

account of the nature of soil, rain-fall, chronic drought conditions etc.

- (v) Exemptions in the existing State laws in favour of mechanised farms, well-managed farms etc. should be withdrawn;
- (vi) The exemption in favour of plantations of tea, coffee, cardamom, rubber, etc. should be carefully examined in consultation with the Ministries concerned and State Governments. Thereafter this and other types of exemption should be discussed with the Chief Ministers in order to formulate the national policy.

SHRI K. D. MALAVIYA (Domariaganj) : May I request the Government through you to allow some time for a discussion on the statement which has just been made ?

MR. SPEAKER : You can send it in writing.

12 20 hrs.

CONSTITUTION (TWENTYFOURTH AMENDMENT) BILL—*Contd.*

MR. SPEAKER : We had allotted seven hours for the general discussion of which 6 hours 45 minutes we have already taken. We will extend the general discussion by one hour or so.

THE MINISTER OF PARLIAMENTARY AFFAIRS, AND SHIPPING AND TRANSPORT (SHRI RAJ BAHADUR) : May I submit for your consideration and the consideration of the House that the general discussion may continue till about 4.30 p. m. when the Law Minister can be invited to reply ? We can have clause-by-clause consideration from 5 p. m. The Prime Minister will intervene at 3 O'Clock. I would beg of you to extend the time.

SHRI S. M. BANERJEE (Kanpur) : The time for clause by clause should not be curtailed. If necessary, we can have third reading tomorrow.

MR. SPEAKER : I do not see any need for the BAC fixing any time if we are going to change it like this. Then the whole business gets dislocated. We will have to finish everything today and we will have the voting on the Bill at 6 O'Clock.

SHRI RAJ BAHADUR : I am only suggesting that we may extend the time by one hour.

MR. SPEAKER : We will extend the time by one hour. The voting will be between 5 and 7 p. m.. The consideration motion voting will be at 4 p. m. and clause-by-clause consideration between 4 and 6 p. m. and third reading after that.

SHRI SHYAMNANDAN MISHRA (Begusarai) : Mr. Speaker, I was submitting yesterday that what we had been discussing was indeed a matter of the highest constitutional importance and significance. So it would be my task first to bring the subject back into its natural surroundings and not to encounter it at the hustings. What we have found is that for much of the time the discussion has taken place in this House in an atmosphere which is more of the hustings than of a deep and concentrated constitutional and legal discussion. Certain things might look pretty and nice at the hustings but this lady called the Constitution Amendment Bill does not look so. So, let me have the privilege of meeting this lady in the quietness and privacy of her home.

I think, Mr. Speaker, that the question of restoration of the authority to Parliament to amend any part of Constitution is in the neutral gear. That way it is neither radical nor reactionary in itself. The same powers could be used both by the progressives and the reactionaries according as they come to wield power in this House. So, Sir, this question, to my mind, must be raised first above the slogans and battle cries either of the pseudo-radicals or of the stick-in-the-mud conservatives.

I was amazed, Mr. Speaker, to learn of the remarks that the hon. Minister, Shri Siddhartha Shankar Ray made about our Party's stand in this matter. Our Party's stand has been absolutely clear from the very beginning. So, there was least of law

[Shri Shyamnandan Mishra]

and most of lawlessness in his approach to our Party. He said something about our Party clinging to the wall ; neither going up nor down. Our Party would not compete with the hon. Minister in scaling walls or in the frequency of his movements from one party to another. He can be so many things under one revolving moon, and that is the dynamics which our Party lacks and would continue to lack.

As regards the Constitutional points he was making, I would like to stress what a learned judge has said : "It is not necessary to be heavy in order to have more weight."

My Party supports this Bill, as is well known, but I am not here to express any great admiration for the legal acumen or wisdom that has gone into the making of it or for some of the reasons that have been advanced for its acceptance.

First, let me emphasise, Mr. Speaker, that it had also broadly been the stand of the United Congress--when we were confronted with the judgement in the Golak-Nath case--that the judgement of the learned Supreme Court in the Golak Nath case did not appear to be correct and that the Constitution did give Parliament Powers to amend any Part of the Constitution including Part III which includes Fundamental Rights. That is, we maintained that these powers to amend any part of the Constitution were inherent in the Constitution and more particularly in Article 368--not in Article 248. Therefore, we almost felt as if the learned Supreme Court had pronounced a living person dead--a person whom it had recognised for 17 years as very much alive and kicking. Now, that it has remained in the grave for 4 years, it is still living and showing signs of assertion after a period of quiescence.

12.30 hrs.

So, the only question, to grapple with, so far as the United Congress was concerned, was how to go about this business of reviving the powers of Parliament. We had agreed in principle to the reference of the Bill of Shri Nath Pai to the Select Committee. That should be clear enough to indicate that the Party had agreed, so far as the principle of the Bill was concerned, in 1957 when it was introduced by Shri Nath Pai.

But, at the same time, we had passionately felt that, though these powers did belong to Parliament, they should be sparingly used and never used to suppress or extinguish natural and basic rights and the rights of linguistic, cultural and religious minorities. In fact, I would like to suggest that Parliament should adopt a Resolution, in view of the apprehensions and doubts that have been expressed in so many quarters, embodying the assurance that nothing of the kind would be done, even though Parliament is now seeking to re-acquire—I would rather be very correct in my expression ; Parliament does not automatically re-acquire—the power after passing this Bill.

In the developing situation, which sometimes gives the impression that the very framework of law and order is now in jeopardy or in danger, some of these suspicions and doubts cannot be lightly shrugged off or brushed aside.

The fact that these powers were not used for 17 years, except for some reasonable restrictions that were clamped on property, should indicate that these are like diamonds more to be worn than to be consumed. They operate, to my mind, almost like a force of convention or usage. The Constitution is not only the written word but also the usage and conventions behind it. That had been the interpretation all over the world.

This has also been emphasized in many amendments that have been tabled by many leaders of the Opposition. If our party has not tabled a single amendment, it is precisely for this reason that we do not want to confirm the thesis of the Supreme Court that what was really meant by the Constitution was not to give power to alter or change any of the fundamental rights. Therefore, to repeat, we have not thought it fit to table any amendment. Our is perhaps the only party which has not tabled any amendment to this Bill.

There is another reason why we have not tabled any amendment? We think, trust in Parliament cannot be partial ; it must be total. Our belief that Parliament would not run mad is absolute. Therefore, it was not necessary to table any amendment. Further, Fundamental Rights, although we have to underline the word 'fundamental' are not absolute. That is very clear from

the restrictions that have been built into the framework of Part III.

We have to consider that these are friendly differences between the Supreme Court and Parliament. We have never allowed them to be turned into a vendetta or recrimination, and have not brandished a hatchet or a first. We think that it would be all in keeping with the dignity of the House that it is not permitted to degenerate into a jurisdictional controversy.

Let us conduct this controversy in a healthy, friendly, creative and dignified way. We do not enhance our reputation if we use harsh words against the Supreme Court or react to any judgment of the Supreme Court in a petty, petulant way when we do not agree with it. The great thing about democracy is not only to tolerate differences of opinion but to respect them and live with alternative ideas and opinions in perfect zest and humour.

THE MINISTER OF EDUCATION
AND SOCIAL WELFARE AND MINISTER OF DEPARTMENT OF CULTURE
(SHRI SIDDHARTHA SHANKAR RAY) :
Remember that always ; never forget it.

SHRI SHYAMNANDAN MISHRA :
Now, it appears to me that most of the hon. Members who took part in this debate—with no honourable exception to the side to which I belong—skirted round the cardinal issue, the constitutional issue. They had not gone closely into the merits of this measure, thinking “what Daddy says is right.” I never realised that the entire House, so far as the merits of this measure are concerned, would consider that “Daddy is right.”

I have my doubts whether this Bill, when it becomes an Act finally, as it seems it might be, in the present form, would be maintainable in the court.

SHRI SIDDHARTHA SHANKAR RAY :
She did not say “yes” ; she did not say “no”.

SHRI SHYAMNANDAN MISHRA :
I am coming to that. My hon. friend reminds me about that.

The hon. Minister said that yesterday—I come to the pleasing aspect of it. He compared my party to a lady who would neither say “yes” or “no”. I did not know that his party is like a lady who would always say “yes”. I did not know that. If he says that his party is like a lady who would always say “yes”, probably, there would be more of defections and people would be falling upon one another to join his party.....(*Interruptions*).....

Now, Sir, as I was submitting, this may not be maintainable in the court. Two things will go to confirm the earlier ruling of the honourable Supreme Court. One is the amendment of Article 368 which will confirm the view of the honourable Supreme Court that on the basis of the existing provisions of the Constitution this Parliament does not really have powers. And, if that is established to be the original intention of the Constitution which is confirmed on the basis, this might be ruled as void. Therefore, it should not have been done. I will come to that a little later.

Secondly, the amendments by almost all the Opposition parties that some of the clauses must not be touched would also go to confirm the opinion of the honourable Supreme Court. In this matter, the opinion of the Opposition would be considered to be more authentic than the whipped up majority opinion of the ruling party.

When Mr. Nath Pai's Bill was being discussed (at that time) many technical defects were found in the Bill. One was that the Bill was of a self-defeating nature. It was trying to amend article 368 and it was thus going to confirm the view of the hon. Supreme Court that article 368 was not the source of power for amending the Constitution. Now we have to realise, ultimately that this Bill also might come to be characterised as self-defeating.

What is the way-out then ? The way-out, to my mind, is not to touch article 368 at all but only to confine ourselves to the amendment of article 13. If you do that, then that would control article 368, and you would be sticking to your original stand that Parliament does have authority and power to amend any part of the Constitution. If you amend both, and if you go to the

[Shri Shyamnandan Mishra]

Supreme Court, then the Supreme Court will find confirmation of its thesis and, thereby, you would be giving away the case. If both are struck down, then the opinion of the Supreme Court would come to stay.

That is my apprehension, but if you go only with the amendment of Art. 13—Art. 13 lies in Part III—and if it is struck down, then you would know that the Supreme Court wants to strick to its opinion in the Golak Nath case and that would be the end of the matter. And then we will have to say again, 'Since there is no help, come, let us kiss and part'...(*Interruptions*).

SHRI S. A. SHAMIM (Srinagar) : How can you touch Art. 13 without amending Art. 368?

SHRI SHYAMNANDAN MISHRA : I must stress that it should be tested before the Supreme Court. The amendment of Art. 13 should be tested before the Supreme Court. But if you test Art. 368 after amending it, then you concede the opinion of the hon. Supreme Court that the existing Art. 368 does not give you powers. That would be construed to be the original intention of the Constitution. I am suggestling in what way it should be done. There may be difference of opinion on this, but let me urge my point of view.

The cardinal issue in this matter is whether judicial interpretations must be considered to be unalterably correct, whatever their merit. That is the cardinal issue in the whole controversy. If it were so, then there would be no theory about 'judicial error'. One can say that the judicial interpretations, so far as the hon. Supreme Court is concerned, are final. But, they are not necessarily correct. That is also what happens in the case of the hon. Speaker. His rulings may be final, but they may not be considered to be correct.

If there is a judicial error, what is the way of correcting it? Now, this is the most constitutional and well known method that Parliament may seek to correct it in some way and that is what this Parliament is seeking to do. But, again, here we must not necessarily assume that in

seeking to correct, we may not commit graver errors and, therefore, we my remind ourselves os what Justice Holmes said :

"I realised 75 years ago that I am not God."

That realisation must dawn upon Parliament too that the Parliament is not God. Both of us should realise that in a democratic set up we cannot have infalliable Gods. Infaillble God exist only in a totalitarian system...(*Interruptions*)

SHRI FRANK ANTHONY (Nominated—Anglo-Indians) : Mr. Piloo Mody is asking what about Goddesses ?

SHRI SHYAMNANDAN MISHRA : I was submitting that there is the theory of judicial error and error has to be corrected in some way and that is what we are seeking to do here. The Parliament must also realise that while we have got unlimited powers of amendment, the hon. Supreme Court has got unlimited and infinite powers of interpretation, and the tools at the disposal of the hon. Supreme Court are many and varied. They can be political tools—they can be economic tools, they can be consitutional tools, and they are varied. In fact they have gone into the whole gamut of the matter on so many occasions.

Now, how to bring about a balance between these unlimited powers in the case of the hon. Supreme Court and the unlimited powers of amendment in the case of Parliament? Unlimited powers of interpretation may mean refashioning the whole Constitution. Are we going to agree to that position? If we do, that would mean that the Constitution is not supreme but it is the Supreme Court that is supreme. If instead of the Constitution being sovereign, it is the Surpeme Court which is sovereign, we cannot just accept that position.

Yesterday, I was a little surprised to hear from the hon. Minister of Law for whom I have the highest respect, when he was trying to establish that Parliament is sovereign. As a Member, I would certainly like to have the proud privilege of feeling that this is so. But, when we have got a written Constitution, we have to consider that it is the Constitution which is supreme.

Now, we have got this wonderful situation in which there are three Sovereigns....

SHRI S. M. BENERJEE : *rose*—

MR. SPEAKER : Please don't interrupt him.

SHRI SIDDARTHA SHANKAR RAY : He is a damsel in distress ! Don't trouble him.

SHRI SHYAMNANDAN MISHRA : Sir, I would not say that the lady sitting by his side is in distress, because I would always like to see her smiling and happy.

MR. SPEAKER : Your time is 12 minutes ; you have already taken more than 20 minutes.

SHRI SHYMNANDAN MISHRA : I crave your indulgence for a few minutes.

There would now be three sovereigns jostling together for sovereignty ; the Constitution, the Supreme Court which has been created by the Constitution, and Parliament which is also created by the Constitution.

Here we must see this. While in the case of Parliament there is a corrective mechanism, for the interpretation of the Supreme Court there is no corrective mechanism. So far as the inherent powers of the Parliament are concerned,—and these are the only powers—which we have to exercise their in some way through amendments, constitutional amendments etc. This is the most important thing which we must remember.

Finally I will say this. Certain doubts have been expressed. Many people who are of a different opinion ask us whether Parliament would not now do this, that or the other in case it is being restored to its previous position of power, whether it may not even change the basic character of the Constitution, whether it will not wreck the very fabric of democracy and so on.

To that, my reply is this. None of the powers and checks of the Supreme Court

would disappear. I should think, the corrective powers of the Supreme Court would still apply and the Supreme Court would not consider itself barred from considering any irresponsible act. That has been amply demonstrated in the past. Now, the Supreme Court would not interpret anything only with reference to the plain text of the Act, it will relate it to the whole preamble of the Constitution ; it will relate it to the values pattern of democracy, the nature of Indian policy, the basic social and economic policies underlying the Constitution, to the constitutional scheme, to the whole design, and the architectonic of the Constitution, for the whole spirit and personality of the Constitution. Constitution is not only a summation of all the Articles that happen to be there ; it is beyond this. The Supreme Court will bring to bear the principle of harmonious construction so that everything will fall within the overall objectives of democracy. That shows the conditionality of the power that we are reappropriating to ourselves,—the power which belonged to us. And so, I should think, there is not much of a ground for suspicion that Parliament or the irresponsible executive would not be prevented from running amuck. If Parliament does really run amuck how are we to meet it ? That can be met only politically. If liberty dies in the hearts of men ; it cannot be saved by Courts, can it cannot be saved by Parliament. That is the most important thing which we must always remember. We may have this theoretical, legal right, but Parliament will acquire a moral right, only when society is convinced of it. Deliberate perversion of power brings about its own downfall. Democratic power and authority depends not on the will of the ruler, but on the consciousness of the ruled. I have every faith in the people of India. I have also said...

SHRI PRIYA RANJAN DAS MUNSI : (Calcutta South) : The people have no faith in them. That is the whole trouble.

SHRI SHYAMNANDAN MISHRA : Let my hon. friend please have some more political education. As I have said, my faith in Parliament is total. My faith is not in any way subject to any qualifications. This Parliament, as I have said...

AN HON. MEMBER : Is he supporting the Bill ?

SHRI SHYAMNANDAN MISHRA :
[But finally, while supporting this measure...

SHRI SIDDARTHA SHANKAR RAY :
The lady has at last spoken !

SHRI SHYAMNANDAN MISHRA : I have been saying that all the time. But my hon. friend is so dense. I cannot make a mentally dense person understand.

But any plea that has been trotted out that the lack of these powers was coming in the way of the establishment of a socialist order would not simply wash. I ask them if the Monopolies Commission has not been acting effectively was it because these powers were not being exercised by Parliament. Again, I ask them if the Industries (Development and Regulation) Act and also the licensing policy have not been acting properly to prevent concentration of economic power only because we did not have these powers. So, let not Government make any excuse of this and say that they were not able to bring about effective socialist advance which they wanted to only because they lacked these powers.

With these words and with the warning that some of the aspects of this measure, if we want them to finally stand before the Supreme Court, must be gone into, I would submit that just as I tried to place everything objectively. The hon. Minister of Law and Justice would also consider my views objectively and then come to some conclusions, and not stand on mere prestige.

SHRI K. D. MALAVIYA (Domariaganj) : I do not wish to be rude to my hon. friend Shri Shyamnandan Mishra but frankly stating that I have not been able to understand whether he was supporting this Bill or not. I have to convey my doubts, and, therefore I have chosen to say this. Otherwise, there was absolutely no intention on my part to irritate him.

Like so many other colleagues of mine, I must also convey my joy, felicitations and congratulations to the Government on this

momentous occasion when this Bill has been moved to amend article 368 for giving purposeful effect to the Directive Principles of State Policy, and as my hon. friend Shri H. R. Gokhale has said in the Statement of Objects and Reasons, for the "attainment of the objectives set out in the Preamble to the Constitution."

As I am no student of law, I cannot deal in any manner with the constitutional and juridical aspect of the entire problem. But as I have been in politics for the last fifty years, I think that I ought to say something about the political implications of our not having gone in for this amendment earlier. About six or seven years ago, I had ventured to predict that this Constitution would be changed and that it ought to be changed. My views were not liked at that time. I am now happy that our party under the leadership of Shrimati Indira Gandhi has decided to change the Constitution with a view to radically and expeditiously bring about a new social order.

We have, therefore, to consider all the aspects very coolly. I am really sorry that some heat was imported yesterday and the other day also when my hon. friend, Shri Frank Anthony, brought out certain points which I thought then, and still think now, were not very relevant.

SHRI FRANK ANTHONY : He has not understood them.

SHRI K. D. MALAVIYA : I do not care to join issue on those points because we are much more careful, much more conscious about them than any other political party that exists in the country.

SHRI FRANK ANTHONY : *Ipse dixit*

SHRI K. D. MALAVIYA : In my opinion, undoubtedly this constitutional change has been delayed. Why has it been delayed ?

Firstly, the point was clearly made yesterday that amongst us there were people who did not contribute to that philosophy of democratic socialism which is the need of the day and which has to be concretely put before the people. If they had left us earlier than Bangalore, I have no doubt in

my mind that the situation today would have been much better and much more satisfactory. That momentous day when the Congress split was a move forward for us all to realise the aspirations of the people. Therefore, it was very proper that the Congress split on that day. But my I submit that the contradictions that exist today within the Constitution are reflected in the struggle that was going on within the Congress in the last five or six decades, and to the extent that this internal struggle continued, on the day the Constitution came into force, it represented a mixture of contradictions. Otherwise, there could not have been a contradiction between the directive principles enshrined in the Constitution and arts. 291, 362 or 363. These contradictions are clearly and manifestly indicating to us that there have been contradictions amongst us or conflicting views among the ruling party, which have been going on for some time; the great leader and visionary, who is responsible for saving this party for future socialism tried his best to get those basic principles incorporated in the directive principles. But for him perhaps today the situation would have been different.

I do not want to go into all those details, to the clashes of personalities at the time of the constitution-making, to the clashes of groups within the party. If those clashes had been resolved completely in favour of the great leader who has given us the idealism of socialism, if we had demonstrated a greater determination to forge ahead, we would have gone farther into the realism of socialism, to which reference was made yesterday by Shri Gupta and with most of which I agree.

13 hrs.

I feel that with the amendment of Article 368, alone no big social change is going to come about, unless we rapidly move forward to make necessary consequential changes as could become our acts of commitment to a programme of democratic socialism. If these changes are not brought about not of course erratically, but after proper thinking, I have a fear, which I would like to express before this House, that we will miss the bus, and the powers vested today in this great House may shift somewhere else. Then we may not be able

to deliver the goods. In between that situation and the situation that obtains today is the leadership of the Congress party to which I have the honour to belong, and on which we have all built great hopes. That leadership learnt its lessons also in the last election. Inspired by the fact that we have to go ahead to implement our commitments, the leadership went from door to door from State to State of the country, and learnt lessons from the people and inspirations that can no longer be suppressed now. It was those convictions which grew in the minds of our leader, Shrimati Indira Gandhi that now make us move ahead to realise those aspirations of the people, and for that the Constitution is proposed to be changed.

The entire concept of democratic socialism, I wish to emphasise, has to be concretised now. That will be done because it is not so difficult, as soon as we have decided upon the consequential changes which are to come about. And they are coming; they cannot be stopped; those changes will have to be incorporated. Further as a natural corollary of this change that is coming today, there will be a series of changes which will move us go towards that goal which will ultimately solve the problems of our millions.

G D H Cole, the great political philosopher, said in his book that if you want to revive the confidence of the people in democratic socialism, then you must define democratic socialism as that stage in which all means of production and distribution must go under the control of the State, The Indian National Congress, under the leadership of Jawaharlal Nehru, decades ago, committed us to that goal. That goal still remains to be realised and no amount of confusion, no amount of misleading, no amount of contradiction between the Supreme Court and the Parliament, can now stop us from moving that way.

Insinuations, were made that we are interfering with the rights of the Supreme Court or trying to denigrate the authority and the honour of the Supreme Court. We do not want to do it; and Parliament should not do it. What however is our opinion, we must express it. But even in the expression of our opinion we should not behave in any manner that may amount or contribute to the denigration of the authority of

[Shri K. D. Malaviya]

the Supreme Court. But there have been times and there will be more time, when there will be a clash between this House and the Supreme Court. It will not bring totalitarianism nor should the judges be sensitic about it. Some hon.-Members from the other side insinuated that we want to quarrel with the Supreme Court because our p'ans are to bring about totalitarianism.

What did Roosevelt do in his attempt to get the New Deal passed and the programme executed? Did he not quarrel with the Supreme Court? Did he not change the personnel of the Supreme Court? Did he not give an open threat to the Supreme Court that if his new deal was interfered with, then the Supreme Court would also be interfered with? Was Roosevelt a totalitarian? Did he bring about a communist state in his country? All that happened in a pattern of democracy in America and they are proud of that pattern. Similarly, we also want to bring about a radical and quick change in this Constitution; after amending Article 368, we will bring about those changes which will compel a powerful minority trying to concentrate economic wealth in their hands—and some of them was querading themselves occasionally in the name of cultural or religious minority—to liquidate and they will not be allowed to survive in our social system. They will have to go in the interests of the largest number of this country. The situation is appalling due to increased disparity in income and concentration of wealth. People are not going to wait any longer. The entire concept and philosophy of democratic socialism is in danger of being overwhelmed by mistaking dictatorship. This strategy of gradualism will also have to go. We think of taking action after a lot of examinations which have then b.se in pragmatism. In spite of this lot of thinking solutions are not easy to find. Whether it is the educational system or even if it is the question of controlling prices, nothing can be done unless you bring about relevant changes in our system of bureaucracy and law making. The ordinary, poor man does not get justice today. He does not get it simply because he is a poor man and cannot engage a very big lawyer charging a basket load of fees.

Justice is denied to the poor man, education is denied to the poor man. The ordinary, basic essential commodities are denied to the commonman. He is starved. We see that one man in every two people today in India is anaemic because he does not get enough food. All this will be tackled, I have no doubt about it, if we unhesitatingly accept the principle of democratic socialism in which freedom will be assured and at the same time socialism will also be realised. But their socialism will come only when means of production and distribution go completely into the control of the State in its final stages will be done because the doors now have been opened and fresh ideas are being concretised. We have of course also to say good bye to the strategy of gradualism.

In the end, I will again repeat that to miss the bus now will be the most dangerous thing for our coming generation. The frustration that is growing round us must be realised. Besides, parties which have been organising themselves and trying to consolidate on slogans of reaction, religion, traditionalism, inertia and lack of scientific knowledge, will have to disappear, and if they do not liquidate themselves voluntarily, they will have to be forced out of our social system. There will be survival only of such political parties in our society which have committed themselves unadulteratedly to democracy and to socialism of that type where there can be no confusion on the basis of too much pragmatism.

SHRI ATAL BIHARI VAJPAYEE : (Gwalior) : What type of socialism? Scientific socialism or socialism of the Indian variety.

SHRI K. D. MALAVIYA : All thinking is scientific. If there is an Indian socialism then there must be an Indian Science of geography also, there must be an Indian Science of history also.

SHRI ATAL BIHARI VAJPAYEE : There is an Indian History.

SHRI K. D. MALAVIYA : Then you were to say that there must be an Indian algebra also and an Indian biology also. The fact is that all knowledge is international, all basic knowledge belong to the

world and I may inform Mr. Vajpayee for his benefit that no true knowledge can be merely is national. Science is not national, science is international. Socialism is an international idea just as democracy is an international idea, and to deny internationalism to socialism or to democracy is political stupidity of the first rate.

श्री अटल बिहारी वाजपेयी : अध्यक्ष महोदय, गाली देना तर्क करना नहीं है। सारी अक्लमंदी का ठेका मालवीय जी ने नहीं ले लिया है।

SHRI K. D. MALAVIYA : I used the words "political stupidity".

SHRI K. MANOHARAN (Madras-North) : At the outset, let me pay my compliments and tributes to the late Shri Nath Pai who was the pioneer of this bill and the harbinger of the constitutional revolution which is taking place in the country. First and foremost, let me say, I am neither a lawyer, understandably, nor a liar. But as a lay man, I approach the issues before us from a broader angle and submit my reactions to this Bill. I must congratulate the Government on having brought these two Bills before this House. Yesterday, our Minister without Portfolio, who is the Moghul Emperor in West Bengal Shri Sidhartha Shankar Ray, was very emphatic in telling us that he and his Government are proud of having brought these two Bills before Parliament. I think I have every right to be proud—while I say 'I', I mean the entire opposition—because the suggestion given by the opposition leader, Shri Nath Pai, is being carried out by the present Government today. I think we have got every right to be proud. So, the question is not whether it is the opposition or the ruling party. We are approaching the problem from the national angle. Why these two Bills are before us is the question.

My pointed question to Mr. Vajpayee, who claims that the Constitution is Supreme, that Supreme Court is supreme and the Parliament must be subordinated, is this, whether he is for a peaceful change or a radical revolutionary change, whether he wants to create an order which we want to

create through ballot or bullet, whether he wants to create a society, classless and socialist, through counting heads or cutting heads. If Mr. Vajpayee as a man begins to answer me, he would be with me. I am sure. But as a politician, who is expected to introduce an element of hypocrisy in politics, probably may not be with me. I hope Mr. Vajpayee would agree that I am speaking the truth and nothing but truth.

SHRI ATAL BIHARI VAJPAYEE : Nothing but hypocrisy.

SHRI K. MANOHARAN : I want to know why Government have brought these Bills before us. If anybody analyses the constitutional history and Parliamentary life in consonance with the judicial pronouncements, one can easily understand it. We have got three Constitutional amendments which have been struck down by the Supreme Court : the first amendment in 1951, the fourth amendment in 1955 and the famous seventeenth amendment. Why all these Bills were brought before the House by the Government of the day has to be considered now. It was with a view to help the State legislatures to bring land reforms and agrarian reforms to a maximum extent without being attacked by the courts. But unfortunately, the Supreme Court thought it fit in its wisdom to strike down all these progressive measures. While I speak on these Bills, I must make one point clear : We are not going to declare a war on the Supreme Court. The Supreme Court is expected to behave as Parliament is expected to be have. No institution in the country, no organisation to day could be allowed to be in isolation from what is happening in the country, in and around the country, So far as the Supreme Court is concerned, I have my highest regard, I have my highest faith in the Supreme Court. But the Supreme Court should not betray the faith I have reposed in it. So it is mutual.

Yesterday Shri Vajpayee was telling us that the Constitution was supreme. I say more than that Parliament is supreme, because Parliament is the place where the will of the people is expressed and the heart throbs of the nation are recorded.

Constitution, according to me or anybody, is a living document for the living

[Shri K. Manoharan]

people. It is not a document for the dead or the generation to be born. The Constitution must reflect the spirit and tempo of of the times. The Constitution must be reflect the aspirations the social needs and vibrations of the country. The Constitution must mirror what I call the social changes in the offing, the rising expectations of the country, the rosy dreams of the people of the subcontinent. If the Constitution fails to reflect these things then it ceases to exist. If the Constitution fails to reflect these things then it becomes inoperative then it must be pronounced as dead and declared defunct because then it is reduced to a status of a scrap of paper, it is reduced to the level of a shred of paper which can be conveniently transported from the province of parliamentary democracy, from the realm of judiciary to Sabzimandi where it can serve its purpose admirably will.

The Constitution of a country must be the base for political action. No vigorous nation can tolerate a lifeless constitution. So, we feel our constitution needs some drastic changes. If I am permitted to submit my views, I am prepared to say this hotch-potch is not enough. I can go to the extent of saying, considering the present day situation, considering the Centre-State relations, considering the federal set-up of the country, I can demand to re-write the Constitution.

SHRI SHYAMNANDAN MISHRA : I hope the implication is understood by the Prime Minister.

SHRI K. MANOHARAN : I am sure the Prime Minister needs nobody's so-called advocacy for understanding the problem.

Then somebody said that the constitution is a sacred document, it should be rigid, it should not be flexible and it cannot be amended. Let us not arrogate ourselves to the level of prophet by saying "my words would go to eternity". We have no right to do that.

Here I would like to quote Thomes Paine :

"There never did, there never will, and there can, exist a Parliament, or

any description of men, or any generation of men, in any country, possessed of the right or the power of binding and controlling posterity to the 'end of time' or of commanding for ever how the world shall be governed, or who shall govern it".

"Every generation is, and must be, competent to all the purposes which its occasion require. It is the living, and not the dead, that are to be accommodated. When man ceases to be, his power and his wants cease with him ; and having no longer any participation in the concerns of this world, he has no longer any authority in directing who shall be its governors, or how its government shall be organised, or how administered".

Emphasizing this point, I want to quote an eminent person of jurisprudence who was in the Supreme Court during the time of the Golaknath case, Justice Ramaswamy. He has this to say :

"It cannot be assumed that the constitution-makers intended to forge a political straight jacket for generations to come. The constitution-makers must have anticipated that in dealing with socio-economic problems which the legislators may have to face from time to time, the concepts of public interests and other important considerations which are the basis of clauses (2) to (6) may change and may even expend".

Let me quote another legal luminary, one of the luminaries of political science, Harold Laski.

Now, everything changes. Concepts change. I entirely agree with Shri Siddhatha Shankar Ray when he was saying that the concept of right changes; generation to generation changes are occurring and countries to countries changes are emerging. So, the thoughts of men change which we cannot escape.

Herold Laski has clearly stated :

"The struggle for freedom is largely transferred from the plane of political

to that of economic rights. Men become less interested in the abstract fragment of political power an individual can secure than in the use of massed pressure of the groups to which they belong to secure an increasing share of the social products."

Here comes, I think, Shri K. D. Malaviya rightly when he said individualism gives way for socialism. Now, I am coming to the point if you analyse the history, the thinking calibre of the nation and mankind, individualism gives place to regionalism; regionalism gives place to nationalism, and nationalism gives place to constitutionalism, and constitutionalism gives place to socialism and like that things move. So, they must be very careful in accepting and recognising the political trend and what not of the country.

Herald Laski has further said :

"The roots of liberty are held to be in the ownership and control of the instruments of production by the State, the latter using its power to distribute the results of its regulation with increasing approximation to equality. So long as there is inequality, it is argued there cannot be liberty."

I am prepared to agree. Certain friends suggested that Government may misuse power, then what would happen to the minority right this and that. There is a section which is vociferous in attacking the Government by saying if these two Bills are passed then what would happen. The Government will be shutting its doors before all sorts of freedoms guaranteed under the Constitution. My humble submission to those people, especially to my friend, Mr. Frank Anthony, is while the Government will be shutting the doors to all sorts of freedoms, I can promise to Mr. Frank Anthony saying that the great people of this country will be opening simultaneously the flood gate of revolution when the Government will be drowned. So, let us not entertain any fear about what this Government may do or that Government may do. Another thing. Somebody said it is all right with the present Government because it is being headed by Prime Minister Smt. Indira Gandhi and she has got motherhood in her heart and so everything may go on well but after 10 years or 15 years what

would happen. Anything may happen. Who knows? And if another political party which is styled as what they call 'Naxalite' comes to power what would happen. The same Constitution would be thrown lock, stock and barrel. Are you going to face it? If you want to put a halt to these development happening in this country the one and only way is we must see that the Constitution is amended today and set-up a very democratic tradition in this country.

The whole crux of the case is this. I have got the greatest respect—I have already told you—for the Supreme Court judges, but I cannot for a single moment appreciate the way in which the whole thing has been handled. That we must accept. What is the basis of the judgment in Golak Nath's case? What is their premise? They say the power of Parliament to amend the Constitution is derived from Articles 245, 246 and 248 and not from Article 368. So, any amendment to the Constitution is law within the meaning of Article 13. So what? Therefore void if it takes away, abridges and abrogates the fundamental rights conferred by Part III of the Constitution. The premise is still worse, ridiculous and fantastic. The headline of article 368 is very clear. It is : Amendment of the Constitution. But the marginal note says : Procedure for amendment of the Constitution. So, according to them, article 368 lays down only the procedure for amendment of the Constitution, and does not confer power to amend the Constitution.

So many people might have talked to the Supreme Court Judges while they are arguing like this, quoting the Australian Constitution to this effect. You will find a striking similarity there. The Australian Constitution, Chapter VIII, which consists of a single section, like ours, and also placed under the heading, Alteration of the Constitution, like here, "Amendment of the Constitution", has the marginal note, Mode of altering the Constitution, and nothing else. The body of the article lays down the procedure of amendment but not even a single person in Australia doubts whether the Parliament has any right to amend the Constitution, including the Fundamental Rights Chapter of the Constitution.

So, it is very clear that after so many years, I am compelled to say, the judgment

[Shri K. Manoharan]

was clothed with, as somebody suggested, political motivation; it was a judgment with vengeance. This Parliament being all supreme and powerful, I think, we have got every right to change the Constitution, not only certain parts of Constitution, including the fundamental rights. We are with the Prime Minister.

But I want to introduce another aspect of the issue. I have already hinted at that. That also you should not forget. That also you should take note of. That is the Centre State relation. This relation should not be allowed to be strained.

SHRI PILOO MODY (Godhra) : He has come to his own parochial issues.

SHRI K. MANOHARAN : I know, you are angry. But I doubt very much whether you have anything to contribute at all. You received enough from Shri Siddhartha Shankar Ray. Now keep quiet. Whenever anybody speaks intelligently, my duty is to appreciate it but whenever any clown talks I would like to sympathise with him.

SHRI PILOO MODY : I presume, you know the difference.

SHRI K. MANOHARAN : Keep quiet.

Before finishing, I want to say that the Constitution can be amended. It is only a misconception or baseless thinking that the Constitution cannot be amended. The Constitution can be amended. This amendment is a must for effecting some important social and economic measures for the people of this country. The people of this country have already lost their patience. They are expecting the maximum immediately from the Government. Whenever Shrimati Indira Gandhi goes around the country, people are asking, "Are you going to deliver the goods or not?"

SHRI PILOO MODY : Are you ?

SHRI K. MANOHARAN : Of course. Whenever we go, the people are asking. We want to do the maximum but, unfortunately, the Constitution stands in the way, because so far as the financial implications

and rights are concerned, our hands are tied up. States are conditioned in this way. So, utilising this opportunity, let me appeal to the better sense of the Prime Minister and her own party—that party is here—with a full majority and confidence that they could do something immediately for the people of this country, to consider this aspect. The States must be given the maximum autonomy. That does not mean that we are against the integration of the country. You should develop a sort of trust; you should understand that each State is an equal partner in the federal set up. Nobody can say that the State unit is, after all, a slave and the Central Government is a Leviathan or all-powerful.

We are conducting the democratic experiment with a joint venture and each State has its own part to play; each State has its own to contribute. You should understand this. If every State is allowed to stand on its own legs and help the Central Government, that would be a red letter day for the federal Government of this country to be happy about. But, on the contrary, if every State is dependent, that too chronically dependent, on you, you are not going to achieve what we call emotional integration and self-reliance in this country.

So, I request our Law Minister, who was very eloquent yesterday while speaking, that time and tide may not wait, we must immediately start.

We all are convinced, excepting some individuals in this House, of the necessity, the significance and the importance of these two Bills. In case the Bills are not passed, in case the whole process of democratisation is somehow or other stifled, what will happen? The people may not keep quiet. The time and tide may not wait for us. What will happen then? The people would immediately rise in revolt and they would be singing a song which may not be agreeable and acceptable to my friends, Mr. Vajpayee and Mr. S. N. Mishra.....(*Interruptions*) These are very dangerous elements in the country. Even then, on behalf of the Constitution, on behalf of the provisions of the Constitution, we can promise the safe conduct and security of people like Mr. Vajpayee. But if any revolt starts, they would be singing a song—I am reminded of what

Iqbal said—and the theme of the song would be—I quote :

“Go and awaken the poor and dis-possess of this universe, And shake the walls of the rich men’s palaces to their foundation;

Let the frail sparrow hurt itself against the eagle,

Let the fervour of self-confidence warm up the blood of slaves;

The day of the sovereignty of the masses is approaching fast,

And demolish the old relics wherever you find them.”

THE MINISTER OF STEEL AND MINES (SHRI MOHANKUMARA-MANGALAM) : Mr. Speaker, Sir, there can be no doubt that the debate that is going on in this House today is on the most crucial issue facing our nation.

What is the task that we put before ourselves when we seek to pass this Twenty-fourth Amendment to the Constitution? Briefly, the task is that of re-asserting the sovereignty of the people expressed through their elected representatives in Parliament. To use the words of one who is acknowledgedly the greatest of the Chief Justice of the United States, and whose word will, therefore, find favour with my friends on the other side, “the people made the Constitution and the people can unmake it ; it is the creature of their will and lives only by their will”.

Now, it is admitted by all that Golak Nath case started this discussion, as it were, and started the country on the move to re-assert and re-establish the supremacy of Parliament and of the people. I do not think anybody can deny and I do not think anybody has denied here that it is the Golak Nath case that has given rise to the necessity to do something, whether it be to refer the matter under article 143 as Mr. Vajpayee wanted it, whether it be to understand the character of the Supreme Court’s decision as my friend Mr. H. M. Patel wanted it or whether it be the position that has been taken by the rest of us, namely, that

article 368 needs an amendment. At the end of it all, it starts from the Golak Nath case. Therefore, what is important today is to appreciate what was the philosophy underlying that case, what was the basis for it and what was the approach made by the hon. Judges when they first came to the final conclusion that fundamental rights in Part III cannot be amended by the use of power under article 368.

May I quote from the judgment of the Chief Justice Subba Rao ? I think, it is the crucial passage in that judgment, the key to understand what was the basis, the foundation, of the legal approach which found expression in Golak Nath case. I quote :

“Directive Principles direct it—

—that is to say the Government—
“to work for an egalitarian society where there is no concentration of wealth, where there is plenty, where there is equal opportunity for all to education, to work, to livelihood and where there is social justice.”

Nobody will disagree with that. But, then comes the crucial passage :

“.....but, having regard to the past history of our contry it (‘it’ means the Constitution) could not implicitly believe the representatives of the people.....”

SOME HON. MEMBERS : Shame, shame.

SHRI MOHAN KUMARAMANGALAM : “.....for uncontrolled and unrestricted power might lead to an authoritarian State.” The argument of fear. The argument of nervousness. You may not trust the Indian people. You may not trust the representatives of the people assembled in the hall of Parliament, you can only trust eleven gentlemen sitting in a building in Tilak Marg..... (Interruptions). That is the basis of the judgment and this is the basis that we would like to destroy. That is the basis which we say has been responsible for ultimately a wrong decision by the Supreme Court.

[Shri Mohan Kumaramangalam]

Now, Mr. Speaker, Sir, the second major point which I want to make, a point made by my hon. friend Prof. Dandavate and I think, a point which bears repetition is that every attack on the amending Bill has been made by men of property and only by the men of property. When the first amendment was attacked in Shankari Prasad's case, it was by the Zamindars whose land had to be taken away in pursuance of the pledges made by the nationalist movement and by the leaders of our nation when over the decades the movement rose to the heights to win freedom for our country.

The second and the third cases, both the Sajjan Singh case and the Golak Nath case, were brought forward by those who wanted somehow to cling on to the land which they had obtained over the centuries. The second thing we have to appreciate is that the attack on the amending Bill, the attempt to limit the width of the amending power has been an attack sponsored by men of property and men of property alone, and not by the millions of our people, not by those who toil by hand and brain, but by those who want to live on the wealth that they have accumulated throughout the centuries. Therefore when to-day we find that even in this Parliament there are men who want to limit that amending power, we will not be unjust to them if we conclude that they are also espousing again the cause of the men of property and they are also conservatives who want to hold up the march of our country to the establishment of a democratic and socialist order.

In asserting that our Constitution is amendable, and that every thing in our Constitution is amendable every syllable in the Constitution is amendable, we are asserting nothing new. It is not extra-ordinary. It is a concept that is accepted by constitution-makers throughout the world. This idea of an unalterable constitution, a part of the Constitution that cannot be touched by the people is an idea that is foreign to all jurists, to the most conservative of jurists even I would say. Justice Holmes, one of the most famous judges of the United States, has said a constitution can only live by being continuously changed, by adapting itself to the changing needs of the people of that parti-

cular country and a constitution that is unamendable, that is unable to respond to the needs of our people, of any people, such a constitution cannot stand the test of time. It will fall because the people, if they find constitution standing in their way, will throw it aside for ultimately it is the people who will determine their own future. They will not allow it to be determined by any narrow small coterie of men.

Sometimes, hon. Members, particularly, on the other side got a little sensitive about somewhat harsh words that have been used on our side and also there when talking about the Judges. But I would plead with them that they should not be too sensitive; My friend, Mr. H. M. Patel, used the word 'unfortunate'. But, if one goes back and considers how in other countries, Judges have been dealt with, have been described, when they have set themselves against the current of national opinion, then, I think we have been extremely moderate in the terms that we have used. The famous Dred Scott case has been referred to by my friend, Shri Siddhartha Shankar Ray, where the Supreme Court of the United States held that the Negro was not a citizen but only a chattel to be brought and sold. There was a newspaper, called the *Tribune*, which described the judgment in these words—words that are not, I think, inappropriate in describing the judgment of our Court in the Golaknath case. I quote.

"The Court has rushed into politics, voluntarily and without purpose than to preserve the cause of slavery....."

Substitute for 'slavery', 'property'.

".....Their cunning chief led the van, and plank by plank laid down a platform of historical falsehood and gross assumption, and thereon they all stood exultingly thinking or feigning to think that their work would stand during the remainder of their lives at least."

The paper added :

"The decision has been heard and commented upon with mingled derision and contempt. If epithets and denunciation could sink a

judicial body, the Supreme Court of the United States would never be heard of again."

Substitute—'India'.

This is what *Tribune* said about it,

Even a very conservative *New York Times* noted—I think this will suit my friends on the other side.

"While all look with respect and some degree of reverence on the Court, the circumstances attending the present decision have done much to divest it of moral authority and to impair the confidence of the country."

Would you not at least agree with that? So, let us not become too sensitive. Let us call a spade a spade. If the Supreme Court says certain things which it is entitled to, we will listen to them with respect, when they say things about us. When we say things about them let them also treat us with equal respect. That is all that we want. What is sauce for the goose is sauce for the gander. Even Shri Frank Anthony tells us that the first postulate of the rule of law is respect for the Supreme Court. I entirely agree. But then may I quote and thing here? I quote :

"Our judges are as honest as other men and not more so. They have, with others, the same passions for party, for privilege, for power and the privilege of their corps. Their power is more dangerous, as they are in office for life, and not responsible, as the other functionaries"—

like you said me—

".....are to the elective control," Now, who said this? Some dangerous Marxist? Some impossible Communist? Some fanatic Socialist? No. Abraham Lincoln said this, before whose statue even Mr. Frank Anthony will bow, I am sure.

And so, we respect them. We respect our Judges. But, we recognise them as men, —men as frail as we are, as prone to

commit error; as prone to do good and also bad, as all of us, to put it mildly but—and here, there is a 'but' that must be added, —with an in-built conservatism born out of the class from which they come. For, Sir, judges in this country are not children of workers. They are not children of peasants. Judges in our country come from the class of men of money and property. That is a fact. I do not say this because I want to derogate from the respect that one should show to judges. But, I say this because, it is a fact which nobody can deny, who wants to face the truth of who is appointed a judge of the Supreme Court of India. What are the qualifications? —Leader of the Bar? And, who becomes a Leader of the Bar? —The lawyer who rises to the top of the Bar, and who charges higher and higher fees.

SHRI FRANK ANTHONY : He is like Satan quoting scriptures. Propertied and.....

SHRI MOHAN KUMARAMANGALAM :therefore, ordinarily we are extraordinary serves the cause of capital. We know it. In fact, if you want me to make a frank confession, I have never appeared for capital against labour throughout my entire legal career. I have never appeared for zamindars and princes.....

SHRI FRANK ANTHONY : He has always appeared for the communists.

SHRI MOHAN KUMARAMANGALAM : I have appeared ; yes, I have appeared for capitalist against capitalist and looted them to the maximum I could.

Naturally, it is not surprising that a distinguished United States professor, Prof. Schwartz, who has written a very interesting history of the US Supreme Court, has commended :

"The court is essentially a check of the past upon the present. But it is the present that represents the will of the people and it is that will that must be given effect to in a democracy. If the democratic bases of our system are to be respected, the review power of the one non-democratic organ in our government should be exercised with self-restraint".

[Shri Mohan Kumaramangalam]

I think we are entitled to tell the gentlemen who compose the court 'You are not responsible to the people as we are. If we blunder, at the end of five years or perhaps even earlier, the people can say 'Go ; we do not want you'. Therefore, that undemocratic collection of very respected gentlemen who compose the court must exercise their power with self-restraint. They must understand that there are millions outside in our country who are demanding justice; and they must keep in mind that they should not put blocks in the way of people who are demanding justice, because if blocks are put in the way they will be thrown out by the strength and power of the millions of our people.

Now, let me come to my hon. friend Shri H. M. Patel,

SHRI SHYAMNANDAN MISHRA : He is speaking all the time about the Supreme Court and its composition as if we have nothing to do with this Bill at all, His speech is more fit for the Ramlila Grounds.

SHRI MOHAN KUMARAMANGALAM : I do not know why my hon. friend is extremely modest in.....

SHRI PILOO MODY : There is nothing in the Constitution which demands that he has to talk sense. He should be allowed to continue.

SHRI MOHAN KUMARAMANGALAM : I think Shri Piloo Mody is as generous as his size.

The crux of Shri H. M. Patel's argument was : 'What has the Supreme Court done ? Nothing at all. What are you all getting excited about ? The Supreme Court has not held anything except that compensation should not be illusory. That is all. The trouble is this. He should read the Supreme Court judgment a little more carefully, not merely read it, with respect to him, I would say, but also appreciate that the Bank Nationalisation Act which was struck down provided for compensation of something like Rs. 50 crores. I do not think that Rs. 50 crores is illusory. Does he ? Ultimately Rs. 80 crores has been

given, and if one says that Rs. 80 crores is all right but Rs. 50 crores is not, it is not because Rs. 50 crores is illusory but because Rs. 80 crores is something corresponding to market value while Rs. 50 crores is not corresponding to market value and is hence inadequate, then, that is the grievance that we have got. That is the grievance because from the time the Constitution was framed, article 313(2) was supposed to put outside the purview of the court the quantum of compensation so long as it was not illusory.

Therefore, the bank nationalisation case judgment was not merely a judgment saying that compensation is illusory but a judgment which said that market value has to be paid. And if we are to pay market value compensation for everything we nationalise, we cannot nationalise anything more in our country at all.

SHRI SHYAMNANDAN MISHRA : That was not held in Shantilal Mangaldas.

SHRI MOHAN KUMARAMANGALAM : That was overruled by the bank nationalisation case. He is living in some other ancient age. What can I do for him ?

SHRI SHYAMNANDAN MISHRA : Be relevant. The court went into the relevancy of the principle and the question of hostile discrimination ? It was not adequacy. Let him please not go into that. The Supreme Court has held that adequacy of compensation cannot be called into question.

SHRI MOHAN KUMARAMANGALAM : I am not here arguing in a court case and you are not yet a Judge of the Supreme Court.

SHRI PILOO MODY : I entirely agree with him. He is not in a court of law where he has to state facts. He is doing an admirable job of getting votes. Let him continue.

SHRI MOHAN KUMARAMANGALAM : Was I wrong in what I said earlier ?

Let us take the privy purse case Shri Patel seems to think privy purse judgment only held that the withdrawal of

recognition was illegal. Not at all. It also held that article 291 is a legal right, the right of princes to receive their purses. If that is a legal right, then it opens up immediately the argument, 'My right to receive a certain amount of money is property, and that right cannot be taken away without compensation'. So it is not so innocent as it looks.

Then we come to the laws that were struck down. There are many number of cases. Take the Metal Corporation case, where Subba Rao J. in a bench of two struck it down on the ground that the compensation paid was not market value. There are any number of such cases. So let us not run away from the facts. Let us be straightforward and face them as they are. The fact is that the judgments of the Supreme Court lay down: 'you cannot nationalise. You cannot take over any property for a public purpose unless you pay market value compensation', which means we cannot take over anything more in the future. So the basis of Shri Patel's argument really goes.

SHRI PILOO MODY : Why not pay market value ?

SHRI MOHAN KUMARAMANGALAM : Why should we do it ?

श्री पीलू मोदी : बोलो हम सब चोर हैं :

SHRI MOHAN KUMARAMANGALAM : Whether to do it or not is a political matter. We are not debating that matter now. According to me, we want to go forward to make radical changes to implement our pledges to the people. I do not want to get into that controversy now. But I do say that the basis, the foundation, of Shri Patel's argument is wrong—that is all I seek to say now.

But apart from that, with his usual admiration for the United States—I hope it is not lessened by my quotation from Abraham Lincoln—he said that the American constitution gives stability to political life there. No doubt it did. But then here is what Justice Frankfurter said :

"The constitution of the United States owes its continuity to the

continuous process of revivifying changes. The constitution cannot make itself. Somebody made it not once, but at several times."

Then he quotes the very famous British jurist, Lord Halifax :

"It is alterable and by that draweth nearer perfection, and without suiting itself to differing times and circumstances, it could not live. Its like is prolonged by changing reasonably the several parts of it at several times."

And the stability of the constitution of the United States is due to the shrewdness of the judges who marched with the spirit of the times."

That is all we are asking from our judges, nothing more. But if they do not, if they act, as the Judges in the USA acted in the Dred Scott case, if they persisted in acting as they did in the Wagner Labour Act case and had struck it down, whatever action that we are taking today in this Parliament Hall would have been taken also by the President and Congress in the US.

My friend Mr. Mishra quoted Holmes as saying "About 75 years ago. I learnt that I was not God." But why did you not quote the rest of what he had said,—I do not understand it. Of course, you had quoted it on your behalf. Holmes had said, "...and so when the people want to do something I cannot find anything in the Constitution expressly forbidding them to do. I say whether I like it or not, God damn it ; let them do it."

SHRI SHYAMNANDAN MISHRA : I said that the courts cannot be considered to be infallible.

SHRI MOHAN KUMARAMANGALAM : I do not challenge you by saying that you were misquoting. I only said let me add to your quotation ; you would not even appreciate my generosity.

I like my friend Mr. H. M. Patel ; I like him, because he is honest ; he is frank ; he is straightforward. He says

[Shri Mohan Kumaramangalam]

he opposes us. Good. We know where we are. But if I come to my good friend Mr. Vajpayee, I am not able to follow where he is, I have always admired him; I do not understand Hindi very well, but even when I do not understand it, with what force, with what punch, with what vigore he speaks whenever he speaks? But he is today a pale shadow; not the usual spirit with what his eloquence. But it was like a boxer, who feints here, who ducks there, who moves out of the way, but never comes to grips with his opponent.

He asked us almost plaintively, "Why did you not go to the Supreme Court under article 143". He again asked us, "After all, it did not declare the 4th and the 17th amendment invalid". He said that "after all if you had gone to the Supreme Court, it might have reversed its erroneous view again. After all, everytime, there is a possibility of our going to the Supreme Court." But what do you want to do? Do you want to restore the power to Parliament or not? Does the Jan Sangh believe that Parliament must have the power to amend every part of the Constitution or not? That is what I would like to know.

SHRI ATAL BIHARI VAJPAYEE : May I reply to this question?

SHRI MOHAN KUMARAMANGALAM : It is not a point of order. How many times your eloquence has provoked me and I have kept quiet? If I can rise to even a quarter of your level, please keep quiet. (*Interruption*) Then he attempted to terrify us by saying that India may become a monarchy; that India may become a theocratic State.

SHRI ATAL BIHARI VAJPAYEE : I did not say that.

SHRI R. V. BADE (Khargone) : He is wrongly quoting him. The hon. Member has a right to point out what he had said.

SHRI ATAL BIHARI VAJPAYEE : what I said was that Parliament was competent to make India a monarchy, and the reply was "No." Let him answer this

question. Can we declare India, this republic, as a monarchy by two-thirds majority? Let him say.

SHRI MOHAN KUMARAMANGALAM : How is it relevant, I do not know. I am asking you, how is it relevant.

SHRI PILOO MODY : Can Parliament do it with a two-thirds majority? What is your legal, expert opinion or political sally, which ever you like?

MR. SPEAKER : Order, order.

SHRI MOHAN KUMARAMANGALAM : This is the usual argument which I heard also from the judges of the Supreme Court during the Golaknath case. Chief Justice Subba Rao asked the Attorney-General, "would it be possible to turn India into a monarchy?" I do not know where Mr. vajpayee got the inspiration from. But I can assure him that the Attorney-General told the Chief Justice that these questions are questions of fear; why do you always think that something is going to happen which nobody in India dreams of happening? Why do you ask always this can be done, the other thing can be done and a third thing can happen, while in fact nobody dreams that such things are going to happen? (*Interruption*) After all, in the last analysis, it is the people who decide.

SHRI ATAL BIHARI VAJPAYEE : Let us have a referendum.

SHRI PILOO MODY : Good; let us have a referendum. Let the people decide. I applaud you.

MR. SPEAKER : Order please.

14 hrs

SHRI MOHAN KUMARAMANGALAM : There was an editorial once in the *London Times* which said: "Parliament is sovereign. Can Parliament pass....."

SHRI FRANK ANTHONY : Not this Parliament.

SHRI MOHAN KUMARAMANGALAM : I know you are hurt by what I say, but I cannot help it.

SHRI FRANK ANTHONY : I am not hurt, I am amused.

THE PRIME MINISTER, MINISTER OF ATOMIC ENERGY, MINISTER OF HOME AFFAIRS AND MINISTER OF INFORMATION AND BROADCASTING (SHRIMATI INDIRA GANDHI) : You are not laughing in spite of being amused.

SHRI FRANK ANTHONY : I am smirking.

SHRI MOHAN KUMARAMANGALAM : I think I will come to the *Times* a little later, not immediately.

Mr. Vajpayee said that he would support us if we accepted a referendum. We do not think that a referendum is the proper bar to be introduced if we wish to amend the Constitution quickly as we sometimes may have to. So, on the question of referendum, let us agree to disagree. But without a referendum where do you stand? Do you stand with the Golaknath case, or do you stand with us? Why don't you answer that?

SHRI PILOO MODY : We stand by the people.

SHRI MOHAN KUMARAMANGALAM : Of course, I can sympathise with you. I know you are in difficulty. If you openly say that you object to our position, and that you will only stand by the Golaknath case, the people will not support you; and if you say that you support us, those who support you may desert you. You have to choose. Do you want the people or do you want the Maharajas and Maharanis?

SHRI ATAL BIHARI VAJPAYEE : Let us go to the people.

SHRI MOHAN KUMARAMANGALAM : Let me come now to my erstwhile colleague, because that is how he described me all the time, my good friend Shri Anthony. The most interesting thing that he said was, "as you are supremely lawless, you cannot expect the people to respect the law." But I can assure him that if we were supremely lawless, he would not be there to open his mouth. Let him appreciate first of all how supremely lawful we have

been. We have not tried to change the Constitution outside, in the streets. We could have done that because the millions are behind us. We come here, we listen to what you have to say, though it has nothing to do with law or reality.

SHRI FRANK ANTHONY : Why do you half-quote me? You distort what I say and then you build up an argument.

SHRI MOHAN KUMARAMANGALAM : The trouble is that when I answer somebody, it always becomes a distortion. What can be done? This is how I understood you. If I understood you wrongly, I apologise.

SHRI FRANK ANTHONY : You did.

SHRI MOHAN KUMARAMANGALAM : Don't be too sensitive.

At the end of a long speech where he went here and there, from lawlessness to lawfulness and so on, he ended by saying, "Give me articles 28, 29 and 30, and I will support you".

SHRI FRANK ANTHONY : Articles 26, 29 and 30.

SHRI MOHAN KUMARAMANGALAM : But you see we are not open to bargain. We try to be men of principle, we may fail but we try, and the principle that we want to assert is the principle of the sovereignty of the people, that the people have the right and the power to amend every part of the Constitution...

SHRI FRANK ANTHONY : Question.

SHRI MOHAN KUMARAMANGALAM :through their elected representatives, through a procedure which is different from the ordinary legislative procedure, a more difficult procedure, by which the representatives of the people may change what they want in the Constitution. Let me also assure him. I quite understand his sensitivity about the rights of minorities. But he should also appreciate that the party to which I belong has always tried to stand by the minorities and protect their rights. It is not because of what is written in any piece of paper, a solemn

[Shri Mohan Kumaramangalam]

piece of paper like the constitution, but because that is the heart of our policy, because we believe in it and surely we cannot change our basic position or principle because you are afraid that we may not continue to believe in what we have so sincerely cherished all through the ages. Even since the Indian National Congress was born, it has fought for the rights of minorities and you know it. You are here because we fought for it. I do not say it in any derogatory manner. Please do not misunderstand. I only say it for this reason that because we want that your community should be represented here, our party, the Indian National Congress, saw to it...

SHRI SAMAR GUHA (Contai) : If the Indian National Congress had really respected the rights of the minorities, perhaps there would have been no Muslim League or the partition of the country.

SHRI MOHAN KUMARAMANGALAM : That is a matter of historical argument which we can settle outside. But so far as Mr. Anthony is concerned, I do want to say that we do respect the rights of minorities and because we respected those rights and because we understood that ordinarily the anglo Indian community would find it difficult to be represented in Parliament, a special exception was made in favour of your community by reason of which you and your colleague are here, I am glad to have you sitting here, but please give us some credit for our honesty of purpose and sincerity of belief in this area.

Let me say a word about my friends from the communist parties, who have put certain amendments regarding article 19 (1) (a), (b) and (c). Frankly, I am surprised that they should have brought these amendments, because I never expected them of all parties to come forward to limit the power of Parliament. Surely, they must know : history teaches us and if I am not wrong, Marxism also does, that there has never been a written or unwritten text of a Constitution that has restrained a wrong Parliament ; it is ultimately only the power of the people which restrains it. Some hon. member rightly quoted the example

by which Hitler tore the Weimar Constitution to pieces and came to power. My friend, Shri Indrajit Gupta, rightly proclaimed the introduction of this amendment to the Constitution as a victory for the people. Yes ; credit goes to the people. We do not want to take the credit. We honour the mandate of the people and we seek to implement it. Why do you seek to take away from the people the right of power to amend article 19 (1), if it becomes necessary ? You seem to imagine that article 19 (1) (a), (b) and (c) only cover rights as it were of the ordinary people, as opposed to the property-owners, namely, right to freedom of speech, freedom of expression, right to assemble peaceably and without arms and the right to form associations and unions. But I would remind you of two decisions, one in the Price Page Schedule case and the other in the Express Newspapers case, where article 19 (1) (a) was relied upon by the Supreme Court to say that if the burden of the award of a tribunal raising the wages of journalists and workers is too much for the newspapers proprietor, it would attract the provisions of article 19 (1) (a). Article 19 (1) (c) speaks of forming associations or unions. It may well be that the capitalists who combine together in a company, when we want to put restrictions on the right under Companies Act, can complain "no, this is a restriction on my right to form an association" and, therefore it is to property that you will be paying obeisance if you allow article 19 (1) sub-clauses (a) to (d) to be kept outside the amending power.

Surely, we can trust our people and our Parliament not to amend 19 (1) sub-clauses (a) to (d) against the interest of the millions of our people. Has it been done so before? Earlier it was done only in relation to the sovereignty and integrity of India, and you will remember, the earliest amendment of article 16 was to introduce article 16 (4), conferring fresh rights on the Scheduled Castes and Scheduled Tribes. Why should you be nervous today that article 19 is going to be amended, as also articles 15 and 16 ? We do not intend to. But if you do not give Parliament the power to amend these articles then it is only the man of property once more who, deprived of the refuge of article 19 (1) (g), deprived of the refuge of article 31, will take refuge in

article 19(1) (a), (b), (c) and (d). Today it is not necessary because they can rely upon 31, they can rely upon 19 (1) sub-clauses (f) and (g). But when we take away from them the possibility of relying upon 19(1) (f) and (g) and 31, they will take refuge in article 19 (1) (a).

Therefore, I would appeal to them most sincerely to realise the difficulty which they are putting for themselves, for us also. We naturally appreciate and welcome the support of any section of this House for the amendment that we have introduced. We appreciate your support also. But do not be hesitant ; do not put a condition which goes against your basic philosophy, as well as ours the basic philosophy that the sovereignty rest with the people. Let me repeat that the basic philosophy is that it is the people who are sovereign. This is a principle which is agreed to by Shri Vajpayee, Shri Manoharan, in fact every hon. Member of this House, wherever he may be sitting today. That is why I would plead with them that it is not right that they should take a position which will inhibit the power of Parliament to prevent property from using these articles in the Constitution to preserve its power.

This is the way in which it was put in the Express Newspapers case in relation to the wage board award :

“Laws which single out the press for laying upon it excessive and prohibitive burdens which would restrict the circulation would, therefore, be struck down as unconstitutional”.

I think that decision is clear and I think we should not allow such a state of affairs to come into existence in our country.

Ultimately, you have to trust the people. Ultimately you have to trust Parliament. Ultimately, you cannot derogate to the slightest extent from the sovereignty of Parliament, representing the people ; through Parliament the people exercise their sovereign power. During the framing of the Constitution the people exercised their sovereign power through the constituent Assembly. Today they exercise their sovereign power, their power to decide the rules under which they will govern them-

selves, the power to decide the framework of the society in which they will live, it is through Parliament that particular will is exercised. So, I would appeal to hon. Member from those two parties in particular not to be a party to derogating from the sovereignty of Parliament. To use an expression which Marx used when he talked of sovereignty of man, it is the sovereignty of man that we want to uphold and it is that that we appeal to you also to uphold.

To go far back, I have read a quotation from *London Times* and I am quoting it from memory. Referring to the Parliament in England the *London Times* said that Parliament is supreme. Then it asked a question, Can Parliament enact a law that all blue-eyed babies be drowned in the river Thames ? The answer is ‘it could’. Then it asked another question : would such a law be valid ? And the *Times* editorial answered the question : “Yes, it would be valid.” And then the *London Times*, no great democratic newspaper, no great admirer of the sovereignty of the people, certainly far away from Marxism, answered : “Such a Parliament would not last another day.” That is the crux of the entire philosophy of a democratic Constitution. The check of excesses is the check of the people, the check of the millions. It is they ultimately who decide what has to be decided here and if here we decide wrongly there they are and they will not even wait for dissolutions and elections because if we violate the commitments we made, we go back on the solemn promises made during the election they will say “out” to this Parliament and “out” to this Government. That is the guarantee of the future of our country. Let us have confidence in our people. The most mighty task awaits us today—re-fashioning and re-structuring our economy to bring life and happiness to the millions, a smile on the faces of our mothers, a laugh in the throats of our children. But to do this we must clear the road blocks erected by the court. We must push them aside so that the solemn promises we made to our people of re-organisation of society, to abolish the poverty that even today stalks our streets and villages and towns of our land so that we are able to do this. It is this that has to be opened up now by passing this amendment. We know as my

[Shri Mohan Kumaramangalam]

friend the Law Minister said in the beginning—that today we are standing at one of the cross-roads of India's history. All of us in this House today must be grateful that we have been given the privilege to act in one of the great scenes that go to make up this wonderful drama in the history of our mighty people.

Pandit Jawahar Lal Nehru has written in the 'Discovery of India' :

“Every people and every nation has some such belief or myth of national destiny and perhaps it is partly true in each case. Being an Indian I am myself influenced by this reality or myth about India, and I feel that anything that had the power to mould hundreds of generations, without a break, must have drawn its enduring vitality from some deep well of strength, and have had the capacity to renew that vitality from age to age.

Was there some such well of strength? And if so, did it dry up, or did it have hidden springs to replenish it? What of today? Are there any springs still functioning from which we can refresh and strengthen ourselves? We are an old race, or rather an odd mixture of many races, and our racial memories go back to the dawn of history. Have we had our day and are we now living in the late afternoon or evening of our existence, just carrying on after the manner of the aged, quiescent, devitalized, uncreative, desiring peace and sleep above all else?”

This is what Pandit Jawahar Lal Nehru asked some thirty years ago and today also when we see all round us the great difficulties that face our country then surely we also have to answer in the same words which he answered that question by drinking at the sources of greatness of India's tradition “the vision of 5,000 years give me a new perspective and the burden of the present seem to grow lighter.”

Mr. Speaker, Sir, let us look back down the corridors of time; let us take inspiration from the ancient glory of our country.

Let us remember the great heritage and also the wonderful future in front of us. Let us—this is what I appeal to all hon. Members on the other side also—pass this Bill with such unanimity that future generation in our country will look upon this day as on which will adorn in golden letters the calendar of the history of India, the Mother of us All.

SHRI KRISHNA MENON (Trivandrum):

Mr. Speaker, Sir, I hope, it would be appropriate to confine ourselves to the Twenty-fourth Amendment Bill that is before us which, in my submission, is of a clarificatory and declaratory character. It is not as though this Bill introduces into this Constitution, as is understood generally, any new substantive purport.

14.22 hrs.

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

On account of the powers conferred by our Constitution the Supreme Court, namely, the power of interpretation, they have interpreted our Constitution in such a way as, in our view, distorts its purpose or its relevance. I do not know many people who do not think that the judgment in this case, of which so much has been said, was not wrong; nor would the Law Minister, the jurist that he is, ever dispute the idea that judges are not always told that they are wrong. They are constantly told that they are in error, that they are perverse and nobody objects to it. Therefore, a great mistake has been made, according to us, in interpretation and that interpretation is sought to be changed.

I would like the Law Minister, when he answers, to refer to the fact that what we have before us is not any amendment of any fundamental right but merely the reiteration of the right in the Constitution to amend any right, fundamental or otherwise. I looked through all these 300-and-odd articles and I do not find anywhere where any chapter of article or clause is exempted from the operation of the amending power.

Even the Supreme Court in this particular judgment has not said that Parliament has not got the right to amend. What it has said is that the amending power is in some corner which you have to find out under Entry 97.

That takes to us the other aspect. In this article 368 there is a marginal note which speaks about the mode of amendment. I always understood that a marginal note is not generally regarded as substantive part of the law but sometimes it helps to understand it. It merely refers to a procedure. How can there be a procedure which does not refer to the substance ?

I, therefore, rise to support this Amendment Bill without any hesitation. What is to clarify and place beyond doubt. In our statutes and very considerable pieces of legislation that are brought forward, it says in the preamble "to remove all doubts". It is a doubt-removing Bill in that sense.

I do not want to anticipate the speech that I may be allowed or not allowed to make in the succeeding session. But this is not the time to speak about other parts of the Constitutional Amendments which the newspapers are speaking about. I have got before me only the amendment of articles 368 and 13 which are intended for the purpose of not interpreting the articles of the Constitution in the way they have been interpreted.

At the present moment I would not subscribe to the idea of circulating this Bill for opinion, not because public opinion has ceased to be valid but it has been before the public for such a long time and the purpose of circulation has been achieved. Opinions have been expressed and it is merely a dilatory procedure.

There is another amendment for reference of the Bill to the Supreme Court. One does not want to use any epithet, but it is a very odd suggestion to make because, after all, if we have to correct the errors of the Supreme Court with their consent, the whole purpose and duty of Parliament are reduced to an absurdity.

So, these two amendments have no place here whatsoever. About the amendment that has been brought, enabling the amending clause to perform the functions intended if you look at it, you will find that there are certain saving clauses in the latter part of this article, and they are specific. Therefore, the amending power of the Constitution, whether an inherent power as mentioned by the Supreme Court just recently or the amending power that has been exercised all along has been wished away by this judgment. I do not want to go into the arithmetics of it, whether 14 Judges agreed or 7 Judges agreed. That is not a good way of looking at it. The fact of the matter is that under article 141 what the Supreme Court says is the law for the time being. But it also says, we have the right to change. Therefore, the interpretation is wrong on account of lack of clarity in this or because some doubts have been raised, we say, we remove the doubts.

Then, I also want to say that the observations that have been made by some persons. I do not know whether they were made by many representatives of the Government or not questioning more or less the right of judicial interpretation will not hold water. So long as you have the Constitution, somebody must interpret it. We can say that is wrongly interpreted. But if you take away the right of interpretation, then we have to write not only one Constitution but several thousands of them because there can be no law which applies to every case. The right of interpretation will remain in the Supreme Court whoever composes it. It is a very considerable right and we should do everything that we can to prevent its misuse.

What I would like to say is to follow the Law Minister and not introduce any invective into this debate or create a feeling that we are licking our jobs, this is a contest between Parliament and judiciary.

I have also heard a great deal about sovereignty, one of those concepts which mostly lawyers make confusion of. Why through political science, why through jurisprudence, and all that, and there has been so much controversy about it. Parliament is sovereign in its own sphere. So are

[Shri Krishna Menon]

Judges sovereign in their own sphere. So is the executive sovereign in its own sphere when Parliament is not sitting. Sometimes they forget that and they try to do something even when Parliament is sitting. So, they are sovereign in their own sphere. But their sovereignty is limited by the power of Parliament to legislate on any subject.

The question is asked as to whether we can use these amending powers in order to introduce monarchy in this country. Of course, we can do. But we will not, that is to say, so long as there is the public opinion created in this country. There is no part of the Constitution, whether "We are a Sovereign Democratic Republic" or any other part of the Constitution, that is not subject to change. How can there be any man-made institution which is not subject to change? There can be anything that way. It is very surprising that any court of law in any part of the world should say that it is unchangeable. There are things written in the scriptures which have been declared unchangeable. But the priests come afterwards and change the interpretation. So, when these changes take place in this way, naturally, the human institutions must reflect those changes.

I support this Bill. I have also put down my name in the amendment in regard to article 19 and so on. I want to make my proposition quite clear. As I said, this is not the amendment of the Fundamental Rights. The Government has shown a tendency to appropriate considerable powers for itself and has given various excuses right from courts becoming third chambers and so on. Therefore, it is only right and proper that we should take an opportunity of saying, if you come here with a law which wants to restrict freedom of expression—if you are going to extend it, that is another matter—if it takes it away from us, we shall oppose it, however minority or majority it may be. If they are in support of the idea of not taking away the right of the sovereign people of having unions and, at the same time, making strikes illegal for any reason under the Essential Commodities Act or whatever it is, or something of that kind, and have a large number of public servants in prison and go to court once in 3 days,

and the rest of the days they work with Government, that is an incongruous situation which obtains in the country. That is to say that we are criminals working that way. Therefore, if at any time, this comes out—I have read in the newspapers that the Government propose to introduce legislation under the Defence of India Act, in different parts of the country. This is not only a measure which makes for greater disruption and will be stoutly opposed by anybody who believes in liberty. Here, there is no proposal to curtail my fundamental rights. What is said is that the fundamental rights can be changed; changed, need not be curtailed. Fundamental rights are very limited. I hope sometime there will be some right that the Members of Parliament or members of the legislature will not be arrested by policemen or picked up on Friday night and kept in custody till Monday morning because there are no courts or no lawyers are available. These things are rejected in other countries if that would mean change of fundamental rights.

I cannot understand why in a constitution there is no reference whatsoever to the entrenched character of any clause that any chapter of this Constitution or Article of the Constitution is in the same position as any other which makes a special provision for the amendment of the Constitution and under that provision we can amend any thing. That is why I support this Bill. But if the Government come forward and say that it will not apply to those who belong to that Party or those who belong to that community now a reference has been made by Mr. Frank Anthony that the rights of minorities should be protected. They have a legitimate fear. There is no use saying that is the attitude of fear. How does the attitude of fear arise? That is the question. Therefore, when any legislation comes up which tries to affect the right to use a particular language or by which the Hindi majority in the country try by various methods to enforce their language, I feel there will be resistance to it and rightly so. Therefore, when that comes, we will see. But these amendments are intended to indicate to the Government that any attempt to use the right of changing the fundamental rights, to change them in a way to minimise my rights, minimise the people's rights will be resisted. That is that we cannot take

away the right of assembly, the right of speech but it does not prevent you from making it better than what they are now. That is how it is.

I thank you very much. I support this Bill.

DR. HENRY AUSTIN (Ernakulam) : I have been listening with rapt attention to the interpretations given by speaker after speaker to the nature and scope of Constitutions. To my mind, constitution is the organic instrument of a country and is intended largely to legalise or formalise the political achievement of a people at a given point. It is intended to reflect the social conquests of people at a time. So, if any argument is advanced that a constitution is immutable or sacrosanct, it cannot hold good at all because the very nature of a society is always to change. So, law and legality should not be advanced to stultify the life of the people, to stultify the society. Even the great Roman Empire with all its efficient legal institutions and organizational infra-structures could not preserve the Roman Empire. Nor the British Empire, over which they claimed the sun had never set, could not be preserved with all the jurists of the Inner Temple or with all the legal luminaries of the Privy Council. So, if any attempt is made to create a static situation by extending law and legality, it would land us in great difficulty. In a democratic political organization like our State, it is the will of the people and the aspirations of the people that should guide the organs of power, the legislatures, the executive and the judiciary. Our constitution, our organic legal instrument is the product of a composite mass movement led by the Indian National Congress. During the fight against British imperialism various classes, various forces lent support to this movement, although basically it was a mass struggle. So, at that time when this document was made, as was rightly pointed out by the Law Minister, it was a compromise document. At that time the vested interests and men of property wanted to safeguard their interests by what you call justiciable fundamental right. They tried to make a distinction between justiciable right and non-justiciable right. The fact that Part IV has not been made justiciable does not in any way detract from the importance of the Constitution. And, for that

matter, every Article in the Constitution is sacred. Every Article in the Constitution is important as any other Article. So, the fact that articles in Part IV, Directive Principles of State Policy, are not made justiciable, does not at all detract from their importance.

At the time when the Constitution was framed, we had to make provisions for compensation. The Clause on property became very important. But today society has gone through various traumatic experiences. Millions and millions of people are suffering. They want to assert themselves. They want to realise their hopes and aspirations which have been enshrined in Chapter IV and not in Chapter III. I will cite one example. Over 23 years ago, Mahatma Gandhi was assassinated in a property belonging to the Birlas. We have not been able to get back that property. Always the question of compensation came. We had to give compensation because the Constitution said that compensation has to be given. That is why we want to change it. The case for property rights and compensation etc. were focussed by the propertied classes. It is that microscopic minority which was able to incorporate these provisions in our Constitution. So, that became a compromise document. I have made this observation because emphasis had always been focussed on this aspect of the situation. But in the wake of the mass movement, if some people are pretending that they are not seeing the great changes, I am sure all those people who are arrayed against these amendments being passed will be isolated by the people, because they stand exposed now. To the people who are suppressed and who assert their rights, to them, it is not property that is important; to them, it is not compensation that is important, but to them it is the transformation of their socio-economic conditions that is important. It is for their interests that these amendments have been brought forward.

Let me now come to the question of the judiciary. I think that one of the great achievements of the Indian Constitution is the provisions for an independent judiciary. The judiciary in this country has more than once asserted its independence. They have struck down the legislators on privy purses ; and, they have struck down the bank

[Dr. Henry Austin]

nationalisation Act. I am second to none in extolling the independence of the judiciary. But then the judiciary has to understand one thing. No organ of State power, including the judiciary, can ever act like a Rip Van Winkle. They cannot pretend to be ignorant of the great and mighty politico-socio-economic changes that are taking place in this country. If they, in their ivory towers, are going to interpret the law in a way which would put down all these movements, then it will be a very sad day for Indian democracy.

The Indian judiciary has enormous powers of interpretation and discretion. The important question is how far this discretion and this interpretative power of the judiciary is exercised in favour of the under-privileged and in tune with the spirit of the nation. If the judges are not going to use interpret the law or are not going to use their discretion in tune with the spirit of the times, naturally they will be isolated and naturally there will be a movement for reform of the judiciary and nobody should grudge it. By using their powers of discretion and thier interpretative powers they are going to subordinate the Parliament, the ultimate repository of people's political power, then naturally there comes a confrontation. It is not only in this country that such confrontations have come. Many hon. Members have already pointed out the situation that obtained in the USA in the Rooseveltian era, and we find such situations elsewhere too. So, viewed in this context, it is important that even as we preserve the judiciary on a pedestal, we also assert our own natural rights. Even as we allow the judiciary to have its own right to amend any article of the Constitution including the fundamental rights. That is our right. The judiciary can assert its independence in the administration of justice and law but cannot interfere with or infringe on the sovereignty of the people which has been vested in Parliament. This is the crux of the problem or the root of the problem.

I do not want to lengthen my speech, but I would in conclusion like to make some observations regarding the problem of the minorities which has been posed here.

SHRI JYOTIRMOY BOSU (Diamond Harbour) : On the one hand, they have the Preventive Detention Act, the Maintenance of Internal Security Act etc. and on the other they are talking these big things.

DR. HENRY AUSTIN : It has been urged by some hon. Members that some provisions should be incorporated in this Bill safeguarding the rights and interests of the minorities. Sir, I myself belong to a minority community. But I do not want to rely on constitutional safeguard for my security in this country. I would repose my confidence and my sense of security in the growing socialist movement in this country rather than on a provision here or there in the Constitution. As my hon. friend Shri S. Mohan Kumaramangalam has pointed out, the Indian National Congress, has been always in the vanguard of the fight for the preservation of the rights of the minorities, and in fact, the fundamental rights chapter had once been amended to expand the scope of the safeguards provided to the Scheduled Castes. I would like to point out just one thing to Shri Frank Anthony in this connection. The people are becoming more and more politically conscious. The poorer section of the people want to merge with the mainstream of national life. They are not any more hankering after the feudal elements of the people for their patronage. The poorer people will safeguard their interests by joining the great political movements, the great progressive movements like Trade Unions to safeguard their interests. When they merge with the soul of the nation and join the mainstream of national life, no patronage from feudal or reactionary or the so-called blue-blooded elements will be necessary. So, although some safeguards are necessary for some time till we merge with the national mainstream, we should not hang on endlessly to these constitutional rights. It is derogatory to ail progress and all democratic processes.

So I would like to tell Shri Anthony : let us not spoil the cause by always hankering for these entrenched privileges. If we do not secure the goodwill of the majority, if we do not merge with the mainstream of national life, we can never secure our interests. This being so, I have great pleasure in supporting the two amendments incorporated in the present Bill.

MR. DEPUTY-SPEAKER : There are still a number of hon. members wishing to speak. The Prime Minister will intervene at 3.30 P. M. Before that I would like to accommodate all of them, if possible, if they are brief.

SHRI N. SREEKANTAN NAIR (Quilon) : I am very happy to support the Constitution (Twentyfourth) Amendment Bill because Government has already introduced the 25th Amendment Bill to bring relief to the people and try to implement the social objectives declared in Chapter IV of the Constitution. In view of the fact that the 25th Amendment has already been introduced, I would like to say this Bill is a prelude to other amendments which may come including the amendment concerning the so-called rights of minorities as interpreted by the Supreme Court. The rights of the minorities as interpreted stand as a bar to the progress of the country, as has been made clear by the judgment of the Supreme Court in Kerala University Act case. If the court decides against progress, naturally we will have to consider such amendments also in future, if we have to move in consonance with the spirit of the times.

The 24th Amendment Bill is intended specifically to empower Parliament to amend art. 368 and remove the smokescreen of limitation purported to be imposed by art. 13 of the Constitution as interpreted by the Supreme Court. To me it looks ludicrous that art. 368 only lays down the procedure for amendment of the Constitution without conferring on Parliament the power to amend. The Supreme Court in the Golak Nath case was taking a political decision, as has been already pointed out by so many speakers. That in a full Bench then constituted, they could not get more than a very narrow majority of one, *i.e.*, six to five, only shows that even among the guardians of the *status quo*, there was only a marginal majority for the anti-social approach.

I am firmly convinced not only from the judgment of the Golak Nath case but also from the judgments on the bank nationalisation case and the Kerala University Act case and a host of trade union cases that the hon. Judges of the Supreme

Court are not responsible for their attitudes, because they come from the higher strata of society and are isolated from the hopes and aspirations of the common man of today by the gulf of two generations. Therefore, I am afraid this Parliament will have to face further political opposition from the Supreme Court the judges of which are steeped in bourgeois and feudalistic concepts. Hence in spite of the massive support for changing the Constitution as evinced by the overwhelming majority of the voters supporting it in the last elections and in spite of the vast majority of the members of this House supporting it, I am afraid that the passing of this enactment may be obstructed by the Supreme Court.

The suggestion to amend clause (1) of art. 124 to raise the number of Supreme Court Judges from 13 to such an extent as to get the majority decision to endorse the measures for securing the directive principles specified in art. 39 may not be effective. But I suggest a concrete step. I suggest that the age limit of the Supreme Court Judges must be reduced to maximum 55 so that younger judges who are nearer to the common people and who understand their aspirations may preside over the destinies of this country. There may not be the other requirements such as fifteen years' practice in the bar or service as a sitting judge of a High Court for a specified number of years and other conditions, but the maximum age-limit at which a judge of a High Court or the Supreme Court should retire should be fixed at 55. That will naturally enable young men who believe in the socialist transformation of the Indian society, who want to make the transformation logical and legal, to gradually come into the judiciary as High Court judges and Supreme Court judges in the future.

Sir, which these words, I support this amendment with all my heart. I also hope that other amendments including some amendments relating to specific rights of the minorities which were contemplated to come into force in Kerala State may also be brought in and that the judiciary will not be allowed to ride roughshod over such pieces of legislation.

श्री भागवत झा आजाद (भागलपुर) :
उपाध्यक्ष महोदय, फ्रान्क नाम का एक वकील
अपने एक मित्र के पास गया और उस ने उस से

(श्री भागवत झा आजाद)

घोड़ा मांगा। उस ने कहा कि मित्र मेरे पास घोड़ा नहीं है। थोड़ी देर में घोड़े के हिनहिनाने की आवाज आयी। उस ने कहा मित्र तुमने कहा था कि घोड़ा नहीं है, लेकिन घोड़े के हिनहिनाने की आवाज आ रही है। उस ने कहा मित्र तुमने घोड़े के हिनहिनाने की आवाज पहचानी, मेरी आवाज नहीं पहचानी। यह इतिहास की एक विडम्बना है कि आज ऐन्थनी नाम का एक दूसरा बकील न्याय के शाब्दिक घोड़े की हिनहिनाने की आवाज को पहचानता है लेकिन जनता जनार्दन के प्राण की आवाज को नहीं पहचानता है। अस्तु आज इस समय जब हम संविधान में संशोधन करना चाहते हैं तो यह संशोधन सरकार अधिक अधिकार के लिये नहीं बल्कि जनता को उस के न्याय को दिलाने के लिये करना चाहनी है। वह अधिकार जो उस ने पिछले आम चुनाव में हमें संशोधन और परिवर्तन के लिये कहा है।

मुझे आश्चर्य हुआ अभी श्री कृष्णा मेनन जैसे व्यक्ति, जो अपने को कानूनदा मानते हैं उन्होंने इस अनुच्छेद 19 (1) के उपखंड (अ) और (ज) पर आपत्ति प्रकट की। उन्होंने कहा कि संविधान में संशोधन कर के हम इस देश में आदमी की व्यक्तिगत स्वतंत्रता, बोलने की आजादी को छीनना चाहते हैं। लेकिन वह भूलते हैं कि इन दोनों उपखंडों—(अ) और (ज) में बहुत फर्क है। (अ) में कहा जाता है व्यक्ति के बोलने की स्वतंत्रता, लेकिन (ज) में कहा जाता है व्यापार करने की स्वतंत्रता। उपाध्यदा महोदय, इसी को लेकर के सुप्रीम कोर्ट ने प्राइस पे शेड्यूल के नाम पर, इंडियन ऐक्सप्रेस के नाम पर, दोनों में बिल्कुल गोलमटोल कर दिया। एक तरफ आदमी के व्यापार की स्वतंत्रता और दूसरी तरफ बोलने की स्वतंत्रता। इसलिए हम चाहते हैं कि सरकार इस संविधान संशोधन के बाद अनुच्छेद 19 (1) के उपखंड (अ) और

(ज) में संशोधन लाये। और माननीय कृष्णा मेनन स्वयं भूलते हैं कि इसी अनुच्छेद 19 के उपखंड (2) से (6) में यह दिया हुआ है कि सरकार कोई भी ऐसा कानून ला सकती है जो आदमी की स्वतंत्रता पर रीजनेबिल रेस्ट्रिक्शन्स लगाता हो। अस्तु, हम चाहते हैं कि सार्वभौम स्वतंत्रता को अक्षुण्ण रखा जाय। आखिर में हमारी यह सार्वभौमिकता आती कहां से हैं? संसद की सार्वभौमिकता आती है जनता से, जिस जनता ने अपने लिये कानून बनाया है। उपाध्यदा महोदय, कानून जनता के लिये है या जनता कानून के लिये है? हमने यह कानून जनता के लिये बनाया है, जनसाधारण के अग्रमानों, उस की आकांक्षाओं की पूर्ति के लिये बनाया है। यह नहीं कि कानून के नाम पर इन चन्द्र पेजों में हम जनता की आकांक्षाओं और उस की भावनाओं को त्याग दे, उन की कुर्बानी दें।

अस्तु शंकरा प्रसाद केस, सज्जन सिंह केस में स्वयं सुप्रीम कोर्ट ने कहा है कि संसद को अधिकार है कि संविधान में परिवर्तन करे। लेकिन गोलक नाथ केस में वह मुकर जाता है। आज वह अनुच्छेद 13 का जो अर्थ लगाता है वह अर्थ बिल्कुल विभिन्न है शंकरा प्रसाद केस से और सज्जन सिंह केस से। मान्यवर, क्या जनता न्याय मांगने के लिए इन अवकाश प्राप्त जजों की टोलियों के मुंह की ओर देखे? एक जज आये वह विधान का एक रूप बताये और अवकाश प्राप्त कर के चला जाय, फिर दूसरा जज आये वह दूसरा रूप बताये और अवकाश प्राप्त कर के चला जाय, तीसरा जज आये तो वह तीसरा रूप बताये। मान्यवर, ये मौलिक अधिकार जो संविधान में लिखे हैं उन का अर्थ वह है जो संविधान में लिखा है या वह अर्थ है जो 11 जज अपनी इच्छानुसार, न्याय के ज्ञान के अनुसार बराबर कानून को बदलते रहें? बैंक नेशनलाइजेशन केस में, प्रिवी पर्सनल केस में गोलक नाथ केस में, शंकरा प्रसाद और सज्जन

सिंह केस में जो इंटरप्रीटेशन सुप्रीम कोर्ट ने किया है हम उस अर्थ को नहीं मानते। "नहीं मानेंगे यह कानून जो मुझ से गरीबी का पट्टा लिखाती है, और मिटाकर भोपड़ी मेरी, जो महलों को रिभाती है।" "खा खा कर मरेंगे यह मौलिक अधिकार इन का है, बिना खाये मरें हम यह मौलिक अधिकार मेरा है।" क्या यही मौलिक अधिकार है संविधान में कि यह महल उठने जायें और भोंपड़ियां रोती जायें? खाने खाते अनपच से यह मर जायें और हम भूख से मर जायें? अगर यही मौलिक अधिकार है तो यह संशोधन के अधिकार को एक बार नहीं, अनेक बार परिवर्तन करेंगे। हम परिवर्तन तब तक करते रहेंगे जब तक महलों के पास रहने वालों की भोंपड़ी उसके बराबर नहीं उठ जायगी। हमारा मौलिक अधिकार यह है और इसलिये हम संविधान में यह परिवर्तन करना चाहते हैं। हम संविधान में परिवर्तन करना चाहते हैं इसलिये कि यह माननीय फ्रैंक ऐन्थोनी, मसानी, जिन को समाज के प्रवाह ने बाहर फेंक दिया है, जिन का काला कोट, तितलीनुमा नैक टाई, जिन के द्वारा अंग्रेजी के प्रयुक्त टेढ़े मेढ़े शब्द, और जिन्होंने हिन्दुस्तान के कानून को चाहरदिवारी के अन्दर बन्द कर के नया नया इंटरप्रीटेशन दिया है, इस को हम नहीं मानते हैं। कानून देश की जनता के लिये होता है, और जनता चाहती है कि हमें रोटी, कपड़ा, मकान, स्वास्थ्य, शिक्षा मिलनी चाहिये। हम चाहते हैं कि भारत की शिक्षा महलों की कंद को छोड़कर हिन्दुस्तान के गांवों के आंगन और भोंपड़ियों में जाय। इस के लिये संसद को अधिकार मिलने चाहिये उस के परिवर्तन करने का। इसके लिये सरकार को अधिकार मिलने चाहिये साधन जुटाने का, हम के लिये अधिकार मिलना चाहिये उन साधनों को जुटा कर हम इस देश में ऐसी अर्थ व्यवस्था बनायें जिस अर्थ व्यवस्था को जनता मानती है।

बेरोजगारी उन्मूलन हम चाहते हैं, मूल्यों का स्थिरीकरण हम चाहते हैं। हम चाहते हैं ऐसी अर्थ व्यवस्था जिस के अन्दर इस देश के लोगों को कम से कम रोटी, कपड़ा, मकान, स्वास्थ्य और शिक्षा मिले। नहीं मिले माडर्न स्कूल की पाई, बैसिक शिक्षा तो मिले। नहीं मिले टैरीलिन की घाट, मोटा कपड़ा तो मिले। नहीं मिले में पोसा और मेत्रा, मोटी रोटी तो मिले इसलिये आवश्यक है कि यह संविधान जो हमारे रास्ते में सुप्रीम कोर्ट के जजों के के द्वारा बताये गये अर्थ के अनुसार बाधा बन कर खड़ा है, इसे हम तोड़ना चाहते हैं।

कल सुप्रीम कोर्ट के जज के बारे में जब बूरजुआ शब्द का प्रयोग किया गया तो बड़ा प्रोटेस्ट किया गया, हमारे कुछ मित्रों को उससे बड़ा क्षोभ है। सम्भवतः उन्होंने इस शब्द का अर्थ डिक्शनरी में नहीं देखा। क्रौक्सफोर्ड डिक्शनरी में बूरजुआ का अर्थ है मिडिल क्लास पीपुल, बूरजुआ का अर्थ है कमफर्ट और रेस्पेक्टबिलिटी, अर्थात् आराम और आदर के अभ्यस्त व्यक्ति। इस अर्थ के अनुसार सुप्रीम कोर्ट के जज बूरजुआ बड़ी आसानी से कहे जा सकते हैं ब्यों कि वे कमफर्ट और रेस्पेक्टबिलिटी के अभ्यस्त हैं क्रौक्सफोर्ड डिक्शनरी के अनुसार। क्या माने हैं उपाध्यक्ष महोदय, जिस संविधान में संशोधन करने के लिए संविधान बनाने वालों ने यह कहा कि इस के लिये दो तिहाई बहुमत चाहिये सदन में, और यह बहुमत चाहिये टोटल भेम्बरशिप का, उस संविधान को सुप्रीम कोर्ट का एक जज सिर हिला करके संशोधित कर दे हमारे खिलाफ? क्या आप का कानून यही कहता है?

उपाध्यक्ष महोदय, माननीय ऐन्थोनी, मसानी और माननीय पीलू मोदी का कानून यह कह सकता है लेकिन जनता का कानून यह

(श्री भागवत झा आजाद)

नहीं कह सकता। यह ऐन्थोनी और मसानी किसी म्यूजियम की शोभा बढ़ा सकते हैं लेकिन इस पार्लियामेंट की शोभा बढ़ाना है वह सुदूर आदिवासी क्षेत्र से आने वाला कार्तिक ग्रीरांव, माननीय उइके, या माननीय शम्भू नाथ, या श्रीमती मिनिमाता जो भूख, क्रोध की ज्वाला पर चढ़ कर जानती है कि लांछित और अपमानित हरिजन का जीवन क्या है। इसलिए हम माननीय ऐन्थोनी और मसानी जी को नहीं मानते। हम मानते हैं उन को जिन्होंने इस संसद को सार्वभौमिकता का अधिकार देने के लिये जनता के वोट पर आ कर के आज यह संविधान संशोधन बिल लाने को मजबूर किया। हम यह नहीं कहते, यह बात तो कानूनदां भी कहते हैं जो वास्तव में इस का अर्थ समझते हैं। ऐसे कानूनदां नहीं जिन के लिये शब्द जाल ही कानून है, जिन के लिये कानून की आत्मा मर चुकी है, जिन के लिये कानून शब्दों की चहारदिवारी में बन्द है।

15 hrs.

स्वयं सुप्रीम कोर्ट ने कहा है, हमारे पास दो, तीन बातें ध्यान देने की हैं एक तो यह कि क्या अनुच्छेद 368 सिर्फ कमेंडेटरी और प्रोसीजरल, यानी प्रक्रियात्मक या संशोधनात्मक है? दूसरे यह कि संसद को मूलाधिकारों में परिवर्तन करने का अधिकार है या नहीं, और तीसरे यह कि अगर नहीं है तो जैसा हमारे यह मित्र कहते हैं कि हम संविधान सभा बुलाये, क्या वह बुलाई जाये? संविधान सभा कौन बुलायेगा? यह ससद। और वह संविधान सभा इस संसद की बनाई होगी। अर्थात् उन के कहने का मतलब यह कि वड़ संविधान सभा जिसको यह सभा बनायेगी, वह तो संविधान में अमेंड-मेंट कर सकती है, लेकिन यह लोक सभा नहीं कर सकती। यह लोक सभा, जो जनता का प्रतिनिधित्व करती है, एक नई संविधान सभा बना दे, यह त्रिकुल थोथी, कोरी दलील है, जिस के आधार पर कोई कानून ठहर नहीं

सकता। हमारे संविधान वमाने वाले डा. अम्बेदकर ने कहा था कि :

“All other articles of the Constitution are left to be amended by Parliament. The only limitation is that it shall be done by a majority of not less two-thirds...”

इसके अलावा और कोई लिमिटेशन हमारे संविधान पर नहीं है। स्वयम् डा. अम्बेदकर ने इस बात को कहा था। आज गोलकनाथ केस में सिर्फ एक जज के सिर हिलाने से कानून बदलता है, लेकिन देश की संसद में जनता द्वारा चुने गये यह प्रतिनिधि दो तिहाई बहुमत के अधिकार से भी इस संविधान को नहीं बदल सकते। मैं उन्हीं जजों में से एक जज वल्लभट्ट का एक उद्धरण आप के सामने कोट करना चाहता हूँ। वास्तव में न्यायमूर्ति वल्लभट्ट ने गोलकनाथ केस में जो राय दी है वह सही राय है, वह जनता की राय है और उस का सही अर्थालोकन है। वह कहते हैं :

“There never did, there never will, there never can exist a Parliament or any description of men in any generation of men in any country possessed of the right or the power of binding and controlling posterity to the end of time, or of commanding for ever, how the world shall govern it, and therefore, all such clauses, acts or declarations by which the makers of them, attempt to do what they have neither the right nor the power to do nor the power to execute, are in themselves null and void.”

बड़ा स्पष्ट है। कैसे हमारी यह जेनरेशन, यह लोक सभा बीस वर्ष बाद आने वाली देश की जनता के अग्रानों को आज बांध दे? हम इस बात की गारंटी क्यों दें कि हम आज इस संविधान में जो परिवर्तन कर रहे हैं वह अन्तिम परिवर्तन है? क्योंकि आने वाली जेनरेशन अपनी मांग, अपनी भावनाओं, अपने विचार

और अर्थ को जानती है। महाराष्ट्र के अधिवक्ता श्री सीरवई मे इस बात को बड़े सुन्दर शब्दों में अपनी कांस्टिट्यूशनल ला की किताब में कहा है। उन्होंने कहा है कि यह जज आज इतने अनप्रेडिक्टिव हैं कि अपने जजमेंट को बराबर बदलते हैं। उन्होंने इस देश में न्याय और शासन की व्यवस्था को खतरे में डाल दिया है। यह कहते हैं महाधिवक्ता जिन के कानून के ज्ञान को कोई चुनौती नहीं दे सकता।

इस लिये यह सम्पत्ति किस के लिए? सम्पत्ति के अधिकार सीमित हो या न हो? सम्पत्ति किस की सम्पत्ति इस देश की 10 प्रतिशत जनता की या 90 प्रतिशत की? संविधान सभा में पंडित जवाहरलाल नेहरू और मौलाना आजाद ने इस की कल्पना नहीं की थी कि वह यह संविधान बना रहे हैं जो इस देश की 10 प्रतिशत जनता के अधिकार को सुरक्षित करता है और 90 प्रतिशत भूखों मरेंगे। अस्तु, यह कहना गलत है कि इस संसद् को अधिकार नहीं है। यह कोरी मूर्खतापूर्ण बात हो सकती है, इस से अधिक कुछ नहीं।

मैं यह कहना चाहूंगा कि इस समय जब हमारे देश में आर्थिक विप्लव के आसार नजर आ रहे हैं, जब आज पश्चिम बंगाल हिंसा की ज्वाला में जल रहा है, सिर्फ यह कह देना कि नक्सलाइट या सी पी (एम) आदि आदि समाजद्रोही हैं काफी नहीं है। अस्तु, मैं यह कहूंगा कि आज आवश्यकता इस बात की है कि इस देश की आर्थिक व्यवस्था को बदला जाये ताकि बेरोजगारी का निर्मूलन किया जा सके, ताकि इस देश की अर्द्ध-नग्न देवियाँ और देवताओं का बदन ढाँकने के लिये कपड़े दिये जायें, वह कपड़े जो टैक्स्टाइल मिलों में पूँजीपति अपने लाभ के लिये बनाते हैं, उन के लाभ को काट कर, उन की सम्पत्ति पर सीमा लगा कर देश की जनता को दिया जाये। इस लिये आवश्यकता यह है कि हम संविधान में परिवर्तन करें।

हम संविधान में बार बार परिवर्तन करेंगे। तब तक परिवर्तन करेंगे जब तक देश की आर्थिक व्यवस्था और सामाजिक व्यवस्था में परिवर्तन नहीं आता।

ऐन्थनी महोदय डर का, आशंका का, क्रोध का अम्बार लगा रहे हैं। इस देश की माइनारिटीज की बात कहे हैं। उपाध्यक्ष महोदय, आप भी माइनारिटीज में है, हेनरी आस्टिन भी माइनारिटीज है। किस किस माइनारिटी के अधिकारों का हनन इस मुल्क में हुया है? सच तो यह है कि हिन्दुस्तान ही एक ऐसा देश है जहाँ मुमलमान अपनी मस्जिद में, हिन्दू अपने मन्दिरों में, सिख अपने गुरुद्वारों में और ईसाई अपने गिर्जाघरों में जा सकते हैं। लेकिन ब्लेसेड आर दी पुअर इस प्रभुवाणी के अन्दर हिन्दुस्तान के संविधान में सम्पत्ति को पवित्र नहीं माना जायेगा। उमे हम बदलेंगे कानून के सहारे। इस कानून को, जो धर्म के सहारे चलता है, हम नहीं मानते हैं। नहीं मानेंगे यह कानून जो धर्म के सहारे चलता है। इस लिये उस में परिवर्तन कर के हम इस देश में वह समाजवादी व्यवस्था लायेंगे जिस में हमें रोटी, कपड़े, मकान, स्वास्थ्य और शिक्षा मिले। हम न महलों के पूजक हैं और न तोड़क हैं, न इस देश की जनता है। लेकिन उन महलों पर और मंजिलें हम तब तक नहीं उठने देंगे जब तक बगल वाली भोंपड़ी उस के बराबर नहीं आ जायेगी। हमारा संविधान और हमारा समाजवाद यह कहता है।

SHRI PILOO MODY (Godhra) : Mr. Deputy Speaker, Sir, I have listened for two painful days to the utter rot and rubbish that has been sprouted in this House, utter rot and rubbish, because most of it had no bearing whatsoever on the Bill under discussion. Sir, we also heard the three blind mice of the Treasury Benches, Shri Gokhale, Shri Ray and Shri Mohan Kumaramangalam. I do not know what cat was orchestrating what they were playing but these three great men also indulged in a sort of rhetoric

[Shri Piloo Mody]

which again had no bearing on the Bill. Just now I heard the speech of Shri Bhagwat Jha Azad. He talked about poverty in this country as if he is the only man in this country who felt about the terrible conditions of poverty in this country. But what about the Bill ?

SHRI BHAGWAT JHA AZAD : At least you do not feel it.

SHRI PILOO MODY : This is the kind of invectives they have always indulged in.

For thousands of years this country has lived in slavery ; Hindu slavery to begin with, Muslim slavery thereafter and then British slavery. And on the 15th of August we signed tryst with destiny. What was that tryst ? We became free men. What marked that freedom ? What is it that distinguished that freedom from slavery ? It is not as if we grew two horns. It is not as if we got a third eye. And it is ridiculous nonsense to say that the benign rule of Jawaharlal Nehru was better than the benign rule of Clement Attlee. We became free because we attained certain basic rights, inalienable rights, human rights, natural rights, fundamental rights. It is because as free men we can claim those rights, it is that which distinguished us from people who are not free. This is the only difference. It is not something like white rule was replaced by brown rule. It is because we became freemen.

Unfortunately, most of us, in fact all of us in this House, were born slaves. We were born under the British and it is only those who were born after the 15th of August, who were born free men who can understand this concept of freedom. What are we doing today ?

AN HON. MEMBER : We are free from the masters, the capitalists.

SHRI PILOO MODY : I have heard this sort of trash from every gutter in this country.

What are the motives ? Why are we bringing this Bill ? All manner of arguments

have been advanced and, I think, it is in the arguments you will find the motives. There were some who dwelt in legal quibble talking about Article this and Article that as if that was material. It is the type of society that we want to build which is material and not some Article or the wording of some Article or a few commas here or or what is the foot-note there and a marginal note here.

Some have indulged in the numbers game and I regret to say my intelligent friend, Shri Siddhartha Shankar Ray, could not refrain from it. It is very reminiscent of the *Mulka* players of Bombay that five did this, four did this and seven did this and, therefore, you have only six on this side and nine on that side, therefore, we win. This is the sort of ridiculous argument that some advanced.

Some have indulged in another game called BC AD. That means what is before Golaknath and what is after Golaknath, Before Golaknath we did this. There was no trouble. After Golaknath because they resisted and therefore we have come forward with this Bill. Sir, what happened before Golaknath we all know about it. It is now a matter of recorded history. There was nothing that has inhibited this Government, no pledges to the people they could not have fulfilled, either before Golaknath or after Golaknath; there have been no constraints put-on them by the Constitution, by the Supreme Court, by anybody whatsoever. The only thing that stopped them from fulfilling their pledges was their own in competence and their will to do it.

We heard Mr. Charanjit Yadav read out large passages from the Congress manifesto. Sir, it is on the Congress manifesto that I won my election because I quoted it profusely as being the Congress manifesto. But where was the Congress manifesto? I could not find it anywhere in my constituency because I wanted to use it against them. I sent for it from Bombay and then quoted it to my electorate in order to win my election. So, don't tell me about the Congress manifesto and its mandate. What is this mandate? They talk about the will of the people. They talk about the verdict of the people. Let us examine this verdict. Let us examine its quality.

I think it is a matter of history that the Congress got only 43% of the cast vote. I think it is a matter of history that half the electorate could not care what there manifesto was or who came to power and did not bother to vote. It is a matter of history that out of the possible voters that there were less than one out of four voted for them. This is the massive mandate they are talking about. Everything was in their favour. They had enormous money; they had all the power, the threat of the police, government machinery, government vehicles. All India Radio, the 'kept press', Films Division, I.A.F. planes and plus including the miserable behaviour of all of us in the Opposition. All this was on their side. I do not want to hide like they do. I am quite willing to confess that it was a 'bikhari samaj' that we put forward to fight this monster. All this was in their favour and what did they get? I am surprised they got only a vote as low as 43% which brings them in such vast quantities here to perform no other function than what they are doing table thumping—the table thumpers of the 20th century.

They talk about fulfilling the pledges that they have given. First of all, Sir, talk about one pledge alone. Take the illiteracy figures in this country. I quote these figures specifically because these are the people whose mandate they are supposed to enjoy. The illiteracy figures according to the 1961 census were something like 21.55 crores of people, above the age of ten, who were illiterate.

In 1968 the figure had moved up to 23.55 crores; in 1968 the number of illiterates above the age of ten had moved up to 23.71 crores and today it is anywhere up to 31 crores. This is the increase of illiteracy in this country, for which, they think, they have received the mandate to alter fundamental rights, change all manner of provisions of the Constitution and make this body supreme.

I realise that they have a real hearted towards all property. Anybody who enjoy anything is something that these people hate. That is why they attack property. It is a matter of their class consciousness, which my hon. friend, Shri Mohankumaramangalam, beautifully introduced with all

the sophistication and pleasure that one can possibly derive in a parliamentary debate I must congratulate Shrimati Indira Gandhi for having brought Shri Mohan Kumaramangalam to Parliament, even though she had to look outside of her party to bring such a person into Parliament. I am glad that he is here. I wish, he would be divested of his ministerial responsibility so that he could entertain us more often.

The fact of the matter is that there is not a single change which has been inhibited either by the Constitution or by the Supreme Court or by the Golak Nath case, both AD and BC. In the matter of agrarian reform, we have been able to fix ceilings on holdings in this country; we have been able to give the cultivating tenants the right to secure permanent rights; in some States we have shares of landlords and tenants regulated by law; in some, the tiller of the soil is secured cultivating rights against the absentee landlord; in some States we have been able to consolidate even land holdings.

SHRI SIDHARTHA SHANKAR RAY:
I thought, you said that we did nothing.

SHRI PILOO MODY: All this has been done in some State or the other, somewhere, but not one of them has been implemented any where. The Golak Nath case has not only—not given validity to all this legislation but has paved the way for future legislation in all the States in order to bring this about. Yet, there is no will; there is no desire to do it. There is only talk. They talk about *garibi hatao*. They have no clue as to how to get rid of poverty. Shri Chavan brings forward a Budget which goes on squeezing the same lemon. He does not have any ideas as to how to generate new resources.

A great deal has been said about Directive Principles. I doubt whether any one of them has read or understood them. It directs the State to create conditions where there will be no concentration of wealth, where there is the right to work, health, education, equal pay for equal work, leisure etc. These rights are not enforceable but they are a charge on the State and they exist. The right to work, to education, to livelihood—all these cannot come into existence by merely wishing them to be so or by merely saying that they are more fundamental. They

[Shri Piloo Mody]

will not come. The right to work depends on the employment potential created; the right of health, upon medical facilities given; the right to education on the educational opportunities provided; the right to equal pay, on the prosperity generated; the right to leisure, on the technology and the automation accepted by industry. It requires State action to bring these rights about. What in the Constitution deprives them? The only thing they can say is that instead of paying Rs. 40 lakhs they have to pay Rs. 80 lakhs; instead of paying Rs. 80 crores, they had to pay Rs. 100 crores. This is what stops them, they say. This is not true. This is just throwing dust into the eyes of the people. There is absolutely nothing in the statute book or in the Constitution today which deprives them of passing any legislation which will relieve or eradicate poverty.

It is only the evil intentions and motives of the people in power, who are just insatiable, as far as greed for power is concerned, who want to grasp every conceivable sort of power in their own hands and, therefore, want to destroy anybody else who can challenge them and be a counterpoise against them. It is charge on their conscience on their *bona fides* and on their motives that I am making. Why has all this been done then? Why? I want to ask.

Finally, after all arguments fail, it is a pathetic query my hon. friend the Minister makes, whose job it is to pilot this Bill. I also extend my regrets to you, Sir, and to the Speaker for having been chosen to preside over the liquidation of Indian freedom. After having made all the humbly excuses why they cannot provide the goods, they cannot give any adequate proof of why they cannot do it. While Mr. Indrajit Gupta was speaking, I asked him to give an example, my friend Mr. Nahata immediately picked up the challenge and said, "I will give an example." But he could give no example only some off-repeated jargon that you hear constantly churned out, which today takes the place of intelligence and reason.

Sir, the hon. Minister's final plea was really very pathetic when he said, "How much faith do we have in ourselves?". It was only his own faith in himself that he

had to ultimately question. Had he asked me, I would have said, none. But he had to ask himself, 'How much faith do we have in ourselves?'. Ultimately, it has been reduced to faith. Mr. Frank Anthony has been told, "Have faith in us". Mr. Vajpayee has been told "Have faith in us"; our friend Mr. Manoharan who made a very eloquent speech today has also been told, "Have faith in us". It is only on their, faith goodwill and charity that we will have to proceed henceforth. So far, we were free men and, therefore, we had rights which nobody could take away, not Mr. Gokhale, not Mr. Sidhartha Shankar Ray, not Mr. Mohan Kumaramangalam, not even Mrs. Indira Gandhi. Tomorrow, we will all enjoy these rights only at the charity, mercy and good faith of these people. Therefore, the only answer that I can give to "How much faith do we have in ourselves" is: it is very little.

SHRI C. M. STEPHEN (Muvattupuzha) :
Mr. Deputy-Speaker, Sir, I have the distinction of following Mr. Piloo Mody. He started with a note of anguishment and irritation that he had to listen to a lot of irrelevant things in the course of the last two days. His accusation was that no speech was being made with relevance to the matter before the House.

Sir, I looked forward to hear from him some comments in reply to the arguments made out from the other side. But, unfortunately, he made absolutely no reference to the Bill right now before the House. His speech was, if I may say so, a jumble of convulsions from a soul completely frustrated and disillusioned. He has been saying things which have absolutely no relevance to the Bill before the House.

May I ask: What exactly is the issue now before the House? According to me, there is one and only one issue before the House. And the issue is whether this House, the Parliament of India, must have the power, the jurisdiction, to amend each and every one of the articles of the Constitution including the Fundamental Rights. That is the only issue we have got to decide. Mr. Piloo Mody was saying that we have been enjoying a particular guarantee, the guarantee of Fundamental Rights, all these 23

years. May I remind him, if it is an enjoyment, that enjoyment was not there? Until the days of Golak Nath case, the position was just the reverse. It was asserted and it was accepted that this House had the right to amend each and every one of articles of the Constitution. This position was reinforced by the Supreme Court in two successive cases. I do not want to go into detail. The Golak Nath case came in and by a solitary and accidental majority of one the power that this House was, enjoying for full twenty years is said to be taken away. Persons like Mr. Piloo Mody felt relieved that that really came in. That is to say, one Mr. Justice Subba Rao gave them protection and they thought that that protection would carry them for years together. The question is: whether this right must be re-instituted to the Parliament. May I ask, was it *bona fide* that this judgment was passed? In the Golak Nath case different issues were raised and the Supreme Court, Mr. Subba Rao, said, 'We are not going to answer these because we are not called upon to answer this point'. But was this point put before them? Had they to decide this particular point? They said that Parliament does not have the right. Therefore, the law that was impugned was correctly challenged and that they said, 'Nevertheless that law will remain in force' by the application of what they call 'prospective over-ruling.' That is to say that they could decide on that particular petition without deciding as to whether the Parliament has got the right to alter the Fundamental Rights or not. If they could decide the matter before them without deciding whether the Parliament had the right to amend the Fundamental Rights or not, their attempt on the particular question was an exercise in arrogation of a jurisdiction which they did not have. They were straying into a particular sphere which they were not called upon to do. They were doing it deliberately without any judicial propriety. There are two acts of judicial propriety which have got to be observed. One is that you are over-ruling a decision of the Supreme Court and that too by a slender majority of one. Though you could technically do it, but normally it is not done. And when that has got the result of usurping the power of the Parliament and talking away from Parliament power which they are enjoying for twenty years, no judiciary which has got conscience about it, would have strayed into a particular perilous field

of assuming that responsibility and declaring that from this date onwards the Parliament will not have that power. What is the sanctity of that particular date? Because the Supreme Court has said it. The sanctity arises out of the pronouncements of the Supreme Court.

Sir, we are now re-asserting our position. Confrontation has been spoken. There is no confrontation. If it is confrontation we want, then we can certainly amend Art. 141 and say, 'This shall not be binding hereafter'. We could have altered the very structure of the Supreme Court and say that there must be such a majority if a law is to be overruled. If it is confrontation that we want, in that case, we can do that.

That is not what we are doing. In pursuance of that case, we are trying to remove the lacuna that they have pointed out so that the Supreme Court may have an opportunity to see that this injustice is undone.

If, on the other hand, the Supreme Court wants a confrontation which I don't believe they will bid for, if they want that confrontation, let the passing of this Bill by this House by such a decisive overwhelming majority to serve as a warning to the Supreme Court and to persons that may be concerned, that if need be we are ready for a confrontation in order that the Parliament may have the power to amend the Constitution of India.

That is all that I wanted to say.

Now, there is general agreement in this House with regard to the necessity for this amendment and the difference of opinion is with regard to the niceties. They say that the Supreme Court said that the Fundamental Rights incorporated in the Constitution, they are incorporated for one time and all. We do not agree to that. Mr. Frank Anthony does not agree to that. None of the people over there is agreeing to that. Mr. Frank Anthony supports this provided you take the minority rights beyond the reach of the Parliament. As a member of the minority, may I submit to Mr. Frank Anthony and through him to all persons who are concerned that if anybody who argues for the minority in this manner saying that take away the protection of

[Shri C. M. Stephon]

the minority from the protecting arms of this Parliament, he is doing a signal disservice to the minority of this country. It is not that Clause of our Constitution which will protect the Minorities. It is not the Article of the Constitution which will protect our Minorities. This House and this House alone can protect our Minorities. Otherwise, the minorities will be isolated and they will have no place in this country. So, I say that my hon. friend Mr. Frank Anthony is doing the greatest disservice to the Minorities in what he said.

The general argument has been advanced that there must be a Referendum. In other words, they agree that Fundamental Right is not permanent for all time to come, that the people coming from time to time from generation to generation, can ask for a Referendum and express their opinion to change the Fundamental Right. In other words, you concede that Fundamental Right, as embodied by the Constituent Assembly in the Constitution is not something permanent for ever, that it can be altered and changed. And, Sir, now the only question is this : How can it be changed ? How can it be altered ? It is only through this Parliament. First let us decide that Parliament must have this power. Later on we will decide about the particular Articles and about the amendments to be made. I support the Bill in a spirit of discharging a solemn obligation that is cast on me by the Electorate who have sent me up here, an obligation which is serene and sacred, and I am proud of participating in this discussion which will go down as a sacred moment in the history of the country. I support the Bill.

THE PRIME MINISTER, MINISTER OF ATOMIC ENERGY, MINISTER OF HOME AFFAIRS AND MINISTER OF INFORMATION AND BROADCASTING (SHRIMATI INDIRA GANDHI) : Mr. Deputy-Speaker, Sir, I shall not take much time of the House. Indeed, I would not have spoken at all, since all relevant and some irrelevant points have been made in the course of this debate which has been except for some aberrations, of a high order, as befits the occasion.

I would like to support what our hon'ble friend Shri Manoharan has said that today all of us remember and miss our bright-spirited colleague, Shri Nath Pai, whose Bill focussed our attention on this necessary Constitutional change. I am sure if he had been here, he would have made an impassioned speech on this subject.

I am intervening because I feel deeply and sincerely that this is a special moment.

In his otherwise brilliant speech, Shri Siddhartha Shankar Ray had a dig at non-lawyers. Far be it from me to scoff at lawyers, when there are so many distinguished ones in the House. The legal profession has given some of the best minds and some of the greatest patriots to our country. I myself started life in very legal surroundings. My grandfather, himself a lawyer of repute, attracted many legal luminaries to our house. But, over the years, one heard fewer arguments of jurisprudence and more and more about the problems of the people, the reality of the situation in which they found themselves, which was very far from the law as soon by lawyers. So, Shri K. Manoharan and I have at least one thing in common, which is that neither of us is a lawyer. While he was daring enough to venture into the sphere of law, I shall keep aloof from it. But I should like to answer only one point which does not strictly come into this debate but which he mentioned, which was the question of Centre-State relations and especially a phrase which he used when he said that every State must be an equal partner. I should like to assure him that every State is an equal partner. Today, whatever inequality there exists is due to many reasons ; it is not due to the Centre or the attitude which the Centre takes. In the eyes of the Central Government, every State is equal and the Centre does its very best to give fair treatment to every single State, and we shall continue to do so. Naturally, we are always open to suggestions, and we always discuss matters about which a State has any grievance ; and this discussion is a continuing one. There is hardly a day when we do not have a visit from a Chief Minister or some Ministers or officials from one State or another over some real or not-so-real grievance.

During this debate, it was interesting and educative to listen to our constitutional experts. But as a non-constitutional-expert, as a non-lawyer, I must say that it seems to me that the question at issue is not merely a legal or a constitutional one. The constitutional amendments which we have introduced embody and reflect the urges of our people. For some time, there has been a deliberate inflation of fears which to me seem to be unreal. A controversy has been generated as regards the supremacy of Parliament against the supremacy of the Constitution, as if these two were distinct concepts mutually exclusive and even perhaps antagonistic. Those who describe the issue in this manner conveniently forget that our Constitution was drafted on the fundamental assumption that our people owed unalterable allegiance to the principles of democracy. This faith in our people permeates our Constitution.

Several hon. Members have spoken of the confrontation between Parliament and the judiciary. There need not be a confrontation, and I think that to create an atmosphere of confrontation does not do us much good. I do not think that there is any real confrontation either, because each institution has its assigned place and role. We all know that there can be no third chamber and that no Constitution can be frozen into a static mould.

What do we see when we look at the world around us? It would not take us long to discover that many an institution has collapsed, many a Constitution has been scrapped because it ceased to be an effective instrument for orderly change. That our Constitution and our democratic institutions have survived, when all around us there is a climate of tension and violence, is a tribute to the faith of our people in democratic ideals and also to the flexibility and responsiveness of our Constitution and our political institutions to the urges of our people.

While introducing this Bill, my colleague Shri H. R. Gokhale spoke of the arguments of those who opposed this Bill as being based on fear and nervousness, not on fact. I should like to dispel that fear and nervousness in the minds of our minorities in so far as their rights are concerned.

I believe that protection to them can be guaranteed only by this Parliament. Mere constitutional devices cannot give this guarantee. History is replete with examples of constitutions being overthrown or thwarted. Therefore, a wider and deeper democracy, a wider and deeper commitment to secularism is a more durable guarantee of the rights of our minorities. My endeavour has been not to defeat parties but to educate the public and strengthen the people so that they themselves will not permit any curtailment of their rights. The protection of the rights of the minorities can be ensured only when the majority itself is convinced that its well being and progress is linked with a sense of security amongst the minority communities. In the ultimate analysis, it is only a sensitive and strong public opinion which can give real protection to the minorities.

The major premise of democracy is the will of the people as expressed through Parliament. As Prof. Dandavate said in his excellent speech, if our democracy goes berserk and becomes an instrument of oppression, our democracy would have failed and something else would have taken its place. If such turbulence were to take place in our country, holding the Constitution against the flood waters of right reaction or of violent revolution would not stem the tide.

Sir Shyamnandan Mishra used a very meaningful phrase: 'If liberty dies in the hearts of men'. The same thing has been said in the Bible: 'We are the salt of the earth. But if the salt has lost its savour, wherewith shall it be salted?' So the strength can only be in the people. If we have any strength, we get it from the people and it is up to them to see that we do our duty by them and fulfil our promises to them.

Some people laughed when Shri Zia-ur-Rehman quoted an Urdu verse. But the message was clear and true enough. There is an unending attempt by vested interests to divide the people and to mislead the minorities. I am confident that our people are committed to democracy. They understand and respond to the need for a secular approach, the need for change within a democratic framework and the need to prevent narrow vested interests from obstructing the processes of change.

[Shrimati Indira Gandhi]

We all know that change is a fact of life, whether we like it or not. We all know that the subtlest and cleverest arguments cannot bind us to the past.

Shri H. M. Patel spoke of reasonableness *versus* radicalism. If you look at the circumstances of life as it is in India, I see no reason in a denial of radical change. Whatever is made rigid, ceases to be living and organic and may become less and less reflective of the needs of a vital and dynamic people.

So what are the choices before us? Can we cling to the status quo? There is a crisis in the social order not only in India but in every country of the world and the choice in every country is whether changes can come about peacefully or whether they must be driven to violent means.

A little while ago, when one of our colleagues was speaking, I heard several members from the Opposition saying 'He is twisting the meaning.' I think all those who have read newspapers in the last months and all those who have followed the election campaigns will know where the twisting has taken place, how everything we have said has been twisted and misconstrued. One of the words which has lent itself to this misinterpretation is 'commitment'. It is a good word and no matter what anybody says about it, we believe in commitment, and we shall continue to believe in commitment. I think in today's world, this is a word which has great significance for the future.

What are our commitments? We are deeply committed to change the condition of the lives of millions of our people, the vast majority of whom live in great poverty. When we talk of the most urgent problems in the country which are the removal of poverty and the lessening of disparities, our slogans have been made the butt of jokes and of ridicule. Any subject, any question, any debate, has evoked the taunt, "What about *garibi hatao*?" Surely, poverty is too agonising a state to be joked about except by those who have no idea of what it is and have no real sympathy with those who live

in the state of poverty. If you want to look at the question seriously and sincerely, we know that the poverty of ages cannot be wiped out in a few weeks, a few months or even a few years. Anybody who pretends that he can do so is obviously trying to mislead the public.

We have never said that we can achieve this by a miracle; we have never said that it can be done by magic. We have always said that certain steps have to be taken, deliberate, determined steps, and by those steps we can remove, we will remove, the poverty of this country.

But this also requires a change in social outlook. There is talk of compensation. Even today we have heard some of it. While my colleague was speaking, I heard Shri Piloo Mody say something about *chori*. He knows that this is a subject about which I feel very strongly and I would like to put my views before the House, as I have put them on previous occasions. Compensation for what? When we talk of compensation, it is compensation for land, compensation for a palace or a big house. I should like to ask hon. Members, what about compensation for injustice? What about compensation for forced labour, of the eviction of landless people, for land unfairly grabbed? What happens when a mill is closed, its machinery run down, its reserves eaten away, even provident funds diverted to private purposes? A small man's business is closed and a partner driven to the street and other such iniquities of the capitalist system?

SHRI SHYAMNANDAN MISHRA :
Why show softness to them?

SHRI PILOO MODY : Why do you protect them, put a blanket over them? Put them in jail.

SHRIMATI INDIRA GANDHI : I am glad to see Shri Piloo Mody's reaction, but may be he thinks this applies only to a few people. My colleague, Shri Mohan Kumaramangalam, in his scintillating speech, said something about accumulated wealth. All the wealth is not accumulated. Many of us know, that those who are today demanding compensation did not always own their property. (*Interruption*).

AN HON. MEMBER : Kumaramangalam has property.

SHRIMATI INDIRA GANDHI : But he is not asking for compensation. I remember specially a tribe a lot of minorities. There is a small group of people in the State of Bihar—they are called *Tana bhagat*. They are very small in number, simple and sincere and they were passionately devoted to freedom and they were among the first who came forward in the freedom struggle.

The British took away their lands and today we cannot give them that land. These people who were given that land by the British, regard it as their own property and they will demand compensation. Is this the sort of compensation that we should give ? It is the *Tana bhagat* who should get compensation for the land taken away from them. There are so many cases like this, I do not want to go into the question of Princes because that is coming up later, but there is plenty to say on that subject. Some of it I have referred to but there is more which any research can reveal.

We believe that the necessary social, political and economic processes which are involved in changing poverty must be carried out within a democratic framework. The vested interests have, as usual, raised a hue and cry, either through lack of understanding or deliberate mischief. As I said earlier they have misinterpreted many of the words which we use. I talked earlier of commitment. What I mean is that we are committed to the upholding of the freedom of speech, of assembly, of worship of every citizen of this vast and varied land. Our commitment to secular democracy is non-negotiable. There is nothing negative in our approach. I am not against a class or a section of society. I am for the Indian people. I know that they cannot be strong while poverty is deep and widespread. I know that they cannot be united while there are disparities and while all sections, including the minorities, do not have a full sense of security and a full sense of participation in the development of the country. Democracy is not worth much if it does not involve all the people.

I can assure this House and the country that our commitment to upholding in every

possible way the fundamental rights of our citizens remains absolute. Even when we speak of imposing certain restriction on property rights, our intention is not to abolish property. Only where property rights are in conflict with public purpose the public purpose must hold away. Our people understand this. In the last elections every possible attempt was made to scare the people and to mislead them into believing that all property would straight away be taken away. Those who indulge in such propoganda miscalculated and under-estimated the wisdom of our people, a wisdom based not on formal education but on personal experience.

Some of us have joked and some have shown temper and some have sincerely pleaded their cause, but I would urge all hon. Members to approach the issues involved in our amendment with calm and sober reflection. These amendments have significant social and political import which we must try to understand in all seriousness.

The measures which we have taken and are taking are milestones in the progress of our democracy and are intimately related to the well-being and progress of millions of our people. They have come to be regarded by the people as marking a new stage in their struggle to build a more egalitarian more humane, more just society. As their elected representatives, it is our duty to reflect their urges. It is in that spirit that I commend to you the acceptance of this Bill. By responding to the call of change and the call of the future which has strengthened the faith of our people in our democratic institutions and in the supremacy of this Parliament which is an expression of their will, and also in the sanctity of our Constitution.

During this debate, there have been many quotations, most of them from the United States.

In the Oxford History of the American People, I came across an extract from the writings of William Channing, which I should like to share with you. I quote :

“There are reasons, in human affairs, of inward and outward revolution, when new depths seem

[Shrimati Indira Gandhi]

to be broken up in the soul, when new wants are unfolded in multitudes, and a new and undefined good is thirsted for. There are periods when the principles of experience need to be modified, when hope and trust and instinct claim a share with prudence in the guidance of affairs."

श्री भोगेन्द्र भा (जयनगर) : उपाध्यक्ष महोदय, ये संशोधन जो हमारे सामने है, अनुच्छेद 13 और अनुच्छेद 368 के बारे में इन दोनों का मैं समर्थन करता हूँ। 13 की बात हो चुकी है और 368 की चर्चा शायद नहीं हो सकी है जब कि यहाँ राष्ट्रपति के लिए इस संशोधन के जरिए से अनिवार्य बनाया गया है कि संविधान में जो संशोधन सदन कायदे के मुताबिक पारित करे, राष्ट्रपति उसपर स्वीकृति दे देंगे ही। यह बात अभी तक नहीं थी। यह खतरा उस समय संगीन रूप से आया जब बैंक राष्ट्रीयकरण के खिलाफ संसद के 52 सदस्यों ने उस समय के कार्यवाहक राष्ट्रपति से निवेदन किया कि वे उसपर हस्ताक्षर न करें और संसद द्वारा पारित बैंक राष्ट्रीयकरण बिल को स्वीकृति न दें। इस लिए 368 का संशोधन भी जो हमारे सामने प्रस्तावित है—इन दोनों का ही बहुत महत्व है और दोनों का ही मैं समर्थन करता हूँ। मैं उन बातों में नहीं जाना चाहता हूँ जिनका जिक्र हो चुका है लेकिन मैं इतना कहना चाहता हूँ कि जिन कुछ बातों का समर्थन श्री इन्द्रजीत गुप्ता, श्री गोपालन और कई दूसरे माननीय सदस्यों ने किया वह श्री मोहन कुमारमंगलम की ससभ में नहीं आई और उनको आश्चर्य हुआ कि आखिर कम्युनिस्ट पार्टियों की ओर से क्यों संशोधन आये। उनके इस आश्चर्य पर मुझे कम से कम आश्चर्य नहीं है। यह तो यात्रा उन्होंने कर ली है उसके बाद उनके लिए आश्चर्य होना स्वाभाविक है। मैं इस बात के

लिए खास कर जोर देना चाहता हूँ कि जो भारत की स्थिति है,—जो हमारे जनतंत्र की स्थिति है उसमें द्वंद्व है, टकराव है। हमारे संविधान के भीतर टकराव है, हमारे जनतंत्र के भीतर टकराव है। वह टकराव धन और जन के बीच है, पूंजीवाद और जनतंत्र के बीच है। दुनिया के हर पूंजीवादी जनतंत्र में यह टकराव निहित है। धन और जन का जहाँ टकराव होता है उसके इतिहास का जिक्र हो चुका है और मैं उसको दोहराना नहीं चाहता हूँ। तो हमारे यहाँ भी टकराव है। कुछ दल है, कुछ तत्व है, जब पूंजी और जन का टकराव होता है तो वे जन को छोड़ कर जनविरोधी हो जाते हैं, जन को छोड़ कर केवल पूंजी और धन के भक्त हो जाते हैं। इस सदन में जो हमारे जनसंघ के मित्र और एंथनी साहब बोले हैं उससे जन का मोल नहीं रह जाता है। दुर्भाग्य से जन का सुन्दर नाम लेकर भी जनसंघ पूरी तरह से दो वर्षों के बीच जनसंघ के रूप में बेनकाब होकर देश के सामने आ चुका है। श्री वाजपेयी जैसे मजे हुए वक्ता का भाषण गौर से सुनने के बाद मेरी यह प्रतिक्रिया हुई कि अगर मुझे भी बलरामपुर से ग्वालियर की यात्रा करनी पड़ती तो शायद मेरी भी वही हालत हो जाती। शायद मेरी भी तर्क-शैली गायब हो जाती। इस सदन में श्री मोहन कुमारमंगलम की ससभ में जो बात नहीं आई जो हम केवल आशंका से, इस संविधान संशोधन का पूरी तरह समर्थन करते हुए समझते हैं वह महत्वपूर्ण है। इसमें सर्वोच्च न्यायालय या किसी जज की शिकायत का सवाल नहीं है। यह संविधान जिस समय बना उस समय यह समझौते के आधार पर बना। अंग्रेजी सम्राज्यवाद से समझौता, देसी रजवाड़ों से समझौता और देश के पूंजीवादी तत्वों के साथ समझौता जो कि अय्यवार के जगिए और विभिन्न तरीकों से प्रभाव रखते थे। तो हमें इस जन और धन के बीच में उस टकराव से भी गुजरना पड़ रहा

है। यहां पर जो संशोधन है वह जनता के पक्ष में है, जनतंत्र के पक्ष में है और पूंजीवादी श्रमिकों को कुछ कमजोर करने के लिए हमें कुछ बल प्रदान करता है। अपने आप में यह कमजोर नहीं करता है। उस रास्ते को कुछ और ज्यादा प्रशस्त करता है। ऐसी स्थिति में जो माननीय मोहन कुमारमंगलम ने कहा, अभी का शासक दल पूंजीवादी जनतंत्र को लागू करने का प्रयास कर रहा है। वह पूंजीवाद को भी बढ़ाना चाहता है, यह पिछले चार महीनों का जो आचरण रहा है उस से स्पष्ट है। करोड़पतियों को जो लाइसेंस दिये गये, जो बजट पेश किया गया उस ऐतिहासिक मतदान के बाद, वह नंगे रूप में साफ हो गया कि अभी भी शासक दल पूंजीवाद का संरक्षक है और इस बारे में हम धोखे में नहीं हैं और न किसी को धोखे में रखना चाहते हैं। मगर साथ ही साथ जब भी पूंजी की चोट पड़ती है, हम विरोध करते हैं यह माननीय मोहन कुमारमंगलम की समझ में नहीं आता।

16 hrs

हम जानते हैं जनता के जनतांत्रिक अधिकार क्या हैं? अभी भी नजरबन्दी कानून किस के खिलाफ लागू होगा? बड़े बड़े व्यापारियों के खिलाफ नहीं, जमीन चुराने वालों के खिलाफ नहीं, काले बाजार का रूपया रखने वालों के खिलाफ नहीं। वहां माननीय चव्हाण को कलम कुंठित हो जाती है कि काले बाजार का रूपया रखने वाले नजरबन्द हो जायें। यह नहीं होता है क्योंकि यह पूंजीवादी सरकार है। इसीलिये हमारा उन से टकराव है, और इसीलिये आगे भी हमारी आशंकायें हैं। लेकिन साथ ही साथ जनतांत्रिक भी है, और इसीलिये जब जनतंत्र पर चोट पड़ती है, चाहे सुप्रीम कोर्ट से पड़े, या जनसंघ से पड़े, या माननीय पीलू मोदी की पार्टी से पड़े जब भी जनतंत्र पर चोट

पड़ती है तो हम जनतंत्र की रक्षा के लिये उठते हैं। यह बात दूसरे लोगों की समझ में नहीं आती। यह टकराव तब तक रहेगा जब तक पूंजी का जो दबदबा इंसान पर है, आदमी पर है वह खत्म नहीं हो जाता। तभी पूर्ण जनतंत्र स्थापित होगा। वह परिवर्तन कैसे हो? हम सभी चाहते हैं कि शान्ति से हो और इसीलिये आज का संशोधन इस माने में ऐतिहासिक है क्योंकि शान्तिपूर्वक आगे बढ़ने का यह रास्ता खोलता है। यह हम जानते हैं कि लड़ाई अभी आगे चलेगी, लेकिन इस से रास्ता आसान हो जाता है।

अल्पमत की सुरक्षा के बारे में आशंकायें हैं, यह 23 साल का इतिहास है। भाषा या मजहबी अल्पमत के साथ हम ने हमेशा न्याय नहीं किया है। उस में त्रुटियां हुई हैं, अभी भी हो रही हैं। इसलिये आशंकाओं की गुंजायश है। लेकिन आज माननीय ऐन्थोनी अन्तःकरण की आवाज नहीं बोले हैं, वह दोलत की आवाज बोले हैं। और खास कर जब जनसंघ इस का विरोध करता है तो मैं समझता हूं कि भारत के लोग समझेंगे कि यह संशोधन अच्छा है इसीलिए जनसंघ इसका विरोध करता है।

संशोधन के बाद देश के लोग इंतजार करेंगे कि इस हथियार को ले कर यह सरकार कहां बढ़ती है। जनतंत्र को आगे बढ़ाने के लिये और पूंजी के स्वतंत्र को कम करने के लिये आगे बढ़ती है या नहीं। अभी प्रिवी पर्सन का मामला है वहां पर जनता और देश इस सरकार को तौलेगा। लगातार इस सदन के भीतर और बाहर लगातार का दबदबा, लगातार का जन प्रतिरोध और बहर का आन्दोलन और भीतर का दबाव, मिल कर उस चावुक के जरिये ही पूंजीवादी जनतंत्र को जनता के हक में लाया जा सकता है। हमें गफलत में नहीं रहना है। इसी आशा के साथ वर्तमान संशोधन को एक

(श्री भोगेन्द भा)

ऐतिहासिक संशोधन समझ कर में इस का पूरा समर्थन कर रहा हूँ।

श्री मोहम्मद ताहिर (पूर्णाया): जनाब डिप्टी स्पीकर साहब, बातें तो बहुत कुछ हो गयी हैं, जब कि आप ने मुझे मौका दिया है मैं चाहता हूँ कि दो, चार बातें कह दूँ। और इसलिये कहना है कि यह कांस्टीट्यूशन का जो अमेंडमेंट होने जा रहा है यह हम को कांस्टीट्यूटेंट असेम्बली से मिला था खुशकिस्मती से कहिये या इत्फाक से, मैं भी उस का मेम्बर था, और मैं ने कांस्टीट्यूटेंट असेम्बली के थर्ड रिडिंग में यह कहा था कि हम कांस्टीट्यूशन आज मुकम्मल करने जा रहे हैं इस में जहाँ बहुत सी खूबियाँ हैं वहाँ कुछ खराबियाँ भी हैं, लेकिन एक वक्त आयेगा, कांग्रेस की मैजोरिटी होगी और इसमें तबदीली आयेगी। यह आप प्रोसीडिंग में देख सकते हैं। मैं देखता हूँ कि मेरी बात बजौर पेशीनगार्ड, ठीक निकल रही है मैं खुश हूँ कि वह वक्त आ गया और मिसज इंदिरा गांधी की कयादत में आया यह विल जिस के जरिये हम अमेंडमेंट करने जा रहे हैं। मैं जानता था कांस्टीट्यूशन में अमेंडमेंट का पावर है कान्स्टीट्यूटेंट असेम्बली इसलिये तो मैं ने कहा था कि आर्टिकल 368 में पावर आफ अमेंडमेंट हम को जरूर था लेकिन गोलक नाथ केस में जो सुप्रीम कोर्ट का जजमेंट हुआ उस की वजह से इस को और साफ करना जरूरी हो गया, और आज वह साफ किया जा रहा है। वरना कांस्टीट्यूशन ने पार्लियामेंट को यह पावर दी थी कि हम अमेंडमेंट कर सकते हैं।

हमारे बहुत से मेम्बरान ऐसे हैं जो सुप्रीम कोर्ट को इस कदर सुप्रीम समझते हैं मालूम होता है कि वह विरकुल खुदा है, अल्लाह है,

भगवान है या क्या है। अखिर वहाँ भी आदमी हैं और आदमी से गलती हो सकती है। आप जानते हैं कि जजेज से भी गलती होती है। हाई कोर्ट के जजेज से भी गलती होती है, और वही हाई कोर्ट के जजेज सुप्रीम कोर्ट में भी आते हैं। तो क्या उन से गलती नहीं हो सकती है? सुप्रीम कोर्ट को चलाने वाले भी इंसान ही हैं। उन से गलती हो सकती है। तो जब गलती होती है, अखिर कौन सी ताकत है जो उस को सही कर सकती है? वह ताकत अगर है तो पीपुल आफ इंडिया है। उस में ही वह ताकत है जो उनकी गलतियों को सही कर सकती है।

आप प्रिएम्बल को देखिये यह कहता है :

WE, THE PEOPLE OF INDIA, having solemnly resolved to constitute India into a SOVEREIGN DEMOCRATIC REPUBLIC and to secure to all its citizens.....

पीपुल आफ इंडिया ने कांस्टीट्यूशन बनाया। कांस्टीट्यूशन सुप्रीम हुआ लेकिन उस को ऐक्सरसाइज करने के लिये तो अखिर कुछ ताकत होनी चाहिये। वह कौन है? जाहिर है उस में अमेंडमेंट करने वाली यह पार्लियामेंट है। कांस्टीट्यूशन जरूर सुप्रीम है, लेकिन उस सुप्रीम को चलाने वाली यही पार्लियामेंट है। लहजा यह पार्लियामेंट सुप्रीम हुआ और इसी-लिये कांस्टीट्यूशन में तबदीली हो सकती है। इसलिये जो तबदीली हुई है वह बहुत सही हुई है, और मैं इस की तारीफ करता हूँ।

हमारे ला मिनिस्टर साहब ने माजिनल नोट जो इस में है, procedure for amendment of the Constitution, इस को अमेंड किया है। मेरे खयाल मैं इसको अमेंड करने की जरूरत नहीं है इसलिये कि यह पार्ट आफ दी आर्टिकल नहीं है। मेन आर्टिकल है 368। यह कनटेंट्स

आफ़ दी आर्टिकल दिया है वही इस में नोट किया गया है ताकि पता चल सके कि कहां क्या चीज है। इसलिय यह पार्ट आफ़ दी आर्टिकल नहीं है। इसको अमेंड करने की जरूरत नहीं थी। इस बारे में स्पीकर साहब या लोक सभा सेक्रेटरी की ड्यूटी होगी कि वह कन्टेंट को उस के बगल में रख दें। इस में अमेंडमेंट की जरूरत नहीं थी। अमेंडमेंट सिर्फ़ मेन आर्टिकल का ही होना चाहिये था।

कुछ साथियों ने कांस्टीट्यूट असेम्बली को बहुत क्रिटिसाइज़ किया। उन्होंने ने कहा यह इनडायरेक्ट इलेक्शन से हुआ था, यह कम्प्रो-माइज़ से हुआ था। लेकिन जिस कांस्टीट्यूट असेम्बली ने यह कांस्टीट्यूशन दिया है, जिस ने अग्रेजों से इस मुल्क का चार्ज दिलाया है उस को इस तरह से क्रिटिसाइज़ नहीं करना चाहिये। दुनिया ने माना है कि कांस्टीट्यूट असेम्बली ने कांस्टीट्यूशन बनाया, इसलिये उस को क्रिटिसाइज़ करना ठीक नहीं है।

बहुत से लोगों का यह खयाल है कि यह जो अमेंडमेंट होने जा रहा है इस से फंडामेंटल राइट्स में तबदीली का खतरा है। माइनारिटीज के बारे में अपोजीशन के लोगों ने कहा, ऐन्थनी साहब ने कहा कि मन्इनारिटीज के फर्ला सेक्शन को छोड़ दें तो हम मान लेंगे। इस अमेंडमेंट से फंडामेंटल राइट्स पर कहां असर पड़ता है। वे तो अपनी जगह पर हैं, उन में किसी किस्म का कोई चेंज नहीं किया जा रहा है। पार्लिमेंट को सिर्फ़ यह राइट दिया जा रहा है कि वह कांस्टीट्यूशन को अमेंड कर सकती है। इस पावर को देने का मतलब यह नहीं है कि फंडामेंटल राइट्स को आप चेंज कर दें। इसके अलावा अभी प्राइम मिनिस्टर का जो बयान हुआ है उससे साफ़ जाहिर होता है कि वह माइनोरिटी के राइट्स को टच नहीं करना चाहती हैं। जो

फंडामेंटल राइट्स दिये गए हैं वे हमेशा कायम रहेंगे। उनको चेंज करने का अख्तियार नहीं है। गवर्नमेंट उन से कमिटेड है। इसलिए मैं समझता हूं कि यह जो डर उनके दिल में है माइनोरिटीज के राइट्स पर इसका असर पड़ेगा यह बिल्कुल गलत है। माइनोरिटीज में अपने राइट्स को कायम रखने के लिये खुद ताकत है। अपने राइट्स को मनवाने की वे ताकत रखती हैं। जो इस मुल्क के राइट्स हैं या पार्लिमेंट के जो राइट्स हैं, क्या उनको देने में माइनोरिटीज का हाथ नहीं है? इस में माइनारिटीज का पूरा हाथ है जिस की वजह से आप यह चहल पहल और ताकत देख रहे हैं। माइनारिटीज की ताकत और राइट्स को हटाने का काम यह पार्लियामेंट नहीं कर रही है। माइनारिटीज खुद अपनी ताकत से चल रही हैं और वह खुद अपनी ताकत से अपने राइट्स को मनवाने की कोशिश करेंगी। इस में किसी की मोहताजी की जरूरत नहीं है।

इस लिये मैं कहता हूं कि यह जो अमेंडमेंट हो रहा है वह माकूल अमेंडमेंट हो रहा है। इस को असल में लाने की जरूरत ही नहीं थी लेकिन सुप्रीम कोर्ट के जजमेंट की वजह से साफ़ किया जा रहा है, वर्ना पावर कांस्टिट्यूट असेम्बली ने दी हुई है और यह पार्लियामेंट कांस्टिट्यूशन को अमेंड कर सकती है।

जो अमेंडमेंट हो रहा है उस की मैं ताइद करता हूं और मैं समझता हूं कि इस अमेंडमेंट के जरिये से ऐसा कुछ होने वाला नहीं जिस से माइनारिटीज के राइट्स पर असर पड़ता हो। इसी लिये मैं ने कहा कि माइनारिटीज खुद अपने हक को मनवा सकती है उन में पूरी ताकत है। वह मनवा सकती है और मनवायेंगी। हमारी गवर्नमेंट इस बात को मानती है कि माइनारिटीज में वह ताकत है और वह खुद उस के राइट्स को मानने के

(श्री मोहम्मद ताहिर)

लिये तैयार है। इस लिये हमें कोई खतरा नहीं है।

इन अल्फाज के साथ मैं इस की ताईद करता हूँ।

शुश्री محی طاهر (لورینیا) جناب ڈپٹی اسپیکر صاحبان تہ بہت کچھ بول گئیں۔ جبکہ آپ نے مجھے موقعہ دیا ہے۔ میں چاہتا ہوں کہ دو چار باتیں کہوں اور اس لئے کہتا ہے کہ یہ کانسی ٹیوشن کا جو امینڈمنٹ ہوئے جا رہا ہے یہ ہم کو کانسٹیٹیوٹ اسمبلی سے ملا تھا۔ خوش قسمتی سے کبھی یا اتفاق سے۔ میں بھی اس کا ممبر تھا اور میں نے کانسی ٹیوشن اسمبلی کے تقریریں کیا ہیں یہ کہا تھا کہ ہم کانسی ٹیوشن آج مکمل کر لے جا رہے ہیں۔ اس میں جہاں بہت سی خوبیاں ہیں وہاں کچھ خرابیاں بھی ہیں۔ لیکن ایک وقت آئے گا۔۔۔ کانسی کی میجورنی ہوگی اور اس میں تبدیلی آئیگی یہ آپ ریویڈنگ میں دیکھ سکتے ہیں۔ میں دیکھتا ہوں کہ میری بات بطور پیشگی نوٹ ٹھیک نکل رہی ہے۔ میں خوش ہوں کہ وہ وقت آ گیا ہے اور سز انڈراگانہم کی قیادت میں آیا۔ یہ بل جس کے ذریعہ سے ہم امینڈمنٹ کر لے جا رہے ہیں میں جانتا تھا کہ کانسی ٹیوشن میں امینڈمنٹ کا پاور ہے۔ کانسی ٹیوشن اسمبلی میں اس لئے تو نہیں لے گیا تھا کہ آرٹیکل ۶۸ میں پاور آف امینڈمنٹ ہم کو ضرور تھا لیکن کوک نا تھہ کہیں میں جو سپریم کورٹ کا جج مینٹ ہوا اس کی وجہ سے اس کو اور صاف طور پر ضروری ہو گیا۔ اور آج وہ منہا کیا جا رہا ہے۔ ورنہ کانسی ٹیوشن کے پارلیمنٹ کو یہ پاور دینی تھی کہ ہم امینڈمنٹ کر لیتے ہیں۔

ہمارے بہت سے ممبران ایسے ہیں جو سپریم کورٹ کو اس قدر سپریم سمجھتے ہیں معلوم ہوتا ہے کہ وہ بالکل خرابے۔ الٹے ہے۔ جھگڑا ہے یا کیا ہے۔ آخر وہاں بھی آدمی ہیں اور اگر آدمی سے غلطی ہو سکتی ہے۔ آپ جانتے ہیں کہ ججوں سے بھی غلطی ہوتی ہے۔ مگر ان کو رشکے ججوں سے بھی غلطی ہوتی ہے اور وہی ہائی کورٹ کے جج سپریم کورٹ میں بھی آتے ہیں تو کیا ان سے غلطی نہیں ہو سکتی ہے۔ سپریم کورٹ کو جھلائے دالے بھی انسان ہی ہیں ان سے غلطی ہو سکتی ہے۔ تو جب غلطی ہوتی ہے آخر کونسی طاقت ہے جو اس کو صحیح کر سکتی ہے۔ وہ طاقت اگر ہے تو بیویل آف انڈیا ہے اس میں ہی وہ طاقت ہے جو ان کی غلطیوں کو صحیح کر سکتی ہے۔ آپ ریویڈنگ کو دیکھتے رہتے رہتے ہیں۔ :-

“WE THE PEOPLE OF INDIA
HAVING solemnly resolved to constitute
India into a Sovereign Democratic Republic
and to secure to all its citizens.....”

بیویل آف انڈیا نے کانسی ٹیوشن بنا یا کانسی ٹیوشن سپریم ہوا۔ لیکن اس کو ایک سائیز کرنے کے لئے آخر کچھ طاقت ہونی چاہیے۔ وہ کون ہے۔ ظاہر ہے اس میں امینڈمنٹ کر کے تو ای بی پارلیمنٹ ہے۔ کانسی ٹیوشن ضرور سپریم ہے لیکن اس سپریم کو جھلائے دالے۔ پارلیمنٹ ہے۔ ای بی پارلیمنٹ سپریم ہوا۔ اور اس لئے کانسی ٹیوشن میں تبدیلی ہو سکتی ہے اس لئے جو تبدیلی ہوتی ہے وہ بہت صحیح ہوتی ہے اور میں اس کی تائید کرتا ہوں۔ ہمارے لائسنس صاحب نے مارشل لوٹ جو اس میں ہے اس کو بھی امینڈنگ ہے۔ میرے خیال

ہیں، اس کو امینڈ کرنے کی ضرورت نہیں ہے۔ اس لئے کہ یہ پارٹ آف دی آرٹیکل نہیں ہے۔ بین آرٹیکل ہے۔ ۳۶۸ - یہ کوئٹیشن آف دی آرٹیکل دیا ہوا ہے وہی اس میں لوٹ کیا گیا ہے تاکہ پنڈ چل سکے کہ کہاں کیا چیز ہے۔ اس لئے یہ پارٹ آف دی آرٹیکل نہیں ہے۔ اس کو امینڈ کرنے کی ضرورت نہیں تھی۔ اس بارے میں سپیکر صاحب یا لوک سمجھا سکیں یہی کی ڈیوٹی ہوگی کہ وہ کوئٹیشن کو اس کے بغل میں رکھیں۔ اس میں امینڈمنٹ کی ضرورت نہیں تھی۔ امینڈمنٹ صرف بین آرٹیکل کا ہی ہونا چاہیے تھا۔ کچھ سائیکھوں نے کانسی ٹیوٹ اسمبلی کو بھرت کر بیٹی سائیز کیا ہے۔ انھوں نے کہا کہ یہ ان کو بھرت ایکشن سے ہوا تھا۔ یہ کمپرومائیز سے ہوا تھا۔ لیکن جس کانسی ٹیوٹ اسمبلی نے یہ کانسی ٹیوٹ دیا ہے جس نے انگریزوں سے اس ملک کا چارج دلایا ہے اس کو اس طرح سے کر بیٹی سائیز نہیں کرنا چاہیے۔ دنیا نے مانا ہے کہ کانسی ٹیوٹ اسمبلی نے کانسی ٹیوٹیشن بنایا اس لئے اس کو کر بیٹی سائیز کرنا ٹھیک نہیں ہے۔

بہرہ نسبت لوگوں کا یہ خیال ہے کہ یہ جو امینڈمنٹ ہوئے جا رہے ہیں اس سے فنڈ امینٹل ٹریسٹ میں تبدیلی کا غلط ہے۔ مانوٹریز کے بارے میں ایوزیشن کے لوگوں نے کہا۔ انھوں نے صاحب نے کہا کہ مانوٹریز کے فلاں فلاں شیکشن کو چھوڑ دیں تو ہم مان لیں گے۔ اس امینڈمنٹ سے۔ فنڈ امینٹل ٹریسٹ پر کہاں اثر پڑتا ہے وہ تو اپنی جگہ پر ہے۔ ان میں کسی قسم کا کوئی پیسج نہیں کیا جا رہا ہے۔ پارلیمنٹ کو صرف یہ رائٹ دیا جا رہا ہے کہ وہ کانسی ٹیوٹیشن کو امینڈ کر سکتے ہیں۔

اس پارٹ کو دینے کا مطالبہ یہ نہیں ہے کہ فنڈ امینٹل ٹریسٹ کو آپ پیسج کر دیں۔ اس کے علاوہ ابھی پارٹمنٹ کا جو بیان ہوا ہے اس سے صاف ظاہر ہے کہ وہ مانوٹریز کے رائٹس کو پیسج کرنا نہیں چاہتی ہے جو فنڈ امینٹل ٹریسٹ دیتے ہوئے ہیں وہ ہمیشہ قائم رہیں گے ان کو پیسج کرنے کا۔ اختیار نہیں ہے۔ گورنمنٹ ان سے کہیں گے اس لئے میں سمجھتا ہوں کہ یہ جو ڈر دل میں ہے کہ مانوٹریز کے رائٹس پر اس کا اثر پڑے گا۔ بالکل غلط ہے۔ مانوٹریز میں اپنے رائٹس قائم رکھنے کے لئے خود طاقت ہے۔ اپنے رائٹس کو منوالے کی وہ طاقت رکھتی ہے جو اس ملک کے رائٹس ہیں یا پارلیمنٹ کے جو رائٹس ہیں کیا ان کے دیتے ہیں مانوٹریز کا کتا نہیں ہے۔ اس میں مانوٹریز کا پورا ہا تھا ہے جس کی وجہ سے آپ یہ چیلن اہل اور طاقت بیکھ رہے ہیں۔ مانوٹریز کی طاقت اور رائٹس کو ہٹانے کا کام یہ پارلیمنٹ نہیں کر رہی ہے۔ مانوٹریز خود اپنی طاقت سے چل رہی ہے۔ وہ خود اپنی طاقت سے اپنے رائٹس کو منوالے کی کوشش کریں گی۔ اس میں کسی کی محتاجی کی ضرورت نہیں ہے۔ اسلئے میں کہنا چاہتا ہوں کہ یہ جو امینڈمنٹ امینڈ ہو رہا ہے وہ معقول امینڈمنٹ ہو رہا ہے اس کو اصل میں لانے کی ضرورت ہی نہیں تھی۔ لیکن سپریم کورٹ کے جج مینٹ کی وجہ سے صاف کیا جا رہا ہے۔ ورنہ پارلیمنٹ کانسی ٹیوٹیشن کو امینڈ کر سکتی ہے۔

جو امینڈمنٹ ہو رہا ہے اس کو میں ناہید

کرتا ہوں اور سمجھتا ہوں کہ اس امینڈمنٹ کے ذریعے سے ایسا کچھ ہونے والا نہیں ہے جس سے مانور فیز کے رائٹس پر اثر پڑتا ہو۔ اس لئے میں نے کہا کہ مانور فیز خود اپنے حق کو منداستہ ہے ان میں پوری طاقت ہے وہ منداستہ ہے اور منداستہ ہوگی۔ ہماری گورنمنٹ اس بات کو ماننتی ہے کہ مانور فیز میں وہ طاقت ہے اور وہ خود اس کے رائٹس کو ماننے کے لئے تیار ہے اس لئے ہمیں کوئی خطرہ نہیں ہے۔ ان الفاظ کے ساتھ میں اس کی تائید کرتا ہوں۔

THE MINISTER OF LAW AND JUSTICE (SHRI H. R. GOKHALE): Mr. Deputy-Speaker, Sir I have heard with very careful attention the debate on this momentous Bill which started yesterday morning and I am grateful to hon. Members on both sides for having participated in this debate so effectively.

I must confess that much of the ground which I would have otherwise covered in my reply has already been covered by my colleagues who have spoken before me and some of the points which I would have sought to reply to have already been dealt with by them.

The political plane, the high philosophical approach and the fundamental aspect of the whole matter has already been just dealt with by the Prime Minister on a very elevated plane. I would, therefore, regard it as only proper that I should confine myself to only some of the specific points which have been raised in the debate pertaining either to alterations sought in the proposed Bill or to some independent suggestions which are made by way of an amendment to this motion for consideration.

It is again very gratifying, though not surprising, that the Bill has received very overwhelming support in this House, both from persons on this side and from the Opposition. The only two, if I can single them out, who have had reservations and have opposed the Bill are the spokesmen of

the Swatantra Party and Shri Frank Anthony and, if I may add, even Shri Atal Bihari Vajpayee. An attempt has been made to divert the attention of the people to side-issues in order that the main issue which is the subject matter of this Bill does not receive concentrated attention.

The basic question is as I said in my opening speech, "Should the Parliament have the power?" The Parliament is supreme because the people are represented in this Parliament on the widest ever possible franchise in the world. If the people are sovereign and they have elected their Parliament on an adult franchise, this Parliament is supreme and the basic question is: Should this Parliament take measures to reassert its supremacy in the matter of even an amendment of the Constitution, including the Fundamental Rights.

To divert the attention of the people from the basic question, some amendments to the motion have been tabled. I would in particular refer to the suggestion made by my hon. friend, Mr. Vajpayee. Two contradictory positions have been taken by him. In one amendment, he has suggested that it should be referred to the Supreme Court under article 143 and, in the same breath, he has suggested that it should be referred to the people by way of a referendum. Simultaneously, he has taken two contradictory approaches. I have never been able to understand this. I can understand the predicament in which my hon. friend is. I sympathise with him. As my hon. colleague said a little earlier, the horns of dilemma on which Mr. Vajpayee is..... (Interruption) I have decided not to reply to Mr. Pilo Mody's interruption. The best way to show respect to him is to ignore him. I cannot help it if he interrupts. I do not think he has said anything to which a serious reply is called for.

Let me at the moment concentrate on what Mr. Vajpayee seeks to do with reference to this Bill. There are two amendments by him. Let us come to the first one. He wants a reference to the Supreme Court and my hon. friend, Mr. Frank Anthony, also wants a reference to the Supreme Court under article 143 of the Constitution. I wish Mr. Vajpayee and

more particularly My. Anthony had done some home work before making the suggestion of reference to the Supreme Court under article 143. It is not for the first time that this article has been used for making a reference to the Supreme Court for their advice. If he had only turned a few pages of the Supreme Court Reports, Mr. Anthony would not have failed to realise what predicament we will be in if a reference had been made to Supreme Court. He knows and almost everyone who knows article 143 knows that if a reference is made to the Supreme Court, the Supreme Court is not bound to give an opinion. And if it gives an opinion, even then, it is not bound in any subsequent case which goes before it to abide by that opinion. I hope, Mr. Anthony will not contradict me on this.

Now, if you go to the Supreme Court the Supreme Court will say, "You have come to us for opinion. But we do not think this is a case in which we shall give our opinion." Supposing on account of the advocacy such as that of Mr. Anthony, we are able to persuade the Supreme Court to give an opinion, the Supreme Court, will give an opinion but, when a case goes before the Supreme Court, they will say, "That opinion was an advisory opinion. It is not binding on us". What a futile exercise my friends Mr. Vajpayee and Mr. Anthony want us to undertake by suggesting that we should make a reference under article 143 of the Constitution.

One thing more. What they want is a reference to the Supreme Court. What shall we ask the Supreme Court? Shall we ask "Shall we go by what you have decided in Golak Nath case or will you speak with a different voice now". The Supreme Court will say, "If you have any commonsense, you refer to the Supreme Court Reports, pp. so and so, Golak Nath *Vs.* Punjab State case in which we have already given our opinion. You look to it." You look to it. I am constrained to say that the only purpose in suggesting that a reference to the Supreme Court should be made here obviously is to run away from the main fact which we have to face in this Bill, the main fact being that otherwise you have to take up a clear and positive position and

say whether you support the Bill or you do not support the Bill. They do not wish to say this and they want to run away from this Bill and want to reference to the Supreme Court.

If not Mr. Vajayee, at least Mr. Anthony is sware of the limitations which are involved in making a reference to the Supreme Court under Art 143 of the Constitution. It is very interesting to know that in a later case, the Chief Justice of the Supreme Court said, 'We have read and re-read the opinion given in an earlier advisory opinion but we have not been able to make head or tail of what the Supreme Court has said. Sir, have we got the time to wait? As I said, Sir, we are racing against time. The people of this country are determinedly and heresely crying for a change and change very rapidly.

SHRI PILOO MODY : How would you know ?

SHRI H. R. GOKHALE : My friend, Mr. Piloo Mody, has rightly asked the question because he has no contact with the people. He would not know. My friend, Mr. Piloo Mody would never. Obviously, he would not know what other people can know. The way in which he referred to the argument about the mandate of the people, I am, Sir, constrained to say, raises a disgust in your mind at the distrust which he exhibited in the maturity of the people of India. The people of India may be uneducated. The people of India may be poor. They may be backward. But if anything has been demonstrated in the last several elections in this country, it is this that the people of India have discretion, great maturity, great understanding and exercised their right of vote in every successive elections. (*Interruptions*) But, as I said I should have ignored him and I unnecessarily went into this. I should have really stuck to my resolution of ignoring because.....

SHRI PILOO MODY : It is just like his other Resolution.

MR. DEPUTY SPEAKER : He is too big to be ignored.

SHRI H. R. GOKHALE : The contempt with which he holds the people of India—

[Shri H. R. Gokhale]

what I should say, 'Your voters are not the people of India.....'.

SHRI PILOO MODY : These people here.

SHRI H. R. GOKHALE : So, these voters are different from the people of India. That is what he says.

Sir, I need not go into an argument with my friend, Mr. Piloo Mody because there is nothing to argue.

The substance of the matter is this that this suggestion coming both from my friend, Mr. Frank Anthony and my hon. friend, Mr. Vajpayee, that the matter be referred under Art 143 to the Supreme Court is only an eye-wash, is used as a cloak to hide their real feeling which is a feeling of opposition to this Bill. They know that if they support the Bill, those who support them politically, the vested interests, will desert them. They know that if they oppose the Bill, the people, if they have any behind them at all, will desert them. This is the dilemma in which both of them find themselves and I cannot understand any other reason for the suggestion that the matter be referred to the Supreme Court under Art 143 of the Constitution.

The other suggestion is : why not a referendum ? Sir, in his speech, Mr. Atal Bibari Vajpayee, with all respect to him, made a very astounding statement. First of all, a wrong statement was attributed to me. I never said that the people are not sovereign. In fact, I began by saying that the people of this country are sovereign and this Parliament, as fully representative of the people of this country, must be supreme. That is what I have stated. Mr. Vajpayee contests the proposition that this Parliament is sovereign but that the people are sovereign. I agree that the people are sovereign. He contests the proposition that this Parliament is supreme. He contests this proposition because he makes a suggestion that we should now go to the people again on specific amendments to ask for their opinion by way of a referendum. I hope he is not suggesting to me that I should go to the Supreme Court under Art 143 to ask them

whether a referendum is permissible under the present Constitution. It would have been better if he had said, 'First go to the Supreme Court, ask them to tell you whether you have got the right to make a referendum to the people' and when the Supreme Court advises you, then make a referendum to the people. Neither Mr. Frank Anthony nor Mr Vajpayee have been able to point out a single provision in the Constitution under which such a referendum can be taken. The idea of referendum has been brought in and this shows that they want to run away from the main thing, to show to the people, that they want to go to the people, but as I said, Sir, the people of this country are all mature enough to understand this trickery. When such a momentous decision is to be made by Parliament, who are the people who are opposing the decision, and who are the people who are supporting it ? In the case of Referendum, has he considered the practical aspects of the matter, whether it is feasible at all ? In the last Election, over 350 million people voted in this country, the largest ever electorate on adult franchise to take part in a democratic process—I am proud to say—all over the world, in a free and fair election. In a Referendum, we have to invite 350 million people and more to take part on a single issue. Is it feasible ? What will happen to Mr. Vajpayee's Bill which he brings in as a Private Member ? Every day, every week, there are umpteen Private Members' Bills which are coming up, recommending amendment to the Constitution, which are being discussed on the floor of this House and the other House. If this argument is accepted that whenever a Member brings forward a Bill (seeking to amend the Constitution), a Referendum should be held, how many such Referendums can we have in the course of one year ?

16 25 hrs.

[MR. SPEAKER *in the Chair*]

The main idea underlying the whole thing is this. Neither the makers of such suggestion are serious about it, nor is there any substance in their argument. They are not at all serious about it. They say it just to divert the attention of the people from the main idea underlying the Bill. I don't think I should take any more time to deal with this matter which does not deserve any more attention.

With regard to the basic rights, I fully endorse the appeal which my colleague, Mr. Mohan Kumaramangalam made this morning, to some Members of the Opposition, —particularly with regard to the amendments which have been proposed excluding the applicability of the power of Parliament to amend certain rights like the right of free speech, the right of free association, the right of forming union and so on and so forth. I am sure when this amendment goes through, this power vested in them will be exercised by the Government to curb monopoly which exists in many directions and in many fields in our country. Is my hon. friend not aware of the decision in the Searchlight newspaper case? Are hon. Members not aware of the decision in the Express Newspapers case? In the Express Newspapers case, it was not right to property that was invoked by the monopolists and the vested interests who control the Press in India. What was invoked was Art. 19-A, relating to the right of Free Speech. Are they not aware of the decision of the Supreme Court about the Price Page Schedule as being *ultra vires*? It is not because it affected the right of 'property' but because it affected the right of 'free speech'.

If you look at the history of the Supreme Court ever since inception and examine the cases in which Fundamental Rights have been invoked, you will find this, that in 99 cases out of 100, it is the vested interests who have invoked the Fundamental Rights for the protection of their special privileges and their vested interests. So, the arguments of my hon. friends will fall.

We should have the liberty and the elasticity to amend the Constitution so that we may ensure the right of the common man, the poor man, who has no house, no property, etc. who has no opportunity to go to the Supreme Court. He has no property at all. In 99 per cent of the cases, where Fundamental Rights to property was invoked, they were all cases in which big landlords and big lords of industry and business who were involved. This is a matter of common knowledge. For whose advocacy or for whose support has it been said that we should not do it? I understand their anxiety. The anxiety is that the Government should not interfere with the right of free speech, the right of association, the right of forming unions and so on and so forth. I am entirely in agreement with our

friends who have that anxiety. We have the same anxiety as, if not more than, what our friends have. But is it not realised that when we are dealing with a much larger topic of restoring to Parliament the sovereignty or supremacy which always belonged to it, we should not hedge in that sovereignty or Supremacy of Parliament by a curtailment of that power here or there only because of a possible apprehension that at some time or the other some party will come into power? I have no such apprehensions at all; looking at the way they have fared in the elections and the way in which they are divorced from the interests of the people, I have no such apprehensions at all. I have confidence in the programme which has been enunciated by my party, and I have no fear that in the near future any interest which stands represented by these advocates will come to power in this country, and if they come to power, it would be not because those rights are not there in the fundamental rights but they would come to power only because we have failed to implement the promises which we have given to the people; and if we have to see that Parliament again is of people who represent the interests of the people, it is for us to see that we have got the means, we have got the wherewithal and we have got the power to do this.

I would join my hon. friend Shri S. Mohan Kumaramangalam in appealing to my friends to give a second thought to this and to withdraw these amendments.

Much has been said about confrontation with the Supreme Court. I do not and cannot add to what the Prime Minister has just said about this. Nobody likes confrontation, and I do not see why there should be confrontations at all. As has been said, everyone of the three wings, namely the legislature, the judiciary and the executive, has definite functions assigned to it under the Constitution. But, surely, I am entitled to say that the judiciary will do its function, but I must also be able to do mine. I have as a legislator the power to consider as a Member of Parliament to what extent a law which becomes an obstacle in the way of the progress of the people should be amended by me so that the difficulties which the Supreme Court has pointed out can be overcome.

Look at the traditions in the last several years. Our party and the Government

[Sri H. R. Gokhele]

headed by our Prime Minister have always respected every decision of the Supreme Court. Take the princes' case. We challenged their right, and we contested their right in the Supreme Court. The Supreme Court went much farther than was ever expected and said that their right was a Constitutional right. We have accepted it as long as the judgment stands, and we have paid the privy purses and even the arrears, because we believe in the rule of law. Does this show that we believe in the rule of law or my hon. friends opposite believe in the rule of law? We have believed in the rule of law and carried out the judgment of the Supreme Court. To the extent that it was the function of the Supreme Court to perform their function, they have done it. To the extent to which it is our function and it is our duty to give effect to the will of the people, we cannot hesitate to do so because the Supreme Court takes one view of the matter in a particular case where certain circumstances exist. The idea which I would like you to consider is that there is no confrontation. I am quite sure that the Supreme Court also will look at it in that way. When we are doing our duty, nobody can object to our performance of our duty and validating a position which was declared to be invalid by the Supreme Court on account of certain lacunae which the Supreme Court said existed in the Constitution.

It was said this morning by my hon. friend Shri Shyamnandan Mishra that—and I must confess, as my hon. friend Shri S. Mohan Kumaramangalam felt, up to the end, I was not able to find out whether our friend was saying 'Yes' or 'No'; ultimately, he did say 'Yes'; thank God, he said 'Yes'; but he said that—this amendment which had been brought forward was self-defeating. The argument that he has adduced is.....

SHRI SHYAMNANDAN MISHRA : Let him please not misinterpret me. I am sticking to the position that amendment of article 368 is not necessary. If the Law Minister was so absent-minded, I do not think that what he says about my stand is correct.....

SHRI H. R. GOKHALE : I have understood the position very carefully, and I was about to mention to the House what my hon. friend Shri Shyamnandan Mishra said. I was very 'present-minded' when he was speaking, because I wanted to find out whether the answer was 'Yes' or 'No'. But what he said was.....

SHRI SHYAMNANDAN MISHRA : Here also, he seems to be extraordinarily dense.

SHRI H. R. GOKHALE : ...you need not amend article 368, if you amended article 368, what you will really be doing is that you will be conceding the position taken by the Supreme Court that you have no power under article 368.

Am I right in understanding him.

SHRI SHYAMNANDAN MISHRA : Yes.

SHRI H. R. GOKHALE : The second thing he said was that article 13 should be amended and if it is amended, it is not necessary to touch art. 368.

SHRI SHYAMNANDAN MISHRA : Right.

SHRI H. R. GOKHALE : He said the Bill is self-defeating because it will mean a concession on the part of Parliament that art. 368 needs amendment and as it is, does not contain the power to amend.

SHRI SHYAMNANDAN MISHRA : Yes.

SHRI H. R. GOKHALE : I am not able to see the logic of this argument at all—I say this with respect to him. First of all, how many occasions have gone by in the history of the Supreme Court when the Court pointed out that there is a certain lacuna and that lacuna was cured by this Parliament by relevant and appropriate amendment of the statute. We accept the Supreme Court judgment as right till it exists and when the law is amended, the Supreme Court judgment is effaced; it no longer exists because the difficulties and the lacunae which were pointed out by the Court have been removed.

SHRI SHYAMNANDAN MISHRA : No—unless the Supreme Court revises its decision.

SHRI H. R. GOKHALE : When it goes to the Court, it is now possible—I would say even probable—that they will take a second look at their own view in the Golak Nath case, not because we are asking them to reconsider their earlier decision, but because we are saying to them: 'Here is the situation which is a new situation which has come before you. Parliament exercised a constituent power which you said it did not possess in the Golak Nath case. We have amended art. 13 and excluded its operation in respect of any law which was done in exercise of a constituent power'. No Supreme Court, no judgment of the Supreme Court, will be in a position to say that a new situation has not arisen and does not require reconsideration at the hands of the Supreme Court.

Arguments about the possibility of abuse of power have been advanced in this House. Everyone who goes to the court knows that even the court will reject that argument. Courts have repeatedly said that possible abuse of power is never a good argument if power is otherwise necessary and should be transferred where it is necessary for the benefit of the people.

It was suggested by my friend, Shri Vajpayee: What if one fine morning this House abandons the Republic of India? What if this House says one fine morning that there will be a theocratic state? I retort: What if one fine morning the Supreme Court says 'We will not decide any case?' Where will you take the writ then? What if the Court says: 'In this case, we are not going to apply the law as it exists. We are going to apply our own law? What will you do about it?'

When the provisions were made in the Constitution, they were made on the basis that there will not be an absurd use of those powers, that all functionaries of the Constitution will be function within their limits and in a reasonable way. Nobody ever said that the Supreme Court will run amuck, and say 'We will not decide any case'. So nobody can say that this Parliament which has its base among millions of people in this country will one day run amuck and

say, 'We will sacrifice what we have earned after years of sacrifice in the freedom movement and give up the Republic and have a theocratic state'. That possibility may be there if one day Shri Vajpayee comes to power, but not now—I am confident about it.

In short, the submission I am making to this House for consideration is that there should be no delay in passing this measure which is very vital for the progress of this country.

As I said yesterday, we are now at the crossroads. The people are urgently demanding rapid changes and when changes are being made, if, as Shri Indrajit Gupta said, there is a roadblock, the only way out is to remove the roadblock. It is to remove the roadblock that this amendment has been brought before you.

This amendment by itself does not bring about a change. It is meant only to enable us to carry out further amendments by this House. I must congratulate Shri Pilloo Mody for being frank and honest because he admitted that he had no faith in himself. He may not have faith in himself but we have faith in ourselves, we have faith in the people of this country.

SHRI PILLOO MODY : I said 'I have no faith in you'.

SHRI H. R. GOKHALE : Finally I have only to say that this will always be used to good purpose.

MR. SPEAKER : We will dispose of these amendments first. Will you please go to your respective seats?

The amendment to the consideration motion may be passed or rejected by a simple majority, but the main consideration motion will have to be decided by a two-thirds majority. So, I will put the first one, the motion of Shri Vajpayee to the vote. Are you withdrawing it?

SHRI ATAL BIHARI VAJPAYEE: No.

MR. SPEAKER : The question is :

"That the Bill be referred to the Supreme Court for the purpose of eliciting its opinion thereon under article 143(1) of the Constitution." (1)

The Lok Sabha divided:

Division No. 17]

[16.5 hrs.]

AYES

Anthony, Shri Frank
 Bade, Shri R. V.
 Banera, Shri Hamendra Singh
 Berwa, Shri Onkar Lal
 Chaudhry, Shri Ishwar
 Chauhan, Shri Bharat Singh
 *Das, Shri A. C.
 Deo, Shri P. K.
 Deo, Shri R. R. Singh
 Jeylakshmi, Shrimati
 Joshi, Shri Jagannathrao
 Kachwai, Shri Hukam Chand
 Maha Deepak Singh, Shri
 Malik, Shri Mukhtiar Singh
 Mody, Shri Piloo
 Narendra Sinh, Shri
 Nayak, Shri Boksi
 Nayar, Shrimati Shakuntla
 Patel, Shri H. M.
 Pradhan, Shri Dhan Shah
 Purty, Shri M. S.
 Sayajirao, Shri
 Sharma, Shri R. R.
 Vajpayee, Shri Atal Bihari
 Yadav, Shri G. P.

NOES

Achal Singh, Shri
 Afzalpurkar, Shri Dharamrao
 Aga, Shri Ahmed
 Agrawal, Shri Shrikrishna
 Ahirwar, Shri Nathu Ram
 Ahmed Shri F. A.
 Alagesan, Shri
 Ambsh Shri
 Ankineedu, Shri
 Ansari, Shri Ziaur Rahman
 Appalanaidu, Shri
 Arvind Netam, Shri
 Asgar Hussain, Shri
 Austin, Dr. Henry
 Awdhesh Chandra Singh, Shri
 Azad, Shri Bhagwat Jha
 Aziz Imam, Shri
 Babunath Singh, Shri
 Bahuguna, Shri H. N.
 Bajpai, Shri Vidya Dhar
 Balakrishnaiah, Shri T.
 Balathandayutham, Shri
 Banamali Babu, Shri
 Barman, Shri R. N.
 Banerjee, Shrimati Mukul
 Banerjee, Shri S. M.

Barua, Shri Bedabrata
 Barupal, Shri P. L.
 Basappa, Shri K.
 Basumatari, Shri D.
 Besra, Shri S. C.
 Bhagat, Shri B. R.
 Bhagirath Bhanwar, Shri
 Bhandare, Shri R. D.
 Bhargava, Shri B. N.
 Bhattacharyya, Shri Chapal
 Bhattacharyya, Shri Dinen
 Bhattacharyya, Shri Jagadish
 Bhattacharyya, Shri S. P.
 Bhaura, Shri B. S.
 Bhuvarahan Shri
 Bisht, Shri N. S.
 Bosu, Shri Jyotirmoy
 Brahman, Shri Rattanlal
 Brahmanandji, Shri Swami
 Bura Singh, Shri
 Chandrakar, Shri Chandulal
 Chandrappan Shri C. K.
 Chandre Gowda, Shri
 Chandrika Prasad, Shri
 Chatterjee Shri Somnath
 Chaturvedi, Shri R. L.
 Chaudhary, Shri Nitiraj Singh
 Chaudhuri, Shri Tridib
 Chaudhury, Shri Amarsinh
 Chavan, Shri D. R.
 Chavan, Shri Yeshwantrao
 Chellachami, Shri
 Chhotey Lal, Shri
 Choudhury, Shri Moinul Haque
 Chutten Lal, Shri
 Daga, Shri M. C.
 Dalbir Singh, Shri
 Damani, Shri S. R.
 Dalip Singh, Shri
 Darbara Singh, Shri
 Das, Shri Dharnidhar
 Das, Shri R. P.
 Dasappa, Shri Tulsidas
 Daschowdhury, Shri B. K.
 Deb, Shri Dasaratha
 Deo, Shri S. N. Singh
 Deshmukh, Shri K. G.
 Deshmukh, Shri Shivaji Rao S.
 Dhamankar, Shri
 Dharia, Shri Mohan
 Dharamgaj Singh, Shri
 Dinesh Singh, Shri
 Dixit, Shri G. C.
 Doda, Shri Hiralal
 Dumada, Shri L. K.
 Durairasu, Shri

* Wrongly voted for Ayes.

- Dutta, Shri Biren
 Dwivedi, Shri Nageshwar
 Gandhi, Shrimati Indira
 Ganga Devi, Shrimati
 Gangadeb, Shri P.
 Garcha, Shri Devinder Singh
 Gautam, Shri C. D.
 Gavit, Shri T. H.
 George, Shri A. C.
 Ghosh, Shrimati Bibha
 Ghosh, Shri P. K.
 Gill, Shri Mohinder Singh
 Godara, Shri Mani Ram
 Gogoi, Shri Tarun
 Gohain, Shri C. C.
 Gokhale, Shri H. R.
 Gotkhinde, Shri
 Gopal, Shri K.
 Gopalan, Shri A. K.
 Goswami, Shri Dinesh Chand
 Govind Das, Dr.
 Gowder, Shri J. M.
 Guha, Shri Samar
 Gupta, Shri Indrajit
 Haldar, Shri Madhuryya
 Halder, Shri Krishna
 Hansda, Shri Subodh
 Hanumaonthaiya, Shri
 Hari Kishore Singh, Shri
 Hari Singh, Shri
 Hazra, Shri Manoranjan
 Horo, Shri N. E.
 Ishaque, Shri A. K. M.
 Jadeja, Shri
 Jaffer Shariff, C. K.
 Jagjivan Ram, Shri
 Jamilurrahman, Shri Md.
 Janardhanan, Shri C.
 Jha, Shri Bhogendra
 Jha, Shri Chiranjib
 Jitendra Prasad, Shri
 Joarder, Shri Dinesh
 Joseph, Shri M. M.
 Joshi, Shri Popatlal
 Joshi, Shrimati Subhadra
 Kadam, Shri Dattajirao
 Kadam, Shri J. G.
 Kadannappalli, Shri Ramachandran
 Kadar, Shri
 Kailas, Dr.
 Kakodkar, Shri Purushottam
 Kakoti, Shri Robin
 Kale, Shri
 Kalyanasundaram, Shri
 Kamakshaiha, Shri
 Kamala Prasad, Shri
 Kamble, Shri T. D.
 Kamla Kumari, Kumari
 Kapur, Shri Sat Pal
 Karan Singh, Dr.
 Kasture, Shri A. S.
 Kathamuthu, Shri M.
 Kaul, Shrimati Sheila
 Kavde, Shri B. R.
 Kedar Nath Singh, Shri
 Khadilkar, Shri R. K.
 Kinder Lal, Shri
 Kisku, Shri A. K.
 Kotoki, Shri Liladhar
 Kotrashatti, Shri A. K.
 Krishna, Shri. S. M.
 Krishnan, Shri M. K.
 Krishnappa Shri M. V.
 Kulkarni, Shri Raja
 Kumaramangalam, Shri Mohan
 Kureel, Shri B. N.
 Kushok Bakula, Shri
 Lakkappa, Shri K.
 Lakshmikanthamma, Shrimati
 Lakshminarayanan, Shri
 Lutfal Haque, Shri
 Madhukar, Shri K. M.
 Mahajan, Shri Vikram Chand
 Mahajan, Shri Y. S.
 Maharaj Singh, Shri
 Mahata, Shri D. N.
 Mahishi, Dr. Sarojini
 Majhi, Shri Gajadhar
 Majhi, Shri Kumar
 Malaviya, Shri K. D.
 Ma'lanna, Shri K.
 Mallikarjun, Shri
 Mandal, Shri J. N.
 Manoharan, Shri K.
 Maran, Shri Murasoli
 Marandi, Shri Ishwar
 Maurya, Shri B. P.
 Mehta, Dr. Mahipatray
 Melko'e, Dr.
 Menon, Shri Krishna
 Minimata Agamdas, Shrimati
 Mishra, Shri Bibhuti
 Mishra, Shri G. S.
 Mishra, Shri Jagannath
 Misra, Shri S. N.
 Modi, Shri Shrikishan
 Mohammad Ismail, Shri
 Mohammad Tahir, Shri
 Mohammad Yusuf, Shri
 Mohan Swarup, Shri
 Mohanty, Shri Surendra
 Mohapatra, Shri S. S.
 Mohsin, Shri
 Muhammad Ismail, Shri M.
 Muhammed Sheriff, Shri

Mukerjee, Shri H. N.
 Mukherjee, Shri Saroj
 Muni, Shri Priya Ranjan Das
 Murthy, Shri B. S.
 Murugananatham, Shri
 Nahata, Shri Amrit
 Naik, Shri B. V.
 Nair, Shri Sreekantan
 Nanda, Shri
 Nimbalkar, Shri
 Oraon, Shri Kartik
 Oraon, Shri Tuna
 Oza, Shri Ghanshyam
 Pahadia, Shri Jagannath
 Palodkar, Shri
 Panda, Shri D. K.
 Pandey, Shri Damodar
 Pandey, Shri K. C.
 Pandey, Shri N. N.
 Pandey, Shri R. S.
 Pandey, Shri Sarjoo
 Pandey, Shri Sudhakar
 Pandey, Shri Tarkeshwar
 Panigrahi, Shri Chintamani
 Pant, Shri K. C.
 Paokai Haokip, Shri
 Parashar, Prof. Narain Chand
 Parikh, Shri Rasik Lal
 Partap Singh, Shri
 Parthasarathy, Shri
 Paswan, Shri Ram Bhagat
 Patel, Shri Prabhudas
 Patil, Shri Anantrao
 Patil, Shri C. A.
 Patil, Shri E. V. Vikhe
 Patil, Shri Krishnarao
 Patil, Shri S. B.
 Patil, Shri T. A.
 Patnaik, Shri Banamali
 Patnaik, Shri J. B.
 Pillai, Shri R. Balakrishna
 Pradhani, Shri K.
 Qureshi, Shri Mohd. Shafi
 Radhakrishnan, Shri S.
 Raghu Ramaiah, Shri
 Raj Bahadur, Shri
 Rajdeo Singh, Shri
 Raju, Shri M. T.
 Ram Dhan, Shri
 Ram Sewak, Ch.
 Ram Surat Prasad, Shri
 Ram Swarup, Shri
 Ram, Shri T.
 Ramji Ram, Shri
 Ramshekhar Prasad Singh, Shri
 Rana, Shri M. B.
 Rao, Shrimati B. Radhabai A.

Rao, Shri Jaganath
 Rao, K. L.
 Rao, Shri K. Narayana
 Rao, Shri Nageswara
 Rao, Shri M. Satyanarayan
 Rao, Shri P. A. P.
 Rao, Shri Pattabhi Rama
 Rao, Shri Rajagopala
 Rao, Shri Sanjeevi
 Rao, Dr. V. K. R. Varadaraja
 Rathia, Shri Umed Singh
 Raut, Shri Bholu
 Ravi, Shri Vayalar
 Ray, Shri Siddhartha Shankar
 Reddy, Shri B. N.
 Reddy, Shri Eswara
 Reddy, Shri Ganga
 Reddy, Shri K. Ramakrishna
 Reddy, Shri K.K. Rami
 Reddy, Shri M. Ram Gopal
 Reddy, Shri P. Narasimha
 Reddy, Shri P. Venkata
 Richhariya, Dr. Govind Das
 Rohatgi, Shrimati Sushila
 Roy, Shri Bishwanath
 Roy, Dr. Saradish
 Rudra Pratap Singh, Shri
 Sadhu Ram, Shri
 Saha, Shri A. K.
 Saha, Shri Gadadhar
 Saini, Shri Mulki Raj
 Sait, Shri Ebrahim Sulaiman
 Saksena, Prof. S. L.
 Salve, Shri N. K. P.
 Samanta, Shri S. C.
 Sambhali, Shri Ishaq
 Saminathan Shri
 Sanghi, Shri N. K.
 Sankata Prasad, Dr.
 Sant Bux Singh, Shri
 Sarkar, Shri S. K.
 Satish Chandra, Shri
 Satpathy, Shri Devendra
 Savant, Shri Shankarrao
 Savitri Shyam, Shrimati
 Sayeed, Shri P. M.
 Sen, Shri Robin
 Sethi, Shri Arjun
 Sethi, Shri P. C.
 Sezhiyan, Shri
 Shafi, Shri A.
 Shafquat Jung, Shri
 Shahnawaz Khan, Shri
 Shailani, Shri C.P.
 Shambhu Nath, Shri
 Shamim, Shri S. A.
 Shankar Dev, Shri

Shankar Dayal Singh, Shiv
 Shankaranand, Shri B.
 Shankergiri, Shri V.
 Sharma, Shri A. P.
 Sharma, Dr. H. P.
 Sharma, Shri Madhoram
 Sharma, Shri N. K.
 Sharma, Shri R. N.
 Sharma, Shri S. D.
 Shashji Bhushan, Shri
 Shastri, Shri Biswanarayan
 Shastri, Shri Raja Ram
 Shastri, Shri Ramavatar
 Shastri, Shri Shivpujan
 Shenoy, Shri P. R.
 Sher Singh, Shri
 Shetty, Shri K. K.
 Shinde, Shri Annasaheb
 Shiva Chandika, Shri
 Shivnath Singh, Shri
 Shukla, Shri Vidya Charan
 Siddayya, Shri S. M.
 Siddheshwar Prasad, Shri
 Singh, Shri V. N. P.
 Sinha, Shri N. K.
 Sinha, Shri R. K.
 Sinha, Shri S. N.
 Sohan Lal, Shri T.
 Sokhi, Shri Swaran Singh
 Sonar, Dr. A. G.
 Stephen, Shri C. M.
 Sudarsanam, Shri M.
 Sunder Lal, Shri
 Surendra Pal Singh, Shri
 Suryanarayana, Shri K.
 Swaminathan, Shri R. V.
 Swamy, Shri Sidrameshwar
 Swaran Singh, Shri
 Swatantra, Shri Teja Singh
 Swell, Shri G. G.
 Tarodekar, Shri V. B.
 Tayyab Hussain Khan, Shri
 Tewari, Shri Shankar
 Thakre, Shri S. B.
 Thakur, Shri Krishnarao
 Tiwary, Shri D. N.
 Tiwary, Shri K. N.
 Tula Ram, Shri
 Uikey, Shri M. G.

Ulaganambi, Shri R. P.
 Unnikrishnan, Shri
 Vekaria, Shri
 Venkatasubbaiah, Shri P.
 Venkatswamy, Shri G.
 Verma, Shri Balgovind
 Verma, Shri S. P.
 Vidyalankar, Shri A. N.
 Virbhadra Singh, Shri
 Vijay Pal Singh, Shri
 Vikal, Shri R. C.
 Yadav, Shri Chandrajeet
 Yadav, Shri Karan Singh
 Yadav, Shri N. P.
 Yadav, Shri R. P.
 Yadava, Shri D. P.
 Yajnik, Shri
 Zuifquar Ali Khan, Shri

MR. SPEAKER : The result* of the division is :

AYES : 25 ;

NOES : 378.

The motion was negatived.

MR. SPEAKER : As motions Nos. 2 and 19 are identical, they are barred.

I shall now put Amendment No. 3. The question is :

“That the Bill be circulated for the purpose of eliciting opinion thereon by the 15th November, 1971.” (3)

The motion was negatived.

MR. SPEAKER : Amendment No. 4 by Shri M. C. Daga.

SHRI M. C. DAGA : I want to withdraw it.

MR. SPEAKER : Has he the leave of the House to withdraw his Amendment ?

* The following Members also recorded their votes :

Ayes : Sarvashri Ramkanwar and Lambodar Baliyar.

Noes : Dr. Jivraj Mehta, Sarvashri A. N. Chawla, D. D. Bhatia, Paripoornanand Painuli, Vinoda Nandjitha, Nihar Laskar, Ram Prakash, Anant Prasad Dhusia, Shyamnandan Mishra, Muthuswamy, B. K. Modak, Prof. Madhu Dandavate and Shri A. C. Das.

HON. MEMBER : Yes.

Division No. 18]

[16.57 hrs.]

AYES.

Amendment No. 4 was, by leave, withdrawn.

MR. SPEAKER : Amendment No. 5 by Shri Shivnath Singh.

SHRI SHIVNATH SINGH : I am withdrawing it.

MR. SPEAKER : Has he the leave of the House to withdraw his Amendment ?

HON. MEMBERS : Yes.

Amendment No. 5 was, by leave, withdrawn.

MR. SPEAKER : There was a lot of discussion in the last Lok Sabha about the division on the consideration motion, but to be on the safe side, we will have a special majority on this.

SHRI S. M. BANERJEE : It is the considered opinion that at the consideration stage there should be a simple majority.

MR. SPEAKER : The procedure is that the Bill can be passed by a simple majority, but to be on the safe side Mr. Mavalankar had laid down that there should be special majority. This was discussed in the Rules Committee about six months back, and so we thought of allowing this to continue.

The doors are closed. Do you want them to be opened again ?

SHRI P. K. DEO (Kalahandi) : Yes, they should be opened. Some of our members are outside.

MR. SPEAKER : Let the Lobbies be cleared. Now, the question is :

“That the Bill further to amend the Constitution of India, be taken into Consideration.”

Now Division.

The Lok Sabha Divided :

Achal Singh, Shri
 Afzalpurkar, Shri Dharamrao
 Aga, Shri Ahmed
 Aggrwal, Shri Shrikrishna
 Ahirwar, Shri Nathu Ram
 Ahmed, Shri F. A.
 Alagesan, Shri
 Ankineedu, Shri
 Ansari, Shri Ziaur Rahman
 Appalanaidu, Shri
 Arvind Netam, Shri
 Asgar Hussain, Shri
 Austin, Dr. Henry
 Awdhesh Chandra Singh, Shri
 Azad, Shri Bhagwat Jha
 Aziz Imam, Shri
 Babunath Singh, Shri
 Bahuguna, Shri H. N.
 Bajpai, Shri Vidya Dhar
 Balakrishniah, Shri T.
 Balathandayutham, Shri
 Banamali Babu, Shri
 Barman, Shri R. N.
 Banerjee, Shrimati Mukul
 Banerjee, Shri S. M.
 Barua, Shri Bedabrata
 Barupal, Shri P. L.
 Basappa, Shri K.
 Basumatari, Shri D.
 Bhagat, Shri B. R.
 Bhagirath Bhanwar, Shri
 Bhandare, Shri R. D.
 Bhargava, Shri B. N.
 Bhatia, Shri D. D.
 Bhattacharyya, Shri Chapal
 Bhattacharyya, Shri Dinen
 Bhattacharyya, Shri Jagadish
 Bhattacharyya, Shri S. P.
 Bhaura, Shri B. S.
 Bisht, Shri N. S.
 Bosu, Shri Jyotirmoy
 Brahmanandji, Shri Swami
 Buta Singh, Shri
 Chanda, Shrimati Jyotsna
 Chandrakar, Shri Chandulal
 Chandrappan, Shri C. K.
 Chandrika Prasad, Shri
 Chatterjee, Shri Somnath
 Chaturvedi, Shri R. L.
 Chaudhary, Shri Nitiraj Singh
 Chaudhuri, Shri Tridib
 Chaudhuri, Shri Amarsinh
 Chavan, Shri D. R.
 Chavan, Shri Yeshwantrao

Chavda, Shri K. S.
 Chawla, Shri A. N.
 Chellachami, Shri
 Chhotey Lal, Shri
 Choudhury, Shri Moinul Haque
 Chutten Lal, Shri
 Dalbir Singh, Shri
 Dalip Singh, Shri
 Damani, Shri S. R.
 Darbara Singh, Shri
 Das, Shri A. C.
 Das, Shri Dharnidhar
 Das, Shri R. P.
 Dasappa, Shri Tulsidas
 Daschowdhury, Shri B. K.
 Deb, Shri Dasaratha
 Desai, Shri Morarji
 Deshmukh, Shri K. G.
 Deshmukh, Shri Shivaji Rao S.
 Dhamankar, Shri
 Dharia, Shri Mohan
 Dharamgaj Singh, Shri
 Dinesh Singh, Shri
 Dixit, Shri G. C.
 Doda, Shri Hiralal
 Dumada, Shri L. K.
 Dutta, Shri Biren
 Dwivedi, Shri Nageshwar
 Gandhi, Shrimati Indira
 Gangadeb, Shri P.
 Garcha, Shri Devinder Singh
 Gautam, Shri C. D.
 Gavit, Shri T.H.
 *Gayatri Devi, Rajmata
 George, Shri A. C.
 Ghosh, Shrimati Bibha
 Ghosh, Shri P. K.
 Gill, Shri Mohinder Singh
 Godfrey, Shrimati M.
 Gogoi, Shri Tarun
 Gohain, Shri C. C.
 Gokhale, Shri H. R.
 Gotkhinde, Shri
 Gopal, Shri K.
 Gopalan, Shri A. K.
 Goswami, Shri Dinesh Chandra
 Govind Das, Dr.
 Gowda, Shri Pampan
 Gowder, Shri J. M.
 Guha, Shri Samar
 Halder, Shri Madhuryya
 Haldar, Shri Krishna
 Hansda, Shri Subodh
 Hanumanthaiya, Shri
 Hari Kishore Singh, Shri
 Hari Singh, Shri

Hazra, Shri Manoranjan
 Jadeja, Shri
 Jaffer Shariff, Shri C. K.
 Jagjivan Ram, Shri
 Janardhanan, Shri C.
 Jeyalakshmi, Shrimati
 Jha, Shri Bhogendra
 Jitendra Prasad, Shri
 Joarder, Shri Dinesh
 Joseph, Shri M. M.
 Joshi, Shri Popatlal
 Joshi, Shrimati Subhadra
 Kadannappalli, Shri Ramachandran
 Kadar, Shri
 Kailas, Dr.
 Kakodkar, Shri Purushottam
 Kakoti, Shri Robin
 Kale, Shri
 Kalyanasundaram, Shri
 Kamakshaiyah, Shri
 Kamaraj, Shri K.
 Kamble, Shri T. D.
 Kamla Kumari, Kumari
 Kapur, Shri Sat Pal
 Karan Singh, Dr.
 Kasture, Shri A. S.
 Kathamuthu, Shri M.
 Kaul, Shrimati Sheila
 Kavde, Shri B. R.
 Kedar Nath Singh, Shri
 Khadilkar, Shri R. K.
 Kinder Lal, Shri
 Kisku, Shri A. K.
 Kotoki, Shri Liladhar
 Kotrashatti, Shri A. K.
 Krishna Kumari—Jodhpur, Rajmata
 Krishna, Shri S. M.
 Krishnan, Shri M. K.
 Krishnappa, Shri M. V.
 Kulkarni, Shri Raja
 Kumaramangalam, Shri Mohan
 Kureel, Shri B. N.
 Lakshmikanthamma, Shrimati
 Lakshminarayanan, Shri
 Laskar, Shri Nihar
 Lutfal Haque, Shri
 Madhukar, Shri K. M.
 Mahajan, Shri Vikram Chand
 Maharaj Singh, Shri
 Mahata, Shri D. N.
 Mahishi, Dr. Sarojini
 Majhi, Shri Gajadhar
 Majhi, Shri Kumar
 Malaviya, Shri K. D.
 Mallanna, Shri K.
 Mallikarjun, Shri

*Wrongly voted for Ayes

Mandal, Shri J. N.
 Manoharan, Shri K.
 Maran, Shri Murasoli
 Marandi, Shri Ishwar
 Maurya, Shri B. P.
 Mehta, Dr. Mahipatray
 Melkote, Dr.
 Menon, Shri Krishna
 Minimata Agamdas, Shrimati
 Mishra, Shri Bibhuti
 Mishra, Shri G. S.
 Mishra, Shri Jagannath
 Mishra, Shri Shyamnandan
 Mishra, Shri S. N.
 Modak, Shri B. K.
 Mohammad Tahir, Shri
 Mohammad Yusuf, Shri
 Mohan Swarup, Shri
 Mohanty, Shri Surendra
 Mohapatra, Shri S. S.
 Mohsin, Shri
 Muhammed Sheriff, Shri
 Mukerjee, Shri H. N.
 Munsii, Shri Priya Ranjan Das
 Murthy, Shri B. S.
 Muruganantham, Shri
 Nahata, Shri Amrit
 Naik, Shri B. V.
 Nair, Shri Sreekantan
 Nanda, Shri
 *Nayar, Shrimati Shakuntala
 Negi, Shri Pratap Singh
 Oraon, Shri Kartik
 Oraon, Shri Tuna
 Oza, Shri Ghanshyam
 Pahadia, Shri Jagannath
 Palodkar, Shri
 Pandey, Shri Damodar
 Pandey, Shri K. C.
 Pandey, Shri R. S.
 Pandey, Shri Sarjoo
 Pandey, Shri Sudhakar
 Pandey, Shri Tarkeshwar
 Panigrahi, Shri Chintamani
 Pant, Shri K. C.
 Paokai Haokip, Shri
 Parashar, Prof. Narain Chand
 Parmar, Shri Bhaljibhai
 Partap Singh, Shri
 Parthasarathy, Shri
 Paswan, Shri Ram Bhagat
 Patel, Shri Nanubhai N.
 Patel, Shri Prabhudas
 Patil, Shri Anantrao
 Patil, Shri C. A.
 Patil, Shri E. V. Vikhe

Patil, Shri Krishnarao
 Patil, Shri S. B.
 Patil, Shri T. A.
 Patnaik, Shri Banamali
 Peje, Shri S. L.
 Pradhani, Shri K.
 Qureshi, Shri Mohd. Shafi
 Radhakrishnan, Shri S.
 Raghu Ramaiah, Shri
 Raj Bahadur, Shri
 Rajdeo Singh, Shri
 Ram Dhan, Shri
 Ram Prakash, Shri
 Ram Sewak, Ch.
 Ram Swarup, Shri
 Ram, Shri T.
 Ramji Ram, Shri
 Rana, Shri M. B.
 Rao, Shrimati B. Radhabai A.
 Rao, Shri Jaganath
 Rao, Dr. K. L.
 Rao, Shri K. Narayana
 Rao, Shri Nageswara
 Rao, Shri M. Satyanarayan
 Rao, Shri P. A. P.
 Rao, Shri Patabhi Rama
 Rao, Shri Rajagopala
 Rao, Shri Sanjeevi
 Rao, Dr. V. K. R. Varadaraja
 Raut, Shri Bhola
 Ravi, Shri Vayalar
 Ray, Shri Siddhartha Shankar
 Reddy, Shri B. N.
 Reddy, Shri Eswara
 Reddy, Shri Ganga
 Reddy, Shri K. K. Rami
 Reddy, Shri P. Narasimha
 Reddy, Shri P. Venkata
 Richhariya, Dr. Govind Das
 Rohatgi, Shrimati Sushila
 Roy, Shri Bishwanath
 Roy, Dr. Saradish
 Rudra Pratap Singh, Shri
 Sadhu Ram, Shri
 Saha, Shri A. K.
 Saha, Shri Gadadhar
 Sait, Shri Ebrahim Sulaiman
 Saive, Shri N. K. P.
 Samanta, Shri S. C.
 Sambhali, Shri Ishaq
 Saminathan, Shri
 Sanghi, Shri N. K.
 Sankata Prasad, Dr.
 Sant Bux Singh, Shri
 Sarkar, Shri S. K.
 Satish Chandra, Shri

*Wrongly voted for Ayes

Savitri Shyam, Shrimati
 Sayajirao, Shri
 Sayced, Shri P. M.
 Sen, Shri Robin
 Sethi, Shri Arjun
 Sethi, Shri P. C.
 Sezhiyan, Shri
 Shafi, Shri A.
 Shahnawaz Khan, Shri
 Shambhu Nath, Shri
 Shamim, Shri S. A.
 Shankar Dayal Singh, Shri
 Shankar Dev, Shri
 Shankaranand, Shri B.
 Shankergiri, Shri V.
 Sharma, Shri A. P.
 Sharma, Dr. H. P.
 Sharma, Shri Madhoram
 Sharma, Shri N. K.
 Sharma, Shri R. N.
 Sharma, Shri S. D.
 Shashi Bhushan, Shri
 Shastri, Shri Biswanarayan
 Shastri, Shri Ramavatar
 Shastri, Shri Shivpujan
 Shenoy, Shri P. R.
 Sher Singh, Shri
 Shinde, Shri Annasaheb P.
 Shiva Chandika, Shri
 Shivrath Singh, Shri
 Shukla, Shri Vidya Charan
 Siddayya, Shri S. M.
 Siddheshwar Prasad, Shri
 Singh, Shri D. N.
 Singh, Shri V. N. P.
 Sinha, Shri N. K.
 Sinha, Shri R. K.
 Sinha, Shri S. N.
 Sohan Lal, Shri T.
 Sonar, Dr. A. G.
 Stephen, Shri C. M.
 Sudarsanam, Shri M.
 Sunder Lal, Shri

Surendra Pal Singh, Shri
 Suryanarayana, Shri K.
 Swamy, Shri Sidrameshwar
 Swaran Singh, Shri
 Swatantra, Shri Teja Singh
 Swell, Shri G. G.
 Tarodekar, Shri V. B.
 Tayyab Hussain Khan, Shri
 Tewari, Shri Shankar
 Thakur, Shri Krishnarao
 Tiwary, Shri D. N.
 Tiwary, Shri K. N.
 Tombi Singh, Shri N.
 Tula Ram, Shri
 Uikey, Shri M. G.
 Ulaganambi, Shri R. P.
 Unnikrishnan, Shri
 Vekaria, Shri
 Venkatasubbaiah, Shri P.
 Venkatswamy, Shri G.
 Verma, Shri Balgovind
 Verma, Shri S. P.
 Vidyalankar, Shri A. N.
 Virbhadra Singh, Shri
 Vikal, Shri R. C.
 Yadav, Shri Chandrajeet
 Yadav, Shri Karan Singh
 Yadav, Shri N. P.
 Yadav, Shri R. P.
 Yadava, Shri D. P.
 Zulfiqar Ali Khan, Shri

NOES

Ambesh, Shri
 Bade, Shri R. V.
 Banera, Shri Hamendra Singh
 Chandre Gowda, Shri
 Chaudhry, Shri Ishwar
 Chauhan, Shri Bharat Singh
 Deo, Shri P. K.
 *Deo, Shri R. R. Singh
 *Ganga Devi, Shrimati
 *Jamilurrahman, Shri Md.
 Joshi, Shri Jagannathrao
 Kachwai, Shri Hukam Chand

*Wrongly voted for Noes.

*Kamala Prasad, Shri
 *Kushok Bakula, Shri
 Maha Deepak Singh, Shri
 Mody, Shri Pилоo
 Mukherjee, Shri Saroj
 Nayak, Shri Boksi
 Nimbalkar, Shri
 *Parikh, Shri Rasiklal
 *Ram Surat Prasad, Shri
 Ram Kanwar, Shri
 *Shailani, Shri
 Sharma, Shri R. R.
 Vajpayee, Shri Atal Bihari
 Yadav, Shri G. P.
 *Yajnik, Shri

MR. SPEAKER ; The **result of the division is : Ayes 352 ; Noes 27.

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

The motion was adopted.

Clause 2—(Amendment of article 13)

SHRI FRANK ANTHONY : I beg to move :

Page 1, line--8,—

after “Constitution” insert—

“other than articles 26, 29 and 30,”
 (12)

SHRI EBRAHIM SULAIMAN SAIT
 (Kozhikode) : I beg to move :

Page 1, line 8,—

after “Constitution” interest—

“excepting articles 15, 16, 17, 19, 25, 26, 29, and 30” (20)

SHRI FRANK ANTHONY : The effect of my amendment No. 12 is very simple. In this amendment to article 13 which Government is seeking, I have sought to exclude three fundamental rights of minorities—article 26, which refers to the rights of minorities to maintain charitable and religious trusts or institutions, article 29 which refers to language, script and culture and article 30 which refers to right of minorities whether based on language or religion to establish and maintain educational institutions of their choice.

A great deal of argument has been bandied back and forth and all our ex-legal luminaries who are there kept on harping on this one theme that people are nervous, that all these fears are baseless. May I say from my not negligible experience that constantly, repeatedly, certain minorities have been under attack ? In 1955. I have to argue first in the Bombay High Court and then in the Supreme Court, when the

*Wrongly voted for Noes.

**The following members also recorded their votes :

Ayes :—Dr. Jivraj Mehta, Sarvashri S. C. Besra, Paripoornanand Painuli, Shafquat Jung, S. N. Singh Deo, N. N. Pandey, Mulki Raj Saini, Devendra Satpathy, Mani Ram Godara, M. Ram Gopal Reddy, Dattajirao Kadam, Bhuvanaran, K. Lakkappa, Chiranjib Jha, J. B. Patnaik, R. V. Swaminathan, Ramshekhar Prasad Singh, Raja Ram Shastri, Shrikishan Modi, M. T. Raju, M. C. Daga, K. K. Shetty, J. G. Kadam, A. K. M. Ishaque, S. B. Thakre, B. R. Shukla, Swaran Singh Sokhi, Anant Prasad Dhusia, M. Muhammad Ismail, Prof. S. L. Saksena, Shri R. Balakrishna Pillai, Prof. Madhu Dandavate, Sarvashri Somchand Solanki, N. E. Horo, Indrajit Gupta, Muthuswamy, Mohammad Ismail, Rattanlal Brahman, D. K. Panda, Durairasu, Kamla Prasad, Shailani, Kushok Bakula, Md. Jamilurrahman, Rasiklal Parikh, Yajnik, Ram Surat Prasad, R. R. Singh Deo and Shrimati Gaaga Devi.

Noes :—Sarvashri H. M. Patel, Onkar Lal Berwa, Dhan Shah Pradhan, Narendra Singh, Virendra Agarwal, Rajmata Gayatri Devi and Shrimati Shakuntala Nayyar.

then Morarji Desai Government tried to destroy the Anglo-Indian schools. I am holding brief for nobody; I am telling you how you talk glibly of fear. These are grim realities which the minorities face. I had it struck down by the High Court, later on by the Supreme Court vindicating the right of my community to teach through the medium of English which is our mother tongue and to offer it to any other Indian.
17 hrs.

In 1958 the Communist Kerala Government sought power to expropriate particularly the Christian and the Ando-Indian schools. The matter was referred to the Supreme Court and the Supreme Court said: "No, you cannot take over these minority institutions. It is plain expropriation." Recently, again I appeared on behalf of the Christian colleges—Kerala University Act—and Mr. Mohan Kumaramangalam was appearing for the Communist Government on the other side. Once again they sought to take over Christian colleges and once again the Supreme Court came to the rescue of the minorities. The Supreme Court said you cannot do this. It is expropriation.

I am little surprised that Mr. Mohan Kumaramangalam—I did not expect him as a lawyer—started using all sorts of political clichés. He said: Who has opposed these rights? Only the propertied people—as if the minorities are all propertied people.

I think you are not laughing—I am cynically amused at three ex-legal luminaries, disgustingly propertied people inveighing against the propertied people. I am reminded of the maxim that the apostate is more fanatical than those of the original faith. I was not here, I take the word of the Prime Minister that Mr. Siddhartha Shanker Ray made a brilliant speech. I read parts of it in the press and I will give full marks for his capacity to sermonise. Not that I am accepting his constitutional philosophy. I think many of the premises were nonexistent. You cannot draw comparisons with the Constituencies when there are no comparable premises. We have the distinction of having given to ourselves the most monumental Constitution in the world, the longest, the most meticulously drawn. No other Constitution perhaps is spelt out in such meticulous details for very good reasons—the minority rights—

which somebody called bourgeois,—I do not know whether Jawahar Lal Nehru was bourgeois or not—as our Constitution has sought to give to the minorities because in the final analysis we are a country of minorities. Remember that. That is why I say of this philosophising.

Then again take this the doctrine of fear. I am not ignorant of constitutional philosophy and practice. I can see diligently that the doctrine of fear has no place in constitutional theory and practice. You cannot deny power because you are afraid to give it to certain people. That is why when the Prime Minister at a special meeting asked me whether I would support Mr. Nath Pai's Bill I said as a lawyer 'yes'. In certain circumstances Parliament ought to have the power to amend even fundamental rights but I am afraid, now today it is not only fear but it has become a grim gruesome reality. Sir, you allowed the Law Minister to refer to Directive Principles. Had you brought in the 24th amending Bill I would have supported you with both hands, but when you sought to bring in simultaneously the 24th and 25th amending Bills, I got an utter shock. When I saw the 25th amending Bill effacing not only rights of the citizens, effacing the fundamental rights of the minorities, I was shocked that by a bare vote any ramshackle collusion in any State by one vote can efface the fundamental rights of the individual.

My hon. friend was waxing eloquent about peaceful assembly, free speech etc. But your Twenty-fifth Amendment effaces article 14. You can be expropriated. I can be expropriated. They probably would prefer to expropriate you because you have got more disgusting wealth than I have got. They will do that first.

Then, all the seven freedoms in article 19 are gone. They professions also are gone.

SHRI RAJ BAHADUR : Sir, we are not discussing the Twenty-fifth Amendment Bill.

SHRI FRANK ANTHONY : Sir, you allowed him to refer to it. I am substantiating my argument. I am saying this because you have made this fear a reality for the minorities. You have done that.

[Shri Frank Anthony]

If Shri Kumaramangalam is worried about the undue compensation, you could have just effaced article 31 and article 19 (1) (f). But why are you taking the power to efface article 14 and all the seven freedoms in article 19 ?

I want a simple answer from my hon. friend, Shri Gokhale, and I will support him completely. Tell me clearly, Shri Gokhale, please. This is very relevant. That has been the basis of my whole opposition.

Through your Twenty-fifth Amendment Bill you have institutionalised expropriation *simpliciter*. Can you say to the minorities that notwithstanding article 26, that is, with regard to charitable and religious trusts, notwithstanding article 30, because you have extinguished property, you will not take over their trusts, their schools and their colleges ? Give me a clear answer on that.

I have consulted not only myself but many senior people. They say that because of the Twenty-fifth Amendment, because you are extinguishing property, the fundamental rights of the minorities do not survive. You cannot have the right to maintain an institution when you are giving the right to expropriate their property. That is what I am gravely worried about.

It will affect every minority, because it institutionalises as a fundamental right expropriation *simpliciter*. I do not mind if you take away from Shri Dinesh Singh. He has got much more to give than I have. Give him one paisa compensation. I do not expropriate the individual. But I do mind your expropriating the religious educational trusts of the minorities. I want a clear answer. If you say that the Twenty-fifth Amendment does not give you the power to expropriate our minority institution, I will support your Twenty-fourth Amendment Bill.

SHRI ABRAHIM SULAIMAN : Mr. Speaker, Sir, I would like to make it clear at the very outset that I am in general agreement that the Constitution (Twenty-fourth Amendment) Bill. Sir, you know very well that as far as we the

minorities are concerned, we fully realise that the times are changing and we have to be with the progressive forces. We want democratic socialism to be established in our country. We want poverty to be eradicated in our Country. We want equal status for all citizens of this country. We agree with all these things. We have no difference of opinion as far as these fundamental rights of a citizen are concerned. Therefore, it is that we support and have supported all the progressive measures in this Parliament.

I would like to point out at this juncture that the minorities particularly the Muslims stood with the progressive forces in the last mid-term poll and the massive mandate that was secured by the present Government of Shrimati Indira Gandhi was due to the complete and determined support of the minorities of the country. All these things have to be realised and understood. Now coming to this Bill I agree that the restoration of the right to Parliament to amend the fundamental rights is quite necessary. But the minorities have certain apprehensions in this regard. The minorities are a part and parcel of this country. We are with you ; we will swim with you and will sink with you. That is what we have decided. If the country progress, we progress ; if the country lives, we live ; if the country does not live, where are we ? That is what we have to say. We realise also as has been said here that we have to depend on the goodwill of the majority. Therefore, it is that I am not pressing or forcing anything but making a sincere appeal to you all in this House. Here, Minorities have been given certain fundamental rights in the Constitution. I just want that these rights should be made permanent, so that nobody could interfere with these rights in future whatever in the complexion of the Parliament. What I want is nothing more than this, that is, the rights of the minorities mentioned in Articles 25, 26, 29 and 30, must be made permanent. I have mentioned in my amendment other articles also like articles 15, 16, 17, and 19. All these refer to rights in general of the citizens. I would like here to emphasise about rights of the minorities enshrined in articles 25, 26, 29 and 30.

I need not explain all that these articles referred to. I would just read them out

I quote from the Constitution. Article 25 says :

“Subject to public order, morality and health and to the other provisions of this Part, all persons are equally entitled to freedom of conscience and the right freely to profess, practise and propagate religion.”

Then, article 26 says :

“Subject to public order, morality and health, every religious denomination or any section thereof shall have right—

- (a) to establish and maintain institutions for religious and charitable purposes ;
- (b) to manage its own affairs in matters of religion ;
- (c) to own and acquire movable and immovable property ; and
- (d) to administer such property in accordance with law.”

I do not mind if you are going to remove the right to own property. What we want is that our minority rights to progress and practise our religion should not be taken away. This is most important.

Again, article 29 says ;

- “(1) Any section of the citizens residing in the territory of India or any part thereof having a distinct language, script or culture of its own shall have the right to conserve the same.
- (2) No citizen shall be denied admission into any educational institutional maintained by the State or receiving aid out of State funds on grounds only of religion, race, caste, language or any of them.”

Finally, article 30 is for the protection of cultural and educational rights of mino-

rities, which says :-

“All minorities whether based on religion or language, shall have the right to establish and administer educational institutions of their choice.”

This is all we want and nothing more. This is just to remove the apprehensions in the minds of minorities and to satisfy them. We know that we have a secular and democratic Government. But it is a question of satisfying the minorities about their future. Therefore, through you, Sir, I appeal to the Government, to the Prime Minister and to the Law Minister that these rights of minorities must be kept unchanged and be made permanent. Because of this, it is that I have moved that article 15, 16, 17, 19, 25, 26, 29, 30 be exempted from being amended at any time by any future Parliament.

This is my appeal to you all. I hope, not only as a majority community but also as elder brothers, you will be generous enough to minorities and concede these rights to them. I once again appeal to the Government to give consent to the amendment I have moved and accept it so that minorities may feel satisfied and feel also that justice and fair-play has been done to them and that this Government, as a democratic and secular Government means business and desires to satisfy every section of the population, specially, the minorities and the largest minority, the Muslims.

SHRI H. R. GOKHALE : Sir, as far as Mr. Farnk Anthony's comments are concerned, he is aware that we are not discussing the Twenty-fifth Amendment Bill at all. We are discussing the Twenty-fourth Amendment Bill. I do not know why he wants to put the cart before the horse. When the Twenty-fifth Amendment Bill is discussed we will have ample opportunity to deal with it.....

MR. SPEAKER : His objection was that you brought in the Directive Principles. As that time, I allowed it because it was reinforcing the arguments and he said that he will reply to that.

SHRI H. R. GOKHALE : If you carefully read article 39, the position will be clear.

[Shri H. R. Gokhale]

It is only his nightmare. He has not read it carefully. If he does it, he will find that there is protection. So far as other rights of minorities are concerned, the Prime Minister just this afternoon has made the whole position clear, that the minorities are safe in this country and there is no question of the minority rights being affected. I am not in a position to accept this amendment.

SHRI FRANK ANTHONY : The Prime Minister is not a legal expert. I wanted a simple answer from him as to whether articles 26 and 30 will be superseded by the Twenty-fifth Amendment Bill. Are you in a position to do that ?

SHRI H. R. GOKHALE : He wants legal advice. He is a lawyer himself.

SHRI FRANK ANTHONY : This is not the way of answering. I want a straight answer from you. That you are not prepared to give.

MR. SPEAKER : The question is :

Page 1, line 8,—

after "Constitution" insert—

"other than articles 26, 29 and 30," (12)

The Lok Sabha Divided :

Division . . . 19

[17.24] hrs.

AYES

Anthony, Shri Frank
Bade, Shri R. V.
Banera, Shri Hamendra Singh
Chaudury, Shri Ishwar
Chauhan, Shri Bharat Singh
Deo, Shri P. K.
Deo, Shri R. R. Singh
Godfrey, Shrimati M.
Horo, Shri N. E.
Joshi, Shri Jagannathrao
Kachwai, Shri Hukam Chand
Krishna Kumari—Jodhpur, Rajmata
Lambodar Baliyar, Shri
Maha Deepak Singh, Shri
Malik, Shri Mukhtiar Singh
Mody, Shri Piioo

Muhammad Ismail, Shri M.
Muhammed Sheriff, Shri
Narendra Sinh, Shri
Nayak, Shri Boksi
Patel, Shri H. M.
Pradhan, Shri Dhan Shah
Purty, Shri M. S.
Ramkanwar, Shri
Ranabahadur Singh, Shri
Sait, Shri Ebrahim Sulaiman
Scindia, Rajmata V. R.
Sharma, Shri R. R.
Singh, Shri D. N.
Vajpayee, Shri Atal Bihari
Yadav, Shri G. P.

NOES

Achal Singh, Shri
Afzalpukar, Shri Dharamarao
Aga, Shri Ahmed
Agrawal, Shri Shrikrishna
Ahirwar, Shri Nathu Ram
Ahmed, Shri F. A.
Alagesan Shri
Ambesh, Shri
Ansari, Shri Ziaur Rahman
Appalanaidu, Shri
Arvind Netam, Shri
Asgar Hussain, Shri
Austin, Dr. Henry
Awdhesh Chandra Singh, Shri
Azad, Shri Bhagwat Jha
Aziz Imam, Shri
Babunath Singh, Shri
Bajpai, Shri Vidya Dhar
Balakrishniah, Shri T.
Balathandayu ham, Shri
Banamali Babu, Shri
Barman, Shri R. N.
Banerjee, Shrimati Mukul
Banerjee, Shri S. M.
Barua, Shri Bedabrata
Barupal, Shri P.L.
Basappa, Shri K.
Basumatari, Shri D.
Besra, Shri S. C.
Bhagat, Shri B. R.
Bhagirath Bhanwar, Shri
Bhandare, Shri R. D.
Bhargava, Shri B. N.
Bhatia, Shri D. D.
Bhattacharyya, Shri Chapal
Bhattacharyya, Shri Dinen
Bhattacharyya, Shri Jagadish
Bhattacharyya, Shri S. P.
Bhaura, Shri B. S.

Bhuvarahan, Shri
 Bisht, Shri N. S.
 Bosu, Shri Jyotirmoy
 Brahman, Shri Rattanlal
 Brahmanandji, Shri Swami
 Buta Singh, Shri
 Chanda, Shrimati Jyotsna
 Chandrakar, Shri Chandulal
 Chandrappan, Shri C. K.
 Chandre Gowda, Shri
 Chandrika Prasad, Shri
 Chatterjee, Shri Somnath
 Chaturvedi, Shri R. L.
 Chaudhary, Shri Nitiraj Singh
 Chaudury, Shri Amarsinh
 Chavan, Shri D. R.
 Chavan, Shri Yeshwantrao
 Chawla, Shri A. N.
 Chellachami, Shri
 Chhotey Lal, Shri
 Ch tten Lal, Shri
 Dalbir Singh, Shri
 Dalip Singh, Shri
 Damani, Shri S. R.
 Dandavate, Prof