

ALL INDIA AYURVEDIC UNIVERSITY BILL*

Shri A. T. Sarma (Bhanjanagar): I beg to move for leave to introduce a Bill to provide for the establishment of an All India Ayurvedic University under the aegis of the Government of India with a view to resuscitate and encourage the study and growth of the science of Ayurveda in India.

Mr. Chairman: The question is:

"That leave be granted to introduce a Bill to provide for the establishment of an All India Ayurvedic University under the aegis of the Government of India with a view to resuscitate and encourage the study and growth of the science of Ayurveda in India."

The motion was adopted.

Shri A. T. Sarma: I introduce the Bill.

ALL INDIA AYURVEDIC MEDICAL COUNCIL BILL*

Shri A. T. Sarma (Bhanjanagar): I beg to move for leave to introduce a Bill to provide for the constitution of an All India Ayurvedic Medical Council for India, maintenance of an Ayurvedic Medical Register for the whole of India and for matters connected therewith.

Mr. Chairman: The question is:

"That leave be granted to introduce a Bill to provide for the constitution of an All India Ayurvedic Medical Council for India, maintenance of an Ayurvedic Medical Register for the whole of India and for matters connected therewith."

The motion was adopted.

Shri A. T. Sarma: I introduce the Bill.

CONSTITUTION (AMENDMENT) BILL*

(Amendment of article 85)

श्री प्रकाशवीर शास्त्री (हापुड़) : सभापति महोदय, संसद् का एक अधिवेशन बंगलौर या हैदराबाद में हो, इस सम्बन्धी भारत के संविधान में भागे संशोधन करने वाले विधेयक को प्रस्तुत करने की मैं प्रार्थना चाहता हूँ।

Mr. Chairman: The question is:

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

The motion was adopted.

श्री प्रकाशवीर शास्त्री: मैं इस विधेयक को प्रस्तुत करता हूँ।

Shri Nath Pal (Rajapura): I suggest suspension of the rules and immediate passage of this Bill.

16.14 hrs.

CONSTITUTION (AMENDMENT) BILL—contd.

(Amendment of article 368) by **Shri Nath Pal**

Mr. Chairman: The House will now resume further consideration of the motion moved by Shri Nath Pal for referring the Constitution (Amendment) Bill to a Select Committee. Shri Ganesh Ghosh may continue his speech.

Shri P. Ramamurti (Madurai): I am speaking for him.

Mr. Chairman: Not for him, but for your own self.

Shri P. Ramamurti: Sir, the Bill that has been introduced by Shri Nath Pal is a very important Bill as far as the people of this country are con-

[Shri P. Ramamurti]

cerned. The Supreme Court Judges had made the fundamental rights enshrined in the Constitution as immutable. Even if the entire Parliament wants to change the fundamental rights, it cannot do so. That is the effect of the Supreme Court's judgment. I do not take the position that the fundamental rights are immutable for all times to come. Fundamental rights differ from society to society. Under our Constitution, the right to hold property is a fundamental right. Such a fundamental right can only obtain in an acquisitive society, in a society which makes acquisition of property acquisition on the basis of individual need, a fundamental right. I can quite conceive of a different system of society and our society itself evolving towards that system whereby this right to property will not be held a sacred fundamental right. Therefore, to hold that those fundamental rights that have been guaranteed under the Constitution should remain for all times to come does not make provision for any change in the social life of this country at all.

Secondly, there are many things which have got to be enshrined in the fundamental rights. Many things have been given in this Constitution as directive principles of state policy which cannot, should not and ought not remain as just mere directive principles today but should find a place in the fundamental rights as justiciable rights. Take, for example the right to work or right to education. Those are laid down as directive principles and a citizen cannot enforce them in a court of law if any government refuses to enforce them. It is naturally inevitable that as society advances, as we advance, as the people of this country advance many of these things will have to be enshrined as fundamental rights.

In the ultimate analysis, what is it that is going to prevail? Is it the interest of the individual or the interest of the society as a whole that is going to prevail. If a personal

interest, the right to hold property, the right to hold big landed property, the right to hold, for example, huge industrial estates, comes in conflict with the interest of common good of the entire people, which is to give way? Is it the private interest of an individual that is to give way or is it the general good of the public that is to give way? That becomes a fundamental question. Therefore, in the ultimate analysis it is a question of ourselves deciding upon what fundamental rights have got to be enshrined in the Constitution.

I am quite sure that there is also the danger, when we talk of right to change the fundamental right with regard to property, that the Parliament, if it is of a reactionary composition, may change the fundamental right with regard to freedom of speech, freedom of association and so many other things. I do agree with you. But in the ultimate analysis we depend upon the common people of this country. We have immense faith in the common people of this country that they will not send to Parliament such reactionary elements in such large number as would threaten even the fundamental rights with regard to right of speech and other things. That means, in the ultimate analysis the people's will will have to prevail.

I do not see what great sacrosanctity has to be attached to that wonderful Constituent Assembly that framed the Constitution of India. It was not a Constituent Assembly elected on the basis of adult franchise. It was not representative of the entire people of this country. It was representative of that part of India which then formed British India at that time. Even with regard to that it was only elected by the legislative assemblies. We know the legislative assemblies were elected on an extremely restricted suffrage under the 1935 Constitution. As for the rest of India, the princely India, the people had no voice whatsoever with regard to sending representatives to that

Constituent Assembly. Therefore, I do not see why the fundamental rights framed by that Constituent Assembly are so sacrosanct today, that if the people of this country want to change anything they cannot change. This State of affairs obviously cannot last long.

Therefore, it becomes a very important thing that today, this negative judgment of the Supreme Court has to be negated by Parliament itself. Shri Nath Pai's amending Bill seeks to provide just an enabling amendment.

I can even concede that there may be a further safeguard that if there is an amendment with regard to fundamental rights—I can even go to the extent of saying that—that particular amendment must be subject to ratification of the entire people by means of a referendum. That also can be there. I am not objecting to that.

Shri Piloo Mody (Godhra): Agreed.

Shri P. Ramamurti: But a referendum is quite a different thing from a Constituent Assembly. A Constituent Assembly is called only once when it is a question of framing the entire Constitution but with regard to an amendment to it it can be even subject to referendum of the entire people because in the ultimate analysis it is the people that have got to prevail and not the Constitution makers who framed the Constitution 15 or 20 years ago, at a time when they did not take into account the moorings and the stirrings of the people and the country.

Shri J. B. Kripalani (Guna): Four times this Constitution has been confirmed by the people by universal suffrage.

Shri P. Ramamurti: This Constitution was not the subject matter of the referendum of the people. Under the Constitution Parliament was elected and the Legislative Assemblies were elected. That is entirely a

different thing from saying that the whole Constitution was confirmed by the vote of the people. Let us not today say something which we did not accept. Actually, that Constituent Assembly was a different proposition. I remember even now Shri Kripalani speaking at the 1937 session of the Congress at Faizpur. At that time I was also a delegate. I dare say that the Constituent Assembly of the Congress conception was not the caricature of a Constituent Assembly that existed in 1947. That Constituent Assembly was forced upon you by the British Government. You had no other go because the Congress was not prepared to carry the fight further. They were prepared to have a compromise. Therefore they accepted that thing. But because they had to accept a Constituent Assembly at that time the lines of which were drawn by the British Government, let us not give it a halo which it does not deserve.

Therefore it is absolutely essential that the people's will has got to prevail. If in future the people of this country want to change some fundamental rights in a more progressive direction so that they will be able to do away with all those rights which stand in the way of the country's progress, the people of this country will have to prevail and not the old Constituent Assembly elected on an extremely restricted suffrage.

I do not know what the Congress Party is going to do about it but I hope that the Congress Party itself will come forward to accept this Bill. If they want any small amendment to the effect that I suggested, they can certainly bring forward that amendment and that should be passed unanimously by the House. I hope, the Jan Sangh and the Swatantra Parties also would support it with the proviso that I suggest that this particular amendment can be subject to a referendum of the entire people. Therefore you can move an amendment and have it passed.

Shri Piloo Mody: Agreed. You move an amendment.

Shri P. Ramamurti: It can be moved in the same Committee.

श्री कंवर लाल गुप्ता (दिल्ली सदर) : सभापति महोदय, जो विधेयक मेरे याग्य मित्र माननीय श्री नाथ पाई ने सदन के सामने उपस्थित किया है, मुझे दुःख के साथ कहना पड़ता है कि मैं उसका विरोध करना चाहता हूँ। क्यों विरोध किया जाये यह चीज स्पष्ट है। मेरे मित्र श्री राममूर्ति ने अभी कहा कि जनता सुप्रीम है और फंडामेंटल राइट्स बदलते रहते हैं, उसका कंसेप्शन बदलता रहता है। यह दोनों बातें ठीक हैं। मैं मानता हूँ कि फंडामेंटल राइट्स का कंसेप्शन और उनका बेसिस, उनकी वैल्युज बदलती रहती हैं। आज कुछ हैं, कल कुछ होंगी, बीम साल बाद कुछ और होंगी। जैसे संसदीयता बढ़ती जाती है, प्रगति करती है, हमारे देखने का दृष्टिकोण बदलता जाता है। इसलिये मैं मान कर चलता हूँ कि फंडामेंटल राइट्स बदल सकते हैं, और मैं यह भी मानता हूँ कि आखीर में जनता को वह अधिकार होना चाहिये उनके राइट्स, उनकी वैल्युज और उनके कंसेप्शन बदले जा सकें। इसमें भी कोई दो रायें नहीं हैं। लेकिन वह किस ढंग से बदले जायें यह महत्वपूर्ण सवाल है।

