of circumstances. Switzerland is a small country with, may be about a crore of people or even less. What works in that country may not work with equal effect in a vast country like India. India has been a country of diversity. All the time our leaders, who have served this country, have tried to bring about what is called unity in diversity. This is the basic quality of this nation. There are diversities, and unity has to be continuously forged, maintained and protected. If anything happens under law which gives room for encouragement to this diversity, we may be disturbing the very unity of the country.

The right of recall I fear, may be one such unhealthy remedy. Not merely members or Ministers on this side but even political leaders who are very prominent, who are doing their best for the party and country, may be assailed in this way. If an Opposition leader is not liked by a number of people, he may be put into trouble in his constituency by some of his opponents by getting a move for his recall. What happens if this kind of competition in recalling takes hold of most of the constituencies? The tranquillity of mind required to work as an MP itself gets destroyed.

The right of recall, therefore, is not a remedy which has been found to be foolproof. It has not even been tried in progressive democracies. I understand the object of those friends who support this Bill is to see that corrupt members or corrupt Ministers do not go on in their own way being sure that they have a lease of five years to do whatever they please. But we have to remember that there are several laws in this country which

are meant to check corrupt practices and crimes not only of MPs but of the people in general. We cannot claim any special protection, nor can we claim any special privilege, or *modus operandi*; so far as we MPs are concerned.

What it really amounts to is the reform of the electoral system. It is agreed on all hands now that there are a lot of lacunae in the system of elections. Electoral law, however good it may be, is bypassed in ways that cannot be known or proved. We have reached a stage when the electoral system needs to be reformed. Electoral reform in such a vast country is a complicated matter; it cannot be just discussed and settled. Nor can reforms be enforced in a haphazard *ad hoc* manner. It has to be thoroughly studied; the systems all over the world may have to be scrutinised. We have to find out reforms which are suited to the temperament of the people and the conditions in the country.

17.00 hrs.

The wisest thing, therefore, is to appoint a Commission for the purpose. In that Commission, be representatives of the Opposition, and people who have had experience of the elections have to be members. I deliberately exclude judges. Judges have not had the experience of going through elections. They may sit in ivory towers and come to conclusions which are not applicable to the situation or to the subject. I want people who have experience and who have ability to think and project proper remedies to be members of this Commission. The membership is to be more or less satisfactory to every party. A Commission of that standard and objectivity may be able to examine and find out suitable reforms to be enacted. I therefore plead with my hon. friends not to press this Bill which will land us in greater difficulties than we are facing today.

This democracy has to survive; India is now wedded to democracy in a permanent way. It is our duty to

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see that from time to time, it is cleaned of malpractices. It must be made as pure as is humanly possible. I therefore propose that a high-powered Commission consisting of eminent and experienced people in the line should be appointed by Government so that all the thinking in the country on the subject may be pooled together, digested and proper recommendations evolved.

*SHRI J. MATHA GOWDER (Nilgiris): Mr. Deputy-Speaker, Sir, I rise to express my personal views on the Constitution (Amendment) Bill of my hon. friend Shri C. K. Chandrappan, enunciating the principle of right to recall for the people of our country.

It would have been appropriate if a member belonging to the Jan Sangh or to the Socialist Party or to the C.P.I. Marxist Party had introduced this Bill. I say this because all of us know the role being played by the C.P.I., to which Shri Chandrappan belongs, in the Bihar Mass Movement. It is a paradox that the C.P.I. do not appreciate the wishes of the people of Bihar and are opposing their agitation. But the same Communist Party of India, when it was ruling the State of Kerala in 1959 and the duly elected Ministry of Shri Namboodri-
nad was toppled by Shrimati Indira Gandhi, under whose presidency the Congress Party supported the popular agitation against the C.P.I. Ministry, raised the question of propriety of supporting such democratic popular agitation in Tamil Nadu. The Members of C.P.I. think only about bringing down the Opposition party in power. Though C.P.I. itself is an Opposition party in Tamil Nadu they could not get an opportunity to become a ruling party. They are now keen to dislodge the Opposition party in power in Tamil Nadu. First they joined hands with the Congress Party. Now they have forged an alliance with another party.

They have not yet met with success in Tamil Nadu. In December 1974 they are going to launch "Save Democracy" Movement in Tamil Nadu, which they call as a counter-offensive for Bihar type agitation. When they speak in so many different tongues, the people do not fail to notice the contrary views being expressed by the C.P.I. After the Indo-Soviet Treaty, the C.P.I. has joined the Congress band-wagon. We have been seeing the C.P.I.'s role in the nation's politics. Whatever the Congress Party says and does, the C.P.I. extends full support. Instead of calling it the Communist Party of India we can call it as the Communist Party of Indira. That is why the C.P.I. does not want the fall of the Congress Ministry in Bihar. Yet here, Mr. Chandrappan talks of the right to recall.

Sir, there is no difference of opinion about the necessity of having constitutional right of recall. It is only whether this should have been sponsored by a C.P.I. Member. I would like to sound a note of caution for the ruling Congress Party. The awkward situation for the Congress C.P.I. will continue to create such as the present one in which the ruling party can neither accept this amendment at this juncture nor reject it for the fear of break in its alliance with the CPI

Recently, the Supreme Court's judgment on Poll Expenses resulted in the unseating of a sitting Member of this House. As if to spite the Supreme Court, the Government issued an Ordinance on this question which has been severely criticised by all the newspapers in the country on the ground that this would protect the interests of the ruling party. This Ordinance has also created great dissatisfaction in the public opinion of the country. In this acrimonious atmosphere, the Central Government have accepted the urgent need for reforms in our electoral system. The

*The original speech was delivered in Tamil.

Law Minister has also stated that he is ready to have discussions with the Leaders of Opposition Parties about electoral reforms. I don't think it is necessary that the Constitution should be amended at this moment to incorporate the right of recall.

As Shri Hanumanthaiya rightly pointed out, a high-powered Commission should be constituted to go in depth into the question of electoral reforms and make concrete suggestions. Here, the ruling party should bear in mind the Biblical saying that one who sows the wind should be prepared to reap the whirlwind. What the ruling party is facing today in Bihar is in fact the harvest of what it had sown in Kerala in 1959. Secondly, there is widespread feeling among the people of the country that the Laws, Ordinances etc., promulgated by the Government are primarily meant to benefit the ruling Congress Party. The Government should ponder over these problems in right perspective and a comprehensive legislation for much-needed electoral reforms should be brought before this House, and that should be done before the next General Elections.

THE MINISTER OF STATE IN THE MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS (DR. SAROJINI MAHISHI): Sir, the mover of the Bill has said that article 83A should be inserted after article 83 to make provision for recalling the elected representatives. I was listening with rapt attention to his speech. He said, unless there are fundamental changes in the economic values and social conditions prevailing in our country, it is very difficult to have political changes. He also said that caste, creed, community, wealth and a number of other factors play an important role in the election of the candidates. Does he not think that these will play their role in the right of recall also? He said that economic conditions and social conditions have got to be changed; then only

political conditions can be changed. Does he not think that this Bill should have been introduced only when all those economic and social conditions have changed? He should know that in our country although a member is elected from a particular territorial constituency, the moment he is elected, he becomes a representative of the people. He does not represent only that particular territory of that particular State from where he is elected; he represents the people at large.

SHRI PILOO MODY (Godhra): Why don't you project this philosophy to those who are putting forward the anti-defections Bill?

DR. SAROJINI MAHISHI: It is not only preached but practised also. The elected representatives do not restrict themselves to the problems of that particular territory. They can deal with national problems. This shows that an elected member is not a delegate but a true representative of the people. By making provision for recalling the elected member, we in fact would be reducing him to the position of a delegate. The spirit of the whole thing has to be understood. In the House of the People, any member elected from any part of the country can raise problems pertaining to the whole country. He need not restrict himself to one part of the country. Whether it is the House of the People or a Legislative Assembly, the member is kept on a higher pedestal. He should think twice before he says that this right to recall should be given. The hon. Member says that the right to recall is a corollary of the right of electing a representative. But I do not know whether he has given thought to how this right to recall can actually work. Even for organising an election we have to set up a huge machinery. If the right of recall is given in a very vast country like ours, where a very large number of people have got to vote for electing a representative to the State Assembly, and a still larger

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number for a representative to the House of the People, is it possible to organise this?

Apart from the question of organisation, is it right and proper to give this right of recall to the people? I have heard many people talk in platforms wondering whether the adult franchise given to the people is right. I am not suggesting that we should go back on that.

SHRI ATAL BIHARI VAJPAYEE:
Take away that right.

DR. SAROJINI MAHISHI: Some members even from the opposition parties have doubted whether we have rightly given adult franchise to our people. In such circumstances, will it be proper to give this right to the people, especially when some of the people cannot distinguish even between promises and assurances in the election manifestos? I do not think they will be in a position to exercise the right of recall properly. It is yet to be seen how they will exercise it, if that right is given to the people.

I was carefully listening to the speeches of members from both sides of the House. Some of the hon. Members referred to the practices now existing in some countries. The example of Switzerland was mentioned. I can give the example of some of the smaller States, particularly the Western States, in the United States of America. But I do not know whether the hon. Members have tried to go into the experiences of those countries in this matter.

I would like to point out to hon. Members that certain plants and institutions grow only in some peculiar conditions or surroundings. A plant which grows in a hill side cannot grow in some other areas. Certain conditions which are applicable to certain countries are absent in some other countries. The in-

stitutions obtaining in a country where some particular conditions prevail cannot be transplanted to another country where the conditions are different.

In Switzerland out of 22 cantons hardly seven cantons exercise the right of recall. There are several rights like the right to referendum, right to initiative and the right to recall. The right to recall is a right to call back an individual member whereas the right to referendum is the collective appeal to the whole electorate at large. Therefore, the two things may meet at a certain point but the two should not be confused. Secondly, even this right has been very sparingly used in that country where it is prevailing only in a portion of the country.

In the Western States of the United States the right of recall was there not only for the political representatives but for the executive, namely, officials also. The result was that the officials were afraid of taking any decision because a sword was hanging over their heads. In Colorado a decision was taken to recall even a judicial officer. It was considered not as proper because the security of tenure given to a judicial officer has to be maintained.

Even in the case of a political representative, what guarantee is there that a duly elected representative will not become the victim of some corrupt practices, some intrigues and cliques, and that he will not be recalled? Therefore, it is very difficult to enforce it in a country like ours. That is why even in the Constitution of USSR, though prior to 1936 they had such a provision, there is no such provision now.

Prof. Dandavate referred to the fact that enumeration of the right on paper is one thing and the actual practice is another thing. He hoped and banked on this thing that though

this right may be enumerated on paper, it will not be utilised.

PROF MADHU DANDAVATE. To put the records straight, I said, once the provision is there, it will not as a deterrent. Those indulging in malpractices dare not indulge in malpractices.

DR. SAROJINI MAHISHI. I have followed it, I have understood the spirit of it. I appreciate his hope and optimism also in this regard. But, at the same time, if it is on paper, what guarantee is there that it will not be utilised? I agree that it will act as a deterrent. According to him, the very entry of this right into the body of the Constitution will act as a deterrent. But, in addition to that, he also said that even if it is incorporated in the Constitution, there is a big difference between the actual enumeration of that and actual utilisation of that. But it is very difficult and it is not possible to say that once it is there, it will not be utilised. Do we make any provision on the guarantee or on the wish that it will not be utilised? It cannot be done.

I would, again, like to say that the electorate in our country has not been accustomed or has not been in a position to make a fine distinction between the promises, the assurance, the manifestoes and all those things in their actual performance. Secondly, an election manifesto, the promises, the assurances and the programmes are given by the party as a whole. The party as a whole is required to work them out. If the hon. Member, Mr Chandrapan, has not been able to visit his constituency for a period of five years or he has not been able to report to the people, the people may say something to him but they will not say that the party as a whole has not been able to do anything. In the next elections, they will use their wisdom in electing their representative.

He also said that in USSR, the Members go back and report to their constituencies what they have been doing like that. Does anyone prevent a Member of Parliament or a Member of the Legislative Assembly from going to his constituency and reporting to his people and taking them into confidence? If he has got something to report, if he has been able to do some work, he will go and tell his people. But if he has nothing to report, he may try to avoid his constituency and his people.

Then, the hon Member, Mr Ram Gopal Reddy mentioned regarding some remarks made by the Committee able to do in the Parliament and that there is no such custom here or on Defections. As you know, Sir, the Thirty-Second Amendment of the Constitution is dealing with this thing. It has been referred to the Joint Committee and the Joint Committee is collecting evidence in regard to this thing.

Further, this is what Mr Chandrapan said that if the person has not been able to do any work or he has not been able to adhere to the political principles of a party and he wants to defect, want of such a provision of recall may encourage a person to defect from one party to another. How are the two things connected? According to Mr Chandrapan, if a Member defects, the people who voted for him on certain principles and certain election manifesto of a political party should have the right of recalling him. But then I say, the very drastic measures are being discussed in the Joint Committee and the person who defects may cease to be a Member of the House itself. Therefore, when such drastic measures are being considered, the question of right of recall has any relevance in the present situation. I do not think that the Bill is relevant at all.

I am thankful to the hon. Members who have actively participated in

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this discussion and have given expression to their ideas.

Mr. Atal Bihari Vajpayee requested that the Government should listen with an open mind. I was listening with an open mind, but under the circumstances, I hope, he will agree with me, the Bill is not very relevant. So, I request the Mover of this Bill to withdraw it.

MR. DEPUTY-SPEAKER: Mr. Chandrappan.

SHRI PILOO MODY: You should start by saying 'The charming Lady Minister'.

SHRI C. K. CHANDRAPPAN: The charming lady Minister has disappointed everybody. Everybody was hoping that the new Minister would have an open mind on the subject, but she has disappointed us.

I do not want to take much time. I would like to correct some of the facts which the hon. Minister has mentioned. She said that, after 1936, she could not find any provision for recall in the Soviet Constitution. There was a provision in 1965, article 142 of the Soviet Constitution says....

SHRI PILOO MODY: He seems to know the Soviet Constitution much better than the Indian Constitution. What does article 142 of the Indian Constitution say?

SHRI C. K. CHANDRAPPAN: Article 142 of the Soviet Constitution says:

"It is the duty of every Deputy to report to his electorate on his work and on the work of his Soviet or Working People's Deputies, and he may be recalled at any time upon the decision of a majority of the electors in the manner established by law."

I just want to put the record straight.

The hon. Minister has mentioned that, when I was introducing this Bill.

I had said that the socio-economic conditions existing in our country had a bearing on the electoral laws that we might make and how far successfully we would be able to implement them. She took that as the main argument to argue against the right to call. I would like to tell the hon. Minister that, even under the present set-up which we call the capitalist system, with all the difficulties, with starvation, with unemployment, with poverty, with hunger, we believe that there is a kind of bourgeois democracy and that this democracy is better than fascism or anarchy, this democracy is better than what we had before independence under the colonial rule. Today what we are trying to do is to improve upon, to whatever extent possible, the democratic Constitution that we have in our country. The position that the hon. Minister has taken, I think, will help only those forces who are trying to bring the people to the streets and create conditions of anarchy: this kind of attitude will only help that; I am very sure about it.

My friend, Prof. Madhu Dandavate, has put my point more correctly by saying that the Constitution will provide the safety valve, by which the people could express their anger, their disappointment, and their disapproval of those who have forfeited the confidence of the people. And you are denying, by taking this adamant position, that kind of democratic process coming into operation. It is very disappointing and I cannot oblige the Government by withdrawing this Bill. I think, this Bill, if it had been accepted, would have been the beginning of a new era in our democratic practices in our country, and the Minister, by taking a very adamant and obstinate stand, has prevented any such possibility. So, I cannot withdraw this Bill.

MR. DEPUTY-SPEAKER: I will now put the amendment of Shri M. C. Daga to the vote of the House.

Amendment No. 1 was put and negatived.

MR. DEPUTY-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.

Let the lobbies be cleared again.

The Lobbies are cleared. Now I think to put an end to all this confusion, we will proceed with the voting. The number will show whether we have the quorum or not. The quorum is 53. If there is no quorum, the voting will be postponed to the next day and the House will be adjourned.

The question is:

"That the Bill further to amend the Constitution of India be taken into consideration".

The Lok Sabha divided.

MR. DEPUTY-SPEAKER: There is no quorum. The voting is postponed and the House stands adjourned till 11 A.M. on Monday.

17.45 hrs.

The Lok Sabha then adjourned till eleven of the Clock on Monday, November 18, 1974/Kartika 27, 1896 (Saka).