

supporting the right of Parliament to assert its supremacy but not at the expense of the people.

18.32 hrs.

ARREST OF MEMBER

MR. CHAIRMAN: I have to inform the House that the Speaker has received the following communication of date from the Sub-Divisional Magistrate, New Delhi :—

“Dear Mr. Speaker,

I have the honour to inform you that Shri Ishwar Chaudhry M. P. was arrested today between 1.30 p.m. and 2.15 p.m. on Parliament Street near Patel Chowk, New Delhi, by the police of Parliament Street under section 188 IPC vide FIR No. 1259 dated 3.8.1971 for violation of prohibitory orders promulgated by the Additional District Magistrate (South), New Delhi. He is being produced before Judicial Magistrate, New Delhi forthwith for trial.”

18.33 hrs.

CONSTITUTION (TWENTYFOURTH AMENDMENT) BILL—Contd.

SHRI B. V. NAIK (Kanara) : Mr. Chairman, I will try not to repeat the points that have already been made.

The issues before Parliament, whether we like it or not, will have to be classified into two. One is, whether we admit it or not, that this is the phase of confrontation between Parliament and the judiciary.

In this behalf I would like to draw the attention of the House to a very informative discussion and seminar that took place on the 17th and 18th of last month where all these issues were discussed threadbare and certain conclusions were arrived at.

I have hastened to take this opportunity to present this case before it is too late, because once it is not presented it might be too late thereafter to amend. In the course of this discussion almost it was the consensus of the seminar, as well as those which represented the ruling party that there was not at all any indecent haste for the abolition of private

property but it was in order to make this private property meaningful to the vast majority of the people in this country. When we are saying that we are abridging this right against which only the Supreme Court has given its verdict, we are actually let me repeat, trying to expand the meaning of private property for the vast millions in the country.

This idea of the amendment, to state the facts of the case, amendment to article 368 of the Constitution, has not come from any politicians or any lawyers or anyone of those who have participated in the discussion. But it has come from one of the very eminent Chief Justices of India and that Chief Justice, to name him in a good context, is S. R. Das who had presided over the Seminar and he plainly said—I am sure, he is going to own it—that these Judges can make mistakes. By implication, he has clearly said that the much debated topic, namely, the Golak Nath case, was a mistake.

Under these circumstances, what is happening here now, in this Parliament, on the 3rd of August, 1971, is that this Parliament is offering an apology for the mistakes that have been made by the Supreme Court of India. I think, we have already paid the homage that is due to the supreme judicial body in the country, namely, that we are trying to save their face, that we are trying to see that they do not lose their face, their prestige, their position in the country, and that the independence of judiciary is preserved in tact. But still there is one more hurdle. Our Government, our party, has brought this hurdle voluntarily and, that is, after this Constitution Amendment is passed, once again, we have to go before their Lordships to argue our case, to present our case and to humbly wait for the verdict of the Supreme Court of India. I do not know why this risk has been taken by our Government. In other words what is being stated now is that we have a limited time given by the fresh mandate of the people. We should have calculated time upto five years and worked backwards. Already, there has been a delay. We are not talking in a totalitarian concept of the abolition of property. We are saying that we are going to make it more meaningful. But within four years, with all these niceties as well as fitnesses of the constitution and delays involved in our parliamentary procedures, if we are able to show something by way of tangible results within the time at our disposal, it would really be a miracle. Therefore, I