हमारे संविधान निर्माताओं ने इसके ऊपर बहुत अच्छी प्रकार से विचार किया, और उन्होंने एक साधारण बात कही कि अगर आप का कानून बनाने हैं, आप का कोई विधेयक पास करना है, तो उसका आप सिम्पल मैजोरिटी से पास कर सकते हैं। अगर 100 में से 51 उसके पक्ष में हों तो कानून बन जायेगा। अगर 51 मेम्बर आप के हैं तो हुकूमत आप की होगी और वह सभी 100 लोगों पर होगी। लेकिन यदि आप को संविधान की तरमीम करना है तो 51 मेम्बरों से काम नहीं चलेगा। इसका मतलब यह है कि संविधान इतनी सस्ती

चीज नहीं होनी चाहिये। जब तक कोई बहुत आवश्यक चीज न हो तब तक उसमें तरमीम नहीं होनी चाहिये। इसके लिये उन्होंने इस पर प्रतिबन्ध लगाया कि जब तक दो तिहाई मैजोरिटी नहीं होगी तब तक संविधान में कोई तरमीम नहीं हो सकती।

सभापति महोदय, आप यह देखते होंगे कि रोजाना यह होता है कि आज यह गवर्नमेंट है, कल दूसरी गवर्नमेंट होती है, परसों तीसरी गवर्नमेंट होती है।

श्री दी० च० शर्मा : यहां ऐसा नहीं होगा।

श्री कंवर लाल गुप्ता : श्री शर्मा इतने विश्वास के साथ कहते हैं, लेकिन हो सकता है कि आज जहां वह बैठे हैं वहां से उठ कर महां बैठना पड़ जाये। पंजाब में भी ऐसा ही हुआ था। कुछ नहीं कहा जा सकता है कि क्या हो सकता है। लेकिन संविधान एक निश्चित चीज है। उसके साथ जल्दी में इस तरह से खिलवाड़ नहीं हो सकता। फुटबल की तरह से कोई उसके इधर से किक मारे और कोई उधर से किक मारे यह नहीं हो सकता। उसमें तो सिद्धान्त हैं जिन पर सरकारें चलती हैं। सुप्रीम कोर्ट ने जो जजमेंट दिया है वह हमारे देश में प्रजातंत्र की जड़ों को मजबूत करेगा क्योंकि उसमें एक बात साफ कही गई है कि ठीक है कोई भी संविधान बदल सकता है दो तिहाई मैजोरिटी से, लेकिन जो हमारे आधारभूत सिद्धान्त हैं उनको अगर हम बदलना चाहें, तो उन्होंने यह नहीं कहा कि हम बदल नहीं सकते, हम बदल सकते हैं, जो हमारा संविधान 1950 में बना था उसमें हमें कई चीजें बदलनी भी होंगी, उसमें कई चीजें हैं जिनका कंसेप्शन या बेसिस बदल गया है, कई चीजें हैं जो कि उसकी बकिंग के बाद, उसके तर्जुब के बाद, हम देखते हैं कि बदलनी चाहियें। लेकिन कैसे बदली जायें, यह सवाल है।

सुप्रीम कोर्ट ने यह जजमेंट दिया कि इसके लिये पार्लियामेंट कांस्टिट्यूट नहीं है। उसको अगर बदलना है तो फिर एक कांस्टिट्यूट असेम्बली बुलाई जानी चाहिये जो कि जनता की राय ले कर चुनी जाये।

श्री राममुर्ति ने कहा, श्रीर मैं समझता हूँ कि ठीक कहा, कि दूसरे देशों में भी आखिर गवर्नमेंट होती है, माना कि वहाँ भी मँजारिटी गवर्नमेंट होती है, लेकिन जब कोई गम्भीर समस्या देश के सामने होती है तो वह मँजारिटी बेसिस पर चली नहीं की जाती है, इसलिये कि चूँकि मँजारिटी है इसलिये वह अन्तिम निर्णय कर सकती है, बल्कि चूँकि उसका असर सारे देश पर पड़ता है इसलिये वहाँ पर रिफरेन्डम किया जाता है, और केवल उसी एक इश्यु पर रिफरेन्डम किया जाता है। आप को यह जान कर आश्चर्य होगा कि कई बार कई देशों में ऐसा हुआ कि मँजारिटी पार्टी का कहना कुछ और होता है लेकिन जनता का वॉट कुछ और होता है। अगर मैं गलती नहीं करता तो गोआ में भी वैसे ही हुआ। गोआ में जो मँजारिटी पार्टी थी उसके लिये हम कह सकते थे कि जो मँजारिटी पार्टी चाहती है गोआ की जनता भी वही चाहती है, लेकिन हम ने वह नहीं कहा। जब यह सवाल आया कि गोआ महाराष्ट्र में मिले या नहीं तब हम ने यह कहा कि गोआ की जनता इस का फैसला करे। हम ने यह नहीं कहा कि मँजारिटी पार्टी यह फैसला करे। जो उसका वॉट आया, श्री नाथमपाई को मादूम है कि मँजारिटी पार्टी के खिलाफ गया। इसका मतलब यह है कि हो सकता है कि किसी एक सवाल पर मँजारिटी पार्टी किसी बात के हक में हो, लेकिन जहाँ तक फंडामेंटल राइट्स के बदलने का सवाल है, सम्भव है कि जनता उस एक्शन के साथ न हो। अगर एक कांस्टिट्यूट असेम्बली बनेगी तो लोगों के दिमाग में एक ही इश्यु होगा। कांस्टिट्यूट असेम्बली जो बनेगी उसके लिये कोई गांधी जी के नाम पर तो

वोट नहीं पड़ेंगे, जवाहरलाल जी का नाम लेकर वोट नहीं पड़ेंगे। वहाँ एक ही चीज के नाम पर वोट पड़ेंगे कि यह फंडामेंटल राइट्स बदलने हैं या नहीं।

Shri R. D. Bhandara: Then their will be fight between progress and status quo.

श्री कंबर लाल गुप्ता: अब जो चुनाव होता है जिस के आधार पर पार्टियों को स्पॉट मिलती है या उनका विरोध होता है उसके अन्दर और भी कई सवाल आ जाते हैं, लीडरशिप का सवाल आ जाता है, इकोनॉमिक प्रोग्राम आ जाता है, पोलिटिकल प्रोग्राम आ जाता है, सामाजिक क्षेत्र में क्या काम करते हैं, कैसे लोग हैं, ये सब चीजें आ जाती हैं लेकिन जब कांस्टिट्यूट असेम्बली का सवाल आयेगा तो उसमें केवल एक ही बात आयेगी कि आया आप फंडामेंटल राइट्स को बदलना चाहते हैं या नहीं बदलना चाहते हैं। जो विधेयक भेरे मिल लिये हैं उसको अगर मान लिया गया तो आहिस्ता आहिस्ता जो आधार हमारे संविधान का है, वह ढीला पड़ता जायेगा।

मूझे आश्चर्य हुआ कि यह बिल हमारे विद्वान गिन्न श्री नाथपाई ने पेश किया है। वह मैं समझता हूँ कि प्रजातंत्र में पूरी तरह से विश्वास करते हैं और दूसरे लोगों से किसी तरह भी बग विश्वास नहीं करते हैं। शायद इस विधेयक की जो इम्प्लिकेशंस हैं वे उनके ध्यान में नहीं आई हैं। इम्प्लिकेशंस यह होंगी कि आहिस्ता आहिस्ता वे जड़ें ढीली होती जायेंगी। आज आप पार्लियामेंट को यह पावर दे देंगे तो कल को सवाल आयेगा तो पार्लियामेंट कही कि टु डे मँजोरिटी की क्या जरूरत है, सिम्पल मँजोरिटी से यह हो सकता है, और 51 परसेंट से यह हो जायेगा। फिर इसकी गवर्नमेंट बनेगी वह उस विधान को एक फुटबाल की तरह से ट्रीट कर सकता है।

[श्री कंबर लाल गुप्ता]

इन सब चीजों को ध्यान में रखते हुए हमारे विधान निर्माताओं ने संविधान के अन्दर फंडेमेंटल राइट्स रखे जिनके अधीन हर एक व्यक्ति की, एसोसिएशन की तथा दूसरी प्रकार की स्वतंत्रतायें प्रदान की। हो सकता है कि हमारे मित्र श्री राम मुक्ति जी उसको न समझें। लेकिन उनका कंसैपशन डेमोक्रेसी का दूसरा है। लेकिन जब हम ने इस विधान को अपनाया है तो डेमोक्रेसी को गजबूत करने के लिये, व्यक्तिगत स्वतंत्रता को बनाये रखने के लिये हमारे विधान के निर्माताओं ने जो तस्वीर हमारे देश की बनाई है उस तस्वीर को सुन्दर, साफ और सुथरा रखना है तो मैं कहूंगा कि जो सुप्रीम कोर्ट का जजमेंट है उसको मान लिया जाना चाहिए और उससे हट कर हमें कोई ऐत कानून नहीं बनाना चाहिये जिससे वह कार हो जाये, जिससे डेमोक्रेसी की जड़ें कमजोर हो जायें। ऐसा अगर आप ने किया तो पार्लिमेंटरी सिस्टम आहिस्ता आहिस्ता बिखरेगा, उससे विकरिगज होंगी और देश खतरे की तरफ भी जा सकता है।

इन शब्दों के साथ मैं अपने माननीय मित्र से प्रार्थना करता हूँ कि अपने इस विधेयक को वापिस ले लें।

Shri Nitiraj Singh Chaudhary (Hoshangabad): Mr. Chairman, like many other countries, in our country also many a date have made history, and 27th February 1967 is also likely to make history. It was on that day the Supreme Court gave its memorable decision on the three writ petitions pending before it—Golaknath's case and two other matters.. The Supreme Court, in its wisdom, has decided that Parliament is not competent to amend the Constitution, Justice Hidayatullah, in his judgment has said that, for the amendment of fundamental rights, Parliament has to convene a Constituent Assembly.

The point before this House is whether this House is competent to

amend the fundamental rights, or whether the House should adopt the procedure suggested by the Supreme Court. It cannot be disputed that we have adopted the British Constitution and in Britain, Parliament is both a legislative and a constituent body. Accordingly, this body is also both legislative and constituent. In case it is decided that this body is not constituent, today, then we will have to look to the Constitution as to whether it provides or authorises this body to convene a Constituent Assembly. Before proceeding further, I would like to refer to the famous Keshav Singh's case which, on a similar and almost an identical matter, raised a controversy between the legislature and the Judiciary. With all respect to the Supreme Court, I am making my further submission, I, for a moment, do not see.....

श्री मोठा लाल (सवाई माधोपुर) :
कोरम नहीं है।

Mr. Chairman: The bell is being rung ...

Now there is quorum. The hon. Member may continue.

Shri Nitiraj Singh Chaudhary: I was submitting on the point whether this body was competent to amend the Constitution so as to amend the fundamental rights. Before proceeding further, I would like to submit that ours is a developing nation, and if we are not competent to amend the fundamental rights, the fundamental rights would become stagnant, and they would not develop and there will be no change in them. Therefore, I respectfully submit that we have to change according to the changing circumstances. We have also to consider the Directive Principles that are laid down in the Constitution, and as time changes, we have to adopt them and incorporate them as fundamental rights in part III of the Constitution.

I would now like to draw the attention of the House to certain specific

articles in the Constitution. First, I would refer to article 129 which reads thus:

"The Supreme Court shall be a court of record and shall have all the powers of such a court including the power to punish for contempt of itself."

Article 141 reads thus:

"The law declared by the Supreme Court shall be binding on all courts within the territory of India."

Then, I would refer to articles 139, 140 and 142.

Article 139 reads as follows:

"Parliament may by law confer on the Supreme Court power to issue directions orders or writs, including writs in the nature of *habeas corpus*, *mandamus*, prohibition, *quo warranto* and *certiorari* or any of them, for any purposes other than those mentioned in clause (2) of article 32."

Article 140 provides that:

"Parliament may by law make provision for conferring upon the Supreme Court such supplemental powers not inconsistent with any of the provisions of this Constitution as may appear to be necessary or desirable for the purpose of enabling the Court more effectively to exercise the jurisdiction conferred upon it by or under this Constitution."

Then, article 142 reads thus:

"(1) The Supreme Court in the exercise of its jurisdiction may pass such decrees or make such order as is necessary for doing complete justice in any cause or matter pending before it, and any decree so passed or order so made shall be enforceable throughout the territory of India in such manner as may be prescribed by or under any law made by Parliament and, until provision

in that behalf is so made, in such manner as the President may by order prescribe."

I respectfully submit that these articles specifically make it clear that it is Parliament which controls the powers of the Supreme Court and it is, therefore, supreme, and not the Supreme Court.

Before proceeding further, I would like to refer to the proceedings of the Constituent Assembly and what the framers of the Constitution had in their mind about this matter. I shall first refer to the speech of Pandit Nehru when he said:

"While we want this constitution to be as solid and permanent as we can make it, there is no permanence in constitutions. There should be a certain flexibility. If you make anything rigid and permanent, you stop the nation's growth, the growth of a living, vital, organic people."

"In any event, we could not make this constitution so rigid that it cannot be adapted to changing conditions. When the world is in turmoil and we are passing through a very swift period of transition, what we may do today may not be wholly applicable tomorrow".

On the same subject Dr. Ambedkar, the architect of the Constitution has observed:

"This Assembly has not only refrained from putting a seal of finality and infallibility upon this constitution by denying the people the right to amend of the constitution as in Canada or by making the amendments of the constitution subject to the fulfilment of extraordinary terms and conditions as in America or Australia, but has provided for a facile procedure for amending the constitution".

Further on, Pandit Nehru says (Vol. IX, p. 1195, Constituent Assembly Debates):

[Shri Nitiraj Singh Chaudhary]

"With in limits, no Judge and no Supreme Court can make itself third chamber. No Supreme Court and no judiciary can stand in judgment over the sovereign will of the Parliament representing, the will of the entire community. If we go wrong here and there, it can point it out, but in the ultimate analysis, where the future of the community is concerned, no judiciary can come in the way....."

"Ultimately the fact remains that the legislature must be supreme and must not be interfered with by the courts of law in such measures of social reform. Otherwise, you will have strange procedures adopted. Of course, one is the method of changing the constitution. The other is that which we have seen in great countries across the seas that the executive, which is the appointing authority of the judiciary, begins to appoint judges of its own liking for getting decisions in its own favour...."

Before concluding, I would like to quote what Shri Alladi Krishnaswamy Iyer had said during the debate on the subject in the Constituent Assembly (Vol. IX).

"It is an accepted principle of constitutional law that when a legislature, be it the Parliament at the Centre or the provincial legislature, is invested with the powers to pass a law in regard to a particular subject matter under the provisions of the constitution, it is not for the court to sit in judgment over the Act of the legislature. The court is not to regard itself as a super legislature and sit in judgment over the act of the legislature as a court of appeal or review. The legislature may act wisely or unwisely. The principles formulated by the legislature may commend themselves to a court or not....."

Now I quote what seervai says in this *Constitutional Law of India* which is very pertinent in this context.

This is para 30 of Chapter 30 of the book:

"If a law made by Parliament to amend Part III in the exercise of its residuary power and in compliance with art. 368 is void as contravening art. 13(2), a law passed by the same Parliament convening a Constituent Assembly and authorising it to do that very thing must be equally void. For what Parliament cannot do itself, it cannot authorise another body to do".

Again in para 4 of Chapter XXX, he says:

"But those who frame a constitution know that its working may disclose grave difficulties, that judicial error may rob it of a part of its efficacy, or that time may render the 'ancient and good uncouth'. If no provision was made for the amendment of the constitution, there would be no logical way of meeting the changed needs of the times and the constitution would have to be forcibly subverted...."

Further on:

"A constitution is a means to an end, which is the good government of a country, and the adjustments of the varying, and often conflicting rights and duties of its inhabitants. Consequently, to treat an existing constitution as an end in itself is to confuse means with ends, and to forget the very purpose for which the Constitution was called into being".

With these words; I support the Bill moved by my friend Mr. Nath Pai.

Shri K. M. Koushik (Chanda):
Having heard a number of speeches made on the floor of this House on

this Bill, I have to crave the indulgence of this House to regretfully remark that some of the speeches are not only fallacious but absolutely, fantastic.

To quote a few of them, some speakers have said that Parliament is supreme, and some have said that Parliament can over-rule the decision of the Supreme Court. These are the instances which I say are fallacious and at the same time fantastic.

The reason is not far to seek. All these speeches containing these astounding propositions of law are a result of a little ego and emotion. These astounding propositions have been advanced on account of these two things.

In fact, many of us who have been at the bar are no unaware of the fact that whenever we go before an executive officer or an executive magistrate and tell him that he has no jurisdiction to decide a particular matter which is pending before him, he gets absolutely upset, and he cannot brook the idea at all. So, here also, some of our members who have spoken on this Bill cannot brook the idea that Parliament is not able to amend the Constitution, the Supreme Court decisions are binding and we cannot go against the Supreme Court. Therefore, several speeches of this type have come before the House and several astounding propositions have been canvassed in this House. Therefore, my humble submission, at the outset, is that in interpreting the principles of the Constitution or any law as a matter of fact, emotion and ego have absolutely no place, these are irrelevant considerations, as others namely the exigencies of the situation, the necessities of the situation. They have no place. They are absolutely irrelevant in interpreting the fundamental principles of the Constitution.

Mr. Nath Pai, the sponsor of this Bill has an eloquence of his own and a nicety of language unique to himself, which really demand not only my admiration, but the admiration of many,

but I regret I am unable to agree that this Bill has the merit which he asserts.

In the first place he says that doubts have arisen as to the capacity or the ability of this Parliament to amend the Constitution with regard to fundamental rights and therefore he wants to sponsor this Bill. My humble submission is that there is absolutely no doubt at all. The Supreme Court has in very clear and unmistakable terms laid down that this Parliament has absolutely no powers to amend the Constitution touching the fundamental rights. Therefore, the intention with which, even according to his own self he has sponsored the Bill, vanishes, and there is nothing with which, as a matter of fact, he can come forward with this Bill.

The second thing which he says is that the Bill is intended to assert the supremacy of Parliament. I want, with great deference to my learned friend, to say that our Parliament is not supreme at all. It is a wrong idea. Many speeches have been advanced in this manner. Our is a written Constitution. In a written Constitution the three organs of the State—the executive, the judiciary and the legislature—derive all their powers under the Constitution, from the Constitution. The powers of each of these are circumscribed by the articles of the Constitution. Therefore, none of them is supreme. What is supreme is actually the Constitution. Therefore, to speak of the supremacy of this Parliament is something more imaginary than real I was really surprised when our Law Minister was trying to compare, in his anxiety to see that this Bill is supported, our Parliament with the British Parliament. But he forgets that the British Parliament has no written Constitution, as opposed to the written Constitution which we have, and all the powers of Parliament, the executive and the judiciary, are all circumscribed by the several articles of the Constitution and we cannot go beyond it. Each of these organs is asked to do a particular duty which is

[Shri K. M. Koushik]

enjoined on it by the Constitution. The Supreme Court has held that Parliament has no absolute power of legislation, and there is a catena of cases on this particular point. Therefore, Members who hold this idea, that our Parliament is supreme, must be disillusioned by the catena of cases and should no longer entertain the present idea that Parliament has the absolute power to amend the Constitution in regard to fundamental rights.

Going a little further, Mr. Nath Pai says that the judgment in Golaknath's case given by the Supreme Court curtails the powers of Parliament and therefore this Bill is necessary to protect the rights of Parliament. That is another argument which Shri Nath Pai has advanced. My humble submission is that the Supreme Court comes into the picture only in certain cases. As I have already submitted, the Constitution gives powers to the executive, the judiciary and the legislature. On the Supreme Court, under article 32, a power is cast to see that, if either the executive or the legislature transgresses the powers conferred on them by the Constitution, if anybody impugns the Acts of the legislature, or the executive, the Supreme Court comes into the picture then and decides whether they have acted within their rights or have transgressed. If they have acted within their right, the Supreme Court will uphold it as being *intra vires*. If they transgress their rights and have gone out, the Supreme Court will strike it down as being *ultra vires*. It is there the Supreme Court comes into the picture.

Therefore, my humble submission is that it is futile to contend..

Mr. Chairman: The hon. Member's time is up.

16.53 hrs.

[MR. DEPUTY-SPEAKER in the Chair]

Shri K. M. Koushik: Sir, I have just started. Therefore, I wish to submit that the Supreme Court does not in

anyway curtail anybody's powers. The Supreme Court only zealously guards against any violation of any provision of the Constitution. Therefore, if the executive or the legislature does not transgress its powers to do something beyond what actually it is empowered to do, then the Supreme Court will have nothing to say, and it will uphold its rights. It is only when they go beyond it that the Supreme Court will certainly strike it down as being *ultra vires* of the powers conferred by the Constitution. Therefore, my humble submission is that the Supreme Court does not curtail the powers. The Supreme Court only zealously guards and acts as a guardian angel saying: "thus far and no further" That is where the Supreme Court comes into the picture, and it is futile to contend that the judgment in the case of Golaknath has curtailed the powers of Parliament. To say that because of it we want to restore it and therefore this present Bill should be passed and it must become law is something which I cannot subscribe to. In this particular case, the real point at issue is whether under article 368, the Parliament has the power to amend the chapter incorporating fundamental rights. In fact, the Supreme Court has clearly said that you have no such power, that article 368 is not a complete code and that it only lays down the matter of procedure and therefore, it does not confer any powers on you to amend the principles of the Constitution. Therefore, article 13 (2) comes in your way and you cannot meddle with fundamental rights. That is what the Supreme Court has said. There is no reason why we should defy it in such a short time as this. They have also held that after 27-2-1967 when this judgment was delivered, there can be no amendment of the fundamental rights. They have said that article 368 only lays down the procedure. Amendment is also a legislative process and therefore, it also amounts to law. In view of these clear findings of the Supreme Court, it does not behove us to defy and disobey it and put in a Bill

in this manner, as if we are going to set aside the judgment of the Supreme Court. The matter is, however, different if we want to take a gambling chance with the dissenting judges in Golaknath's case, one of whom has replaced Mr. Subba Rao as Chief Justice. Such a course is abhorring to legal conscience and is derogatory to legal ethics.

Mr. Nath Pai says there are two decisions in favour of his Bill. But those decisions have gone to the winds with the Golaknath's case appearing on the scene. They have been set at naught. Mr Nath Pai cannot depend upon them. Another argument of Mr Nath Pai is that the 1st, 4th and 17th amendments have been retained by the Full Bench. These amendments have been maintained under certain principles, to see that there is no confusion created. The Supreme Court has said that from 27-2-67, Parliament will have no right to amend the fundamental rights. Whatever has happened earlier, on the principle of prospective overruling, they have kept it intact to avoid confusion.

Lastly, he said that Dr. Ambedkar himself said that amendments can be made by Parliament. I would request him to read it more carefully. Mr. Subba Rao has made it clear in his judgment. While arguing in the Constituent Assembly, Dr. Ambedkar said:

"We divide the articles of the Constitution into 3 categories. The first category is the one which consists of articles which can be amended by a bare majority. The second set of articles are articles which require a two-thirds majority. If the future Parliament wishes to amend any particular article which is not mentioned in Part III or article 304 of the draft Constitution (which is equivalent to article 368), all that is necessary for them is to have a two-thirds majority."

17 hrs.

These are characteristic words. It clearly means that the amendment of all those rights contained in Chapter III and article 368 was beyond the contemplation of the architects of the Constitution. It very clearly means that. Therefore, even that argument of my learned friend, Shri Nath Pai, will not hold good. I, therefore, submit, taking all these things into consideration, with great respect to my learned friend and my hon. friend, Shri Mulla, that I disagree with them and I cannot support this Bill.

Shri Manabendra Shah (Tehri Garwal): Mr. Deputy-Speaker, Sir, I have no desire to talk as a legal pundit because I am not a legal pundit but, at the same time, though morals in some sectors have no values, my conscience does not permit me to sit quietly and not give out what I feel is morally correct. It is neither as a moralist nor as a legal pundit that I want to speak today. I want to speak today only as a layman representing the laymen of my constituency, and I would like you to kindly be patient with me if I may say something which the legal pundits may think is incorrect.

Undoubtedly, Parliament is the Supreme legislative authority in this country in matters which fall within the central jurisdiction and also has supremacy to legislate in concurrent subjects. I am even prepared to concede, that the powers of Parliament, are the powers of the people of India delegated to their representatives by the people, on the basis of their choice of the Members of Parliament during the elections.

But, Sir, the choice in a democratic country like India is generally done on the basis of the pronounced policies of the individuals seeking election. It is immaterial what the party's directive is because the voters try to understand and decide on the interpretation made by the individual candidate standing before them seek-

[Shri Manabendra Shah]

ing election. Therefore, it is for everybody in this House to decide for himself and to decide with conscience naturally, as to what stand he should take in this particular Bill which is before the House.

One of the greatest headaches to us as laymen is an attempt on the part of the legal pandits to go into the meaning of the words and interpretations of the enactments, and the politicians forcing their political emotions on the laymen. As a layman, Sir, I would like to put before this august House what we understand by fundamental rights. We go into its spirit. Fundamental rights, as the very name implies, are such rights conceded to themselves by the people of India in the Constitution of India and they would remain fundamental in their governance by any government which comes into power.

It is evident that even the framers of the Constitution did not stipulate any free licence or blanket powers to the Parliament of India in frittering away the fundamental rights of the people. Otherwise, I would like to know, how do they remain fundamental? Why should they be termed as fundamental? After all, the word 'fundamental' has some meaning and has been used after great thought by the Constituent Assembly. This is something which I would request this House to ponder over and think about, as to what is fundamental.

The Supreme Court, by its very function in the federal set-up, has got to act as a guardian of the fundamental rights of the people. What will the Supreme Court have to guard, if the Parliament stretches its supremacy to arrogate to itself in practice, all powers to destroy the very fabric of the Constitution which the people of India bestowed on themselves and the Parliament has four times sworn by? The Supreme Court has only performed its rightful duty in holding that Parliament howsoever supreme it

may be, cannot abrogate fundamental rights.

The upholding of the fundamental rights by the Supreme Court has brought about these Friday discussions that we are having for some time now. Some say that it is a wrong decision; some say that it is a correct decision. The legal pandits have quoted various past decisions of the Supreme Court to substantiate their point of view. Whatever be the merits or the demerits of the judgment of the Supreme Court, two things have been highlighted by the Supreme Courts' decision.

The one thing that they have highlighted is the meaning of the word "fundamental" and the other thing they have done is that even conceding that Parliament can amend the Constitution, should the Parliament take unto themselves the unlimited power of playing about with the fundamentals. They have asked, they have hinted in a way, they have put a query, can you do it or not; should you do it or not?

These are the two points that have been brought forward by the judgment of the Supreme Court and this is the crux of the whole matter, not the legal implications in the various judgements but the implication whether what is fundamental and whether we should meddle with the fundamental rights.

I am clear in my mind that the fundamental rights are sacred and that the Parliament cannot be given the unlimited power to play about with them. If we allow this rot to come in and to creep in in our Constitution and in our land, we will be faced like many such other Constitutions that had brought about a very miserable fate for the people and the countries they belonged to. The greatest reminder of this is the Weimar Constitution of Germany. No knowledgeable student of political

science and politics will ever dispute that it was the loophole provided by the Constitution by giving supremacy to the Parliament and the emergency powers to the President which enabled Hitler not only to abrogate but even to annihilate all the fundamental rights and consign the Constitution to oblivion.

If the Parliament is not going to accept and concede to the judgment of the Supreme Court, think of such days when Parliament may be in the hands of those who have no respect for the people's right, who hold that the State's rights reign supreme. When such a party takes over the Parliament, we will already have dug our graves in this very Parliament, if we concede to my hon. friend, Shri Nath Pai's Bill. Such a party will repeal all fundamental rights and laws and there shall be a hiatus and similar conditions shall be offered to the country as were given by the Weimar Constitution. Are we going to give free licence to the Parliament to cut at the roots of all fundamental laws? If so, please do not call these things fundamental rights.

It has been said, I think, by my hon. friend, Shri Nath Pai, that Parliament as constituted today is far more representative of the people of India than the Constituent Assembly and that a large number of the members of the Constituent Assembly were nominated members. Therefore it is argued that the legislative powers and competence flowing from the will of the people freely expressed through elections is far greater.

I am indeed surprised at this argument. The Constituent Assembly was set up primarily for framing the Constitution and constitutional giants, like Dr. Ambedkar, and the seasoned cream of all the political parties were participating in this Constituent Assembly. So, even if there were some

nominated members, what was wrong with it?

Though I am a Member of Parliament, I beg to humbly state that we have never given such serious and detailed thought to any of the articles of the Constitution as the Constituent Assembly did in their deliberations. No matter which party they belonged to they made a united effort to give the best Constitution to our nation and we today, on the other hand, as Members of this Parliament, are swayed too much by the emotions of the day. It is therefore, imperative that the Supreme Court should have the right to declare whether a particular law or a particular Article of the Constitution is being properly understood or implemented or not.

It seems to be the intention of the supporters of the Bill under discussion to undo what the Supreme Court has done. Are we not then cutting at the very root of the existence of the Supreme Court? Surely, if we go on at this speed and if we go on encouraging this trend, I am sure, we will find one fine day one of the hon. Members or the Government have a Parliament's Judicial Court coming forward with a Bill to like that in South Africa. I feel that would be the doomsday in the history of the nation.

While participating in this debate, the hon. Law Minister tried, in his effort to support Shri Nath Pai to show the importance of the Directive Principles provided in the Constitution. He has pointed that the guiding principles are fundamental duties of the Government and of Parliament, and probably fundamental duties of administration, and he has also tried to show that fundamental rights in Part III are the fundamental rights of the people. He and some others in the Cabinet and other Members in the House seem to give Directive Principles more importance than the rights of the people.

[Shri Manabendra Shah.]

As a layman, I cannot accept that the framers of the Constitution who had provided both the provisions wanted to provide a conflict between the fundamental rights of the people and the Directive Principles for the State. As a layman, I understand that the fundamental rights are those spelt out rights, which the Directive Principles of policy have to ensure that they are not only continued but safeguarded and enhanced. This, I think, is borne out by the Constituent Assembly debates.

The hon. Law Minister has also said that he wants the Bill to go to the Joint Committee because there are certain implications which have to be looked into, and, therefore, I and those who are opposing the Bill should not oppose this Bill going to the Joint Committee. But there are three defects in this proposition. Firstly, the Joint Committee has a restrictive power; secondly, it cannot take away the substance of the Bill and, thirdly, the Law Minister has not spelled out what are the points of reference that he wants to have. Under these circumstances, it becomes very difficult for me to accept this Bill. I am sure there is going to be a division and, I say, let there be a division and let us vote on the basis of our conscience. With that conscience let us go to our voters saying, "I stand for it or I stand against it." Let them decide whether we are taking the correct stand or not. If the two-thirds majority says that the Bill should go through, then, by all means, have the Bill passed.

Mr. Deputy-Speaker: Mr. Nath Pai's Bill has made history in one respect. No private Member's Bill, so far as I remember, has taken such a long time for discussion in this House. It has taken nearly 9 hours.

Shri Krishna Kumar Chatterjee (Howrah): I want to take only two or three minutes.

Mr. Deputy-Speaker: All right. Then, I will call the Minister.

Shri Krishna Kumar Chatterji: Mr. Deputy-Speaker, Sir, Mr. Nath Pai's Bill raises some fundamental issues. If it is the purpose of Mr. Nath Pai's Bill to circumvent the Supreme Court's judgment, certainly it will be a bad day for us if we submit to that.

The fundamental question is whether the Constitution is supreme or we the Members of this honourable House are supreme. Since we swear by the Constitution, that itself shows that the Constitution is supreme. Therefore, if we move in that direction, probably, we shall open up a path which may lead to disaster from the country's point of view. While the hon. Law Minister has agreed to the Bill going to the Joint Committee, he has perhaps overlooked the dangerous situation that may arise. If we allow this kind of a Bill to be introduced or passed, the result will be that the Constitution will be at the mercy of the Members of this House and, as the things are changing, the Members of this House, by a mere majority, render the Constitution ineffective on fundamental issues. Therefore, I strongly oppose this Bill although, so far as I am concerned, I feel the hon. Minister's suggestion cannot be overlooked.

With these words I say that we should give due consideration even when it goes to the Select Committee so that this Bill may not be accepted by this House, as it will be a negation of the spirit in which the Constituent Assembly framed this Constitution after a great thought and deliberation.

The Deputy Minister in the Ministry of Law (Shri D. R. Chavan): Mr. Deputy-Speaker, I am not going to take much time of the House. You have just now stated that this Bill

(Amdt.)

was debated for a long time, for more than 5 or 6 hours . . .

Mr. Deputy-Speaker: For more than 8 hours.

Shri D. R. Chavan: For more than 8 hours. I stand corrected. That shows the importance of the Bill.

A number of hon. members have participated in the debate and have touched the various aspects of the Bill. I must, at the very outset, congratulate my hon. friend, Mr. Nath Pai, for having been very prompt in bringing this measure. The hon. Law Minister, while intervening in the debate and also while replying to some of the questions that were raised in this House, has stated what the Government's stand is and that we agree in principle with the proposal underlying the Bill.

Now the motion has been moved by my hon. friend, Mr. Nath Pai, for referring this matter to a Select Committee. An amendment has been moved that the matter, instead of being referred to a Select Committee, be referred to a Joint Committee of both the Houses. The idea behind it is that it should be deliberated and considered by a large number of hon. members of both the Houses and the list that has been prepared consists of very great and eminent jurists and great legal luminaries, who will, after mature deliberation, give some direction to the House, in the light of which it would be proper for us to adopt the course as suggested by the Joint Committee.

Mr. Deputy-Speaker, I am not going into the various aspects of the judgment. I am only touching one or two points on which a very great emphasis has been laid by some hon. members. It has been asked by some hon. members as to why, as suggested in the judgment of the Supreme Court, we should not resort to the residuary legislative power, under which Parliament can enact a law,

summon a new Constituent Assembly and confer power on it, so that not only the Articles contained in Part III of the Constitution but all the Articles in the Constitution could be amended by a simple majority. Only that aspect, I shall be touching without taking the time of the House because my hon. friend, Mr. Nath Pai, has got to reply to the debate.

As I have said just now, it is said, why not we invoke the residuary power of the Parliament under Article 248 read with Item 97 of the Union List. For what purpose? For summoning another Constituent Assembly or creating another body, which can amend the Articles contained in Part III of the Constitution. Chief Justice Subba Rao has made a reference to this residuary legislative power under Article 248 read with Item 97 of the Union List. What has the learned Justice said? Chief Justice Subba Rao, with four judges concurring with him, has referred to this residuary legislative power of the Parliament for this purpose and has observed that "they do not express a final view on this important question." But Justice Hidayatullah in his judgment has made certain categorical observations on the point. The learned judge observes:

"It would be open to Parliament to exercise its residuary power to bring into existence a new Constituent Assembly which will have the power to amend fundamental rights guaranteed by Part III of the Constitution."

Now, I am arguing on this basis. Let us assume that Parliament enacts a law and creates a body under a statute. What is going to be the nature of this body that is likely to be created by Parliament under the statute? You may call it by any name; you may call it super-Parliament or Constituent Assembly or any other thing. But what is going to be the nature of that body? What is that body or authority going to be

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like? And the question is whether this authority that is likely to be created by a statute of Parliament is going to be State within the meaning of article 12 of the Constitution. Article 12 says:

"In this Part, unless the context otherwise requires 'the State' includes the Government and Parliament of India and the Government and the Legislature of each of the States and all local or other authorities within the territory of India or under the control of the Government of India."

The question is, as has been argued by some hon. Members, why we should not create some body or some other authority. As has been envisaged in the judgment and suggested by Justice Hidayatullah, let us say that Parliament enacts a law and under that law some authority is created. That will be a statutory authority. Parliament functioning under the Constitution is a constituted body and not a constituent body. That must be remembered by all Members. Therefore, a body that is likely to be created under the statute will be a statutory body. The question is whether this constituted body will be State within the meaning of article 12.

My humble submission is that it will be State within the meaning of article 12. If it becomes so, then we have to read article 13(2) which says:

"The State shall not make any law which takes away or abridges the rights conferred by this Part and any law made in contravention of this clause shall, to the extent of the contravention, be void."

It may be asked how a body or authority that would be created or constituted could be construed as the State. Just now, I have submitted

that that authority could be construed as State within the meaning of article 12.

For that purpose, I shall make a reference to the recent judgment of the Supreme Court in the case of the *Rajasthan Electricity Board*. In that case, decided by the Supreme Court on April 3, 1967—this judgment that we are considering was delivered by the Supreme Court on the 27th February, 1967—this is what the learned judges say:

"The Supreme Court held by a majority of four to one that the expression 'other authorities' occurring in the definition of 'State' contained in article 12 was wide enough to include within it every authority . . ."

—kindly mark the words 'every authority'—

" . . . whether constitutional or statutory, created by statute and functioning within the territory of India or under the control of the Government of India."

Thus, any constituent assembly formed for the purpose of amending the Constitution by law enacted by Parliament would come within the definition of the State as defined in article 12, as just now submitted by me, and as held by the majority decision, amendment of the Constitution, being a law, cannot take away or abridge any of the fundamental rights guaranteed by Part III of the Constitution. In view of this, a constituent assembly formed as aforesaid would be prohibited by article 13(2) from amending the Constitution in so far as such amendment takes away or abridges any of the fundamental rights conferred by the said part.

Why do I refer to the judgment of the Supreme Court in the *Rajasthan Electricity Board* case? There also one of the Judges was Justice Subba Rau. What happens? Here in the

first judgment, they say that under art. 368, Parliament has no power to enact a law or make any amendment affecting any of the articles in Part III. What is the reason? That a law made under art. 368 is not a constitutional law but is a law within the meaning of art. 13(3). The real turn that has taken about the judgment is in interpretation.

My hon. friend, Shri Nath Pai, pointed out the earlier decisions given by the Supreme Court, in the Shankari Prasad Sing Deo vs. Union of India and Sajjan Singh vs. State of Rajasthan, where they held that Parliament had power to amend any of the articles in Part III abridging or taking away the rights guaranteed therein. The conclusion reached in the earlier decisions was based on the ground that a law made in pursuance of art. 368 is a constitutional law and not a law within the meaning of art. 13(3). The decision has been reversed and they say that a law made by Parliament in the exercise of ordinary legislative power and law made in exercise of its constituent power is a law within the meaning of art. 13(3). What the proposed amendment seeks to do is to bring out clearly in the Act itself that any law made by Parliament following the procedure laid down on art. 368 is not a law within the meaning of art. 13(3).

A suggestion was made: why not have a referendum or convene a constituent assembly? The constitution of a constituent assembly has never been contemplated by the framers of the Constitution.

Shri Lobo Prabhu (Udipi): May we now take up the next item on the agenda?

Shri D. R. Chavan: So that it itself is likely to be challenged in the Supreme Court. If you will see art. 368 in Part XX, the heading is 'Amendment of the Constitution', and the

marginal note also indicates 'Procedure for amendment of the Constitution'. There is a proviso in respect of certain articles.

Therefore, the emphasis that has been laid by hon. friends on the constitution of a new constituent assembly will not hold good in view of the fact that the Supreme Court in their latest judgment, in the Electricity Board case have decided that the authority that will be constituted will be a 'State' within the meaning of art. 12 and, therefore, will not be entitled to make a law affecting any of the provisions contained in Part III abridging or taking away rights.

There are a number of other courses also. For example, some have argued saying, 'Why not refer the matter to the Supreme Court for advisory opinion?'

Shri Lobo Prabhu: It is 5.30 already. May we now proceed to the next item on the agenda?

Mr. Deputy-Speaker: This started late. It was agreed that we would finish with this and then take up the other item.

Shri Lobo Prabhu: The rest of the discussion may be held next session.

Mr. Deputy-Speaker: No, no. He cannot lay down the procedure.

श्री मधु लिमये (मुंजर) : उपाध्यक्ष महोदय, मेरी प्रार्थना यह है कि यह पहले ही तय हो चुका है कि सारा समय इनको मिलेगा। मेरा जो प्रस्ताव है, उसको मैं खाली मूव करूंगा, भाषण अगले सेशन में दूंगा।

Shri Lobo Prabhu: The House does not seem to be in a mood to continue with this now.

Mr. Deputy-Speaker: Why is he impatient? He cannot lay down the procedure of the House.

Shri D. R. Chavan: I am concluding.

There are a number of other courses, but those are fraught with so many difficulties, and therefore, this is the

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only alternative course that can be adopted under the circumstances to get over the difficulties that have been created by Golaknath's case. The difficulties are such that it has created a conflict between the fundamental rights and the directive principles of State policy which have to be kept before us in the making of laws, because article 37 of the Constitution says that these directive principles of State policy, though not enforceable, are nevertheless fundamental in the governance of the country. Therefore, if this judgement is allowed to remain, there would be tremendous difficulties in bringing about any reconciliation between the fundamental rights and the directive principles of State policy, and the directive principles of State Policy are very necessary for the advancement of the society, for economic progress and all that.

Under the circumstances, Parliament has got power to amend article 368 and to bring about such a change specifying therein that the law made following procedure under article 368 will not be law within the meaning of article 13(3).

Therefore, I support the motion that has been made by my senior colleague for referring this Bill to a Joint Committee of both the Houses, so that they might consider this Bill, and in their mature consideration and deliberation give a guideline to Parliament in the light of which a decision can be taken in respect of this Bill.

Shri Nath Pai (Rajapur): You have been pleased to observe earlier that this historic Bill has consumed the longest time. I hope his Bill will not be judged by the hours it consumes but by the good that it is going to do to the people of his country. It is with that hope and conviction that I ventured to move this Bill.

I should like to tell at the very beginning that when I was in hospital I read this judgment, and those idle

hours I applied to giving thought to the judgment in Golaknath's case.

Listening to the speeches, some of which were brilliant, some of which were deeply impressive, almost all of them moving in their anxiety to preserve the foundations of our democracy I found nonetheless there was a lot of misconception and misunderstanding as to the object, what I am trying to do through this Bill.

I must say at this stage that not all my critics suffered from the advantage of being very familiar either with the judgement or constitutional law, but I must say that Mr. Piloo Mody's speech was a brilliant attack, and for an architect it was an unusually studious attack. The speech of my hon. friend Mr. Lobo Prabhu, for its passionate opposition, again, was remarkable.

On this side also speeches in opposition were made, and barring the Maharaja of Tehri Garhwal, I did not see any argument in them, but I had the satisfaction of being sustained and supported by the two men who are most qualified to speak on this Bill and I would plead with Mr. Masani and his colleagues to think about the implications of this support.

Mr. N. C. Chatterjee and Mr. Mulla, two men who served the judiciary with great distinction, and had therefore I think, at their heart, if any consideration, the consideration of the independence of the judiciary, lent the experience and force of their support to my Bill. This is not something summarily to be rejected when two hon. members of this House or who spent their lives in serving the judiciary, and therefore I presume the independence of the judiciary, made available to us their knowledge and experience in this field.

There was the speech, the very important speech of Dr. Lohia. Dr. Lohia, for the first time, came with

a very passionate move warning this country against the dangers of Hitlerism in case the Bill is passed.

I was sorry, I was sad, because there was a speech of Acharya Kripalani. Acharya Kripalani and Dr. Lohia are in a different category to me, and what they say, though it is not always convincing, nevertheless, all the while and always they invariably impress me. I listened and I felt that it was a gross misconception about what I am trying to do. I could never persuade myself how Dr. Lohia, with his historic knowledge, could try to threaten this House by trying to persuade himself that if this Bill is passed, a Hitler will be born. Does he not know that Hitler was not born from the Weimar Constitution, Hitler was not born at Braunau which is his birth-place in Northern Austria; that Hitler was born in the tragedy of Warsaw; that he was born in the tragedy of Germany? Dictators are not born to administer the Constitution. They are the products of social conditions. My Bill will be providing the people of India with an instrument; that social conditions never reach boiling point when the only reply is the production of a Hitler. It is this thing that the Bill is trying to do.

Mr. Deputy-Speaker, I will not be going into any legal point at this stage, because my whole attempt has been to impress one thing. Perhaps, some hon. Members do not know, and I am a little disappointed with Shri Masani's party which is dedicated, I think, and is sincerely committed to the principle of democracy, liberal democracy. This is a point on which he is avoiding a discussion. (Interruption) Not social democracy; that will be an accusation. I said liberal democracy. Now, he is boycotting the committee and he avoids discussion, and shunning discussion. On the other hand, I wanted a discussion.

Shri M. E. Masani (Rajkot): May I intervene just for a minute? Membership of the Select Committee implies acceptance of the principle of

Bill. That is why we cannot serve on the Select Committee. We shall be very glad to discuss it in this House and outside.

Shri Nath Pal: You will readily agree that the very essence of democracy is free discussion and free dissent. That is why I may disclose to the House that though I knew the views of my friend, the hon. Member from Tehri Garhwal, I went out of my way to persuade him to come and speak against me. I want a debate, because debate and a free debate is the essence of democracy; and honest difference is the essence of it. They are the essence and life of democracy.

Sir, I will now touch only three points and try to conclude. There are three points which arise. One misconception was that I am trying to amend the Constitution. The second point I would like to touch is the doctrine of judicial infallibility, which my friends were trying to propound. And the third, the imperative need at this hour to restore the sovereignty and the liberty of our people which was unilaterally sought through judicial interpretation to be taken away from them.

I will now take the first point. Who have been trying to amend the Constitution? My humble submission to this House, and particularly to those who so radically are disagreeing with me, is that I am not amending the Constitution of India. It is the Supreme court which tried to amend the Constitution. The Supreme Court, on the 27th February, 1967, by a majority judgment of five against four, tried by the process of interpretation, to radically amend the Constitution of India. According to the Supreme Court, Parliament had the right, untrammelled right to amend the Constitution including Part III. The Supreme Court, once by a unanimity of judgment, and on the second occasion by an overwhelming preponderance of opinion, held that Parliament has this right of amending the Constitution including the fundamental rights. That was

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the law of India and that was the Constitution of India till the 26th February. On the 27th, by the judgment of five versus four, the Supreme Court altered this picture of the Constitution of India.

What is my submission about this? I would like Shri Piloo Mody and particularly Acharya Kripalani to consider this. You can ignore Nath Pai's argument, but you cannot ignore the argument of the best men of all ages. Francis Bacon, perhaps the finest scholar Britain produced in the middle ages, had this to say. I am quoting his own words; it is from his *De Augmentis Scientiarum Verba Legis*:

"Cum receditur a Litera, iudex transit in Legislaturum."

That is from his masterpiece which he left for his people as his legacy. That means to say that when the judge departs from the letter of the law, the judge becomes the law-maker. This is precisely what happened in this case. Now, all the time, they were constantly throwing in my face the authority of the Supreme Court. I will quote from a judgment of the Supreme Court here. I will just quote Justice Bachawat, in the same judgment. He said:

"Now, the First, Fourth, Sixteenth and Seventeenth amendment Acts take away and abridge the rights conferred by Part III. If they are laws, they are necessarily rendered void by article 13(2) . . .

"If they are void, they do not legally exist from their very inception. They cannot be valid from 1951 to 1967 and invalid thereafter"—

as Justice Subba Rao's judgment is trying to do.

"To say that they were valid in the past and will be invalid in the future is to amend the Constitution. Such a naked power of

amendment of the Constitution is not given to the judges."

I am saying that the Supreme Court is supreme in the matter of interpretation and Parliament is and must always remain supreme in the field of legislation. An independent judiciary must act as a brake on likely excesses by an overenthusiastic executive, but it must never try to act as a brake on forward march of the people dedicated to an ideal. When it transgresses its legitimate field of interpretation and under the garb and ruse of interpretation tries to usurp the function of Parliament, i.e. legislation that effort needs to be resisted. I am not here to show disrespect to the judgment. So long as the judgment is there, we are bound by it. It is conceivable that the Supreme Court may strike down the amendment we may make. Then we shall seek other means. But there is no suggestion here that we defy the Supreme Court. I want the Supreme Court to remain supreme in its field and I want Parliament to remain supreme in its own field.

I will now take the doctrine of judicial infallibility. With all my great regard for Mr. Justice Subba Rao, you know how great it was; you disagreed with me in the degree of regard I wanted to show for him, I say there is no such thing as judicial infallibility. I would like to quote for Mr. Minoo Masani's sake an ancient scholar. Whatever may be your other defects, Mr. Minoo Masani, you remain a great scholar and ancient knowledge is very important in some matters. You are not in a mood to listen to Mr. Nath Pai now. Normally you are, but you have fallen on evil days and you are disregarding my sober advice. I will quote better authorities than myself. Ovid in *Fasti* has said—I just had to revise it, which you must have studied as a student of law—

"*Hominum Sententia Fallax*"—

"The judgment of man is fallible". As yet, we do not have judges who are God and so, their judgment is fallible.

In over-ruling the previous judgments, the Supreme Court says they were erroneous. If those judgments were erroneous, how are you trying to justify their judgment in this case with this doctrine of infallibility? We discarded the doctrine of divine right in the middle ages. We are not going to accept the doctrine of infallibility of anybody, howsoever august; their supremacy in that field, we will accept.

An hon. Member: You are also fallible.

Shri Nath Pai: I am very much fallible. That is why I wanted to have the benefit of your advice in the select committee and you are denying it to me.

The majority judgment says:

"The longer it holds the field—

i.e. the longer the previous judgment in Sankari Prasad's case holds the field—

"the greater will be the scope for erosion of fundamental rights.

As it contains the seeds of destruction of the cherished rights of the people, the sooner it is overruled the better for the country."

The previous judgments—one unanimous and another overwhelming majority—were erroneous, but our judgment, by a majority of 5 to 4, is infallible and is the law of the land!

But what does Justice Wanchoo say? I want my critics to ponder over it. Justice Wanchoo was a minority judge in Golaknath's case. He is today the Chief Justice of India. Ponder over the implications of it—a writ petition going to the Supreme Court and Justice Wanchoo striking down the judgment in Golaknath's case and saying that Parliament has the competence to amend fundamental rights. Where

do we stand? The Constitution will be changing not according to the will of the people expressed by the Parliament of India, but by the composition of the Supreme Court at a given time! Is this how Constitutions are to be protected against being tampered with by the legislature, executive and judiciary? My reply and the experience of history is very clear. They shall not be tampered with by anybody except with the sanction of the people. Regarding the infallibility claimed by the majority judgment, this is what Justice Wanchoo says:

"We say this with great respect and would hold that apart from the principle of *Stare decisis*, we should not say that the unanimous judgment in Sankari Prasad's case was wrongly decided by such a slender majority in this Special Bench."

This is Justice Wanchoo's warning to his colleagues in the Supreme Court. Let us, therefore, not propound this doctrine of judicial infallibility.

Shri J. B. Kripalani: We are not taking our stand on the judicial judgment, we are taking our stand on the Constitution itself.

Shri Nath Pai: Mr. Deputy-Speaker, I want to come to the last submission. What is it that we are trying to do? I suggest that supremacy, sovereignty, belongs to the people of India, that India, that sovereignty must be restored to them, that sovereignty has now gone according to this judgment of the Supreme Court which is a feature of the Constitution.

Shri J. B. Kripalani: Do we swear by the Lok Sabha or do we swear by the Constitution?

Shri Nath Pai: I swear by the people. Sir, I am reading the opinion of the finest men of all time. Other people have pondered over this problem. This is the basic conflict that

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comes. Those who have got unimpeachable, unassailable faith in the wisdom of the people want to give it back to the people and those who want to limit the wisdom all to themselves, five or six men here and there do not believe in their people, in their unfailing wisdom.

Shri Shivajirao S. Deshmukh (Parbhani): The Constitution itself is a gift from the people.

Shri Nath Pai: Mr. Deputy-Speaker, the Constitution begins by saying: "We the people of India give ourselves the Republic of India..." They do not say "the judicial Republic of India". It is the republic of the people of India. How it is in a democracy it has come to be that the judiciary is infallible to amend the Constitution?

Mr. Deputy-Speaker, sovereignty is vested in the people, but since the time of Athens when have the people exercised that sovereignty except through the instrument of their supreme legislature which they have the power to punish if it goes wrong? It was only in the time of Athens that all the 30,000 Athenians participated in legislation. Since then sovereignty of the people has been exercised by Parliament, by the legislature of the people.

Shri P. K. Deo (Kalahandi): Sir, if we accept the supremacy of Lok Sabha, the sovereignty of Parliament, what would have been the fate of the people of Goa? This House would have agreed to the merger of Goa with Maharashtra because the representatives of that area and the entire House were in a mood to pass the merger of Goa with Maharashtra. But what was the result of the referendum? Will Shri Nath Pai enlighten us on this point?

Shri Nath Pai: A more irrelevant analogy I am yet to hear.

Shri J. B. Kripalani: Can the people on their own interest pass a self-denying ordinance?

Shri Nath Pai: May I at this stage, before concluding, quote what Mr. Justice Brandeis had to say? He said:

"An exercise of the powers of a superlegislature—not the performance of the constitutional function of judicial review."

Justice Holmes all his life adorned the Supreme Court of United States and gave a new dimension to the judicial processes. This is what he had to say . . .

Shri J. B. Kripalani: They are also judges.

Shri Nath Pai: They are supporting my views. He said:

"The Constitution of a free country is not what the judges say, it is, but what the people want it to be."

That is what the Constitution is.

Mr. Deputy-Speaker, the sovereignty I am claiming is not for Parliament. Parliament has to exercise it on behalf of the people of India, as trustees of the sovereignty of the people of India. That sovereignty must be restituted to the people of India because the Supreme Court has tried to snatch away that sovereignty.

Before I conclude I want to say—I plead for your indulgence to listen patiently—Norman Thomas says:

"He who would save liberty must put his trust in Democracy."

And what does Jefferson, that pillar of American democracy from which in this respect we have much to learn, say? He says:—

"Governments are republican only in proportion as they embody the will of the people and execute it."

Also:—

"It is an axiom in my mind that our liberty can never be safe but

in the hands of the people themselves."

Finally:—

"I know of no safe depository of the ultimate powers of society but the people themselves."

That is what Jefferson says.

There cannot be any liberty without democracy and there is no democracy without the sovereignty of the people . . . (Interruption).

Finally, I want to say that let us go to the Select Committee and let us have the product of the best minds of the country. Let us have a hearty debate there. I am open to learn. I have adumbrated a principle. Let Shri Minoo Masani's friends also come there. Let us try to persuade one another. Let us not rule out the possibility. I am open to persuasion. But I do not know why you are being so afraid of subjecting yourself to that same persuasion. Sir, I see Minoo shaking his head very vigorously. I think, he swears by Burke. Burke says:

"Argument is exhausted, reason is tired but obstinacy is not won."

Finally,

लोकमतैरधेष्ठानं राजशक्तिहितत्वतः ।
तयोस्तु विग्रहे प्राप्ते लोकशक्तिविशिष्यते ॥

In the final analysis when there is a conflict between the people and the executive it is invariably the people who will triumph.

श्री मधु लिमये : मैं एक सवाल अपने मित्र नाथ पाई से पूछना चाहता हूँ कि क्या उनका यह कहना है कि हमारे इस संविधान का और हमारे इस देश का जो आधार है गणराज्य या प्रजासत्तात्मक राज्य, क्या दो-तिहाई बहुमत से यह बुनियाद, यह आधार, प्रजासत्तात्मक राज्य को खत्म करके क्या हम राजशाही कायम कर सकते हैं ? क्या उसके लिए बनना से हम को संश्लेषट बिना है ? मैंने

यह आरोप उठाया था, मैं बहस चाहता हूँ सेलेक्ट कमेटी में भी बहस के लिये तैयार हूँ । लेकिन मुझे उम्मीद थी कि इस प्रश्न का जवाब वह देंगे ।

Mr. Deputy-Speaker: We will take up that question in the Select Committee.

Shri Nath Pai: Knowing Madhu from my early days—shoulder to shoulder we fought for freedom....

श्री मधु लिमये : अभी भी चल सकते हैं ।

श्री नाथ पाई : हाँ, अभी भी चल सकते हैं ।

There was one thing which happened. Dr. Lohia brought forward a motion today with which we are absolutely in agreement.

An hon. Member: Shame.

Shri Nath Pai: He said, "Shame". I am glad. That should have opened Madhu's and Dr. Lohia's eyes.

The Swatantra Party tooth and nail opposed it. If Dr. Lohia wants to see that the kind of social justice he has in mind, which I think he has passionately believed in always, and wants to build then Madhu must not mock at this Bill but should come forward courageously to support it.

श्री मधु लिमये : यह प्रश्न का उत्तर कहाँ हुआ ? मेरे प्रश्न का उत्तर नहीं दिया ।

Shri Pilloo Mody rose—

Mr. Deputy-Speaker: No more questions now. We will have them in the Select Committee.

Shri Pilloo Mody: We are not going to the Select Committee.

Therefore I appeal to you to let me just ask one thing.

Mr. Deputy-Speaker: You want to withdraw your name.

Shri Piloo Mody: Yes, my name is to be withdrawn.

Mr. Deputy-Speaker: You will be the architect of the new Bill.

Shri Nath Pai: Regarding Shri Madhu Limaye's question, since I take seriously whatever he says, what he suggested as a hypothesis would not be an amendment of the Constitution but abrogation and destruction of the Constitution.

श्री मधु लिमये : वह नहीं कर सकते हैं न ?

Shri Piloo Mody: Shri Nath Pai started his arguments beginning by saying that he wanted to re-establish the supremacy of Parliament and has ended his arguments by restoring supremacy back to the people. I thank him.

Shri Nath Pai: He has begun to understand me.

Shri R. D. Bhandare (Bombay Central): Mr. Madhu Limaye has raised a question which ought to be answered.

श्री मधु लिमये : मैंने आप से नहीं पूछा था, मैंने प्रस्तावक से पूछा था, नाथ पाई से पूछा था, भंडारे से नहीं पूछा था।

Shri R. D. Bhandare: You have raised it in the House. I want to ask one question and sit down, English Parliament....

Mr. Deputy-Speaker: You excuse me. That is all. Please resume your seat. No more questions.

I now put the Government amendment to the vote of the House.

The Minister of Law (Shri Govinda Menon): No. 4 in the list is the name of Shri Kanwar Lal Gupta. He has written to me saying that he will not like to serve on the Committee.

Shri Kanwar Lal Gupta: Yes; I will not like to serve on the Committee.

Shri Piloo Mody: I also.

Shri Nath Pai: Mr. Goel said that he would like to serve on the Committee.

Shri Kanwar Lal Gupta: We have decided that we will not serve on the Committee. No Member of my Party will serve on the Committee.

18 hrs.

Mr. Deputy-Speaker: The question is:

"That the Bill further to amend the Constitution of India, be referred to a Joint Committee of the Houses consisting of 45 members, 30 from this House, namely:—

"Shri R. K. Khadiolkar, Shri R. S. Arumugam, Shri N. C. Chatterjee, Shri Surendranath Dwivedy, Shri Ram Krishan Gupta, Shri K. Hanumanthaiya, Shri S. M. Joshi, Shri Kameshwar Singh, Shri Krishnan Manoharan, Shri D. K. Kunte, Shri J. Rameshwar Rao, Shri V. Viswanatha Menon, Shri Mohammad Yusuf, Shri Jugal Mondal, Shri H. N. Mukerjee, Shri Nath Pai, Shri P. Parthasarathy, Shri Deorao S. Patil, Shri Khagapathi Pradhani, Shri K. Narayana Rao, Shri Mohammad Yunus Saleem, Shri Anand Narain Mulla, Shri Dwaipayana Sen, Shri Prakash Vir Shastri, Shri Digvijaya Narain Singh, Shri Sant Bux Singh, Shri Sunder Lal, Shri V. Y. Tamaskar, Shri Tenneti Viswanatham, and Shri P. Govinda Menon

and 15 from Rajya Sabha;

that in order to constitute a sitting of the Joint Committee the quorum shall be one-third

(Amdt.)

of the total number of members of the Joint Committee;

that the Committee shall make a report to this House by the first day of the next session;

that in other respects the Rules of Procedure of this House relating to Parliamentary Committees shall apply with such variations and modifications as the Speaker may make; and

that this House recommends to Rajya Sabha that Rajya Sabha do join the said Joint Committee and communicate to this House the names of 15 members to be appointed by Rajya Sabha to the Joint Committee.'

The Lok Sabha divided.

Shri Govinda Menon: I have voted against by mistake. My vote in for N.

Shri Pilloo Mody: It was his heart that voted ultimately.

Shri Mohamed Imam (Chitradurga): In the majority of the total membership and two-third majority of the members present and voting not required now?

Mr. Deputy-Speaker: Not at this stage. Mr. Masani is sitting here. Otherwise, he would have taken that objection.

Shri Lobo Prabhu: What is the authority which says that this is not part of the process of amending the Constitution?

Mr. Deputy-Speaker: It is there in the Constitution itself.

Division No. 16]

AYES

[12.04 hrs.

Achel Singh, Shri	Mahida, Shri Narendra Singh	Sayyad Ali, Shri
Agadi, Shri S. A.	Malimariyappa, Shri	Sen, Shri P. G.
Bajpai, Shri Vidya Dhar	Menon, Shri Govinda	Sequeira, Shri
Bhandare, Shri R. D.	Mohinder Kaur,	Sethuramae, Shri N.
Bhola Nath, Shri	Shrimati	Sharma, Shri D. C.
Bohra, Shri Onkarlal	Mukerjee, Shri H. N.	Sharma, Shri Ram
Buta Singh, Shri	Mulla, Shri A. N.	Avtar
Chaudhary, Shri Nitiraj Singh	Nahata, Shri Amrit	Shastri, Shri Prakash Vir
Chavan, Shri D. R.	Nath Pai, Shri	Shastri, Shri Shiv Kumar
Choudhury, Shri J. K.	Oraon, Shri Kartik	Sheo Narain, Shri
Dar, Shri Abdul Ghani	Parmar, Shri	Shinkre, Shri
Dass, Shri C.	Bhaljibhai	Shiv Chandika
Desai, Shri Dinkar	Patil, Shri N. R.	Prasad, Shri
Deshmukh, Shri	Puri, Dr. Surya	Shukla, Shri S. N.
Shivajirao S.	Prakash	Siddayya, Shri
Dhillon, Shri G. S.	Ram, Shri T.	Supakar, Shri
Ghosh, Shri Parimal	Ram Dhan, Shri	Sradhakar
Gowda, Shri M. H.	Ram Kishan, Shri	Tiwari, Shri K. N.
Kapoor, Shri Lakhnan Lal	Ram Subhag Singh, Dr.	Venkatasubbaiah, Shri P.
Katham, Shri B. N.	Ram Swarup, Shri	Verma, Shri Prem Chand
Khanna, Shri P. K.	Ramamoorthy, Shri P.	Viswambharan, Shri P.
Kirutpan, Shri	Ramani, Shri K.	
Kisku, Shri A. K.	Rana, Shri M. B.	
Kundu, Shri S.	Randhir Singh, Shri	
Kureel, Shri B. N.	Reddy, Shri Eswara	
Kushwah, Shri Y. S.	Samanta, Shri S. C.	
	Satya Narain Singh, Shri	

NOES

Amersey, Shri M.	Kachwai, Shri Hukam Chand	Naik, Shri R. V.
Amin, Shri R. K.	Kothari, Shri S. S.	Nayanar, Shri E. K.
Berwa, Shri Onkar Lal	Koushik, Shri K. M.	Patel, Shri Manibhai J.
Deo, Shri K. P. Singh	Lobo Prabhu, Shri	Patodia, Shri D. N.
Deo, Shri P. K.	Maiti, Shri S. N.	Ramamoorthy, Shri P.
Dipa, Shri A.	Majhi, Shri M.	Ranjit Singh, Shri
Gajraj Singh Rao, Shri	Masani, Shri M. R.	Salve, Shri N. K. P.
Gowd, Shri Gadilingana	Meena, Shri Meetha Lal	Santosham, Dr. M.
Gowder, Shri Nanja	Meghrajji, Shri	Shivappa, Shri N.
Gupta, Shri Kanwar Lal	Mody, Shri Piloo	Solanki, Shri P. N.
Jena, Shri D. D.	Mohamed Imam, Shri	Suraj Bhan, Shri
		Tapuriah, Shri S. K.

Mr. Deputy-Speaker: The result of the Division is:

Ayes	..	67
Noes*	..	35

The motion is carried.
The motion was adopted.

18.05 hrs.

COMPANIES (AMENDMENT)
BILL

(Substitution of section 293A, 324 etc.) by Shri Madhu Limaye

श्री मधु लिमये (मुंजर) : उपाध्यक्ष महोदय, मैं प्रस्ताव करता हूँ कि कम्पनी कानून में संशोधन करने वाले मेरे बिल पर अब विचार किया जाय।

Mr. Deputy-Speaker: He has moved the motion that the Bill may be taken into consideration. This will be taken up on the next occasion.

18.05½ hrs.

VISCOUNTS**

Mr. Deputy-Speaker: Now, we shall take up the half-an-hour discussion.

श्री जार्ज करनेग्डीस (बम्बई दक्षिण) : उपाध्यक्ष महोदय, यह प्राधे घंटे की बहस इण्डियन एयर लाइन्स कारपोरेशन के कारो-

बार से सम्बन्धित प्रश्न को लेकर प्रारम्भ हो रही है। पिछले कई वर्षों से इंडियन एयर लाइन्स कारपोरेशन के काम काज में नुकसान की मात्रा बढ़ती जा रही है। 1964-65 में इस कारपोरेशन का कुल मूनाफा 1 करोड़ 63 लाख रुपये था जब कि 1965-66 में

Shri Sheo Narain (Basti): There is no quorum in the House.

Mr. Deputy-Speaker: Shri George Fernandes may resume his seat. There is no quorum. The bell is being rung....

Still, there is no quorum. So, the House will now stand adjourned and meet again at 11 A.M. on Monday, the 7th August, 1967.

18.08 hrs.

The Lok Sabha then adjourned till Eleven of the Clock on Monday, August 7, 1967/Śravaṇa 16, 1880 (Saka).

*NOES: Name of one member could not be recorded.

**Half-an-Hour Discussion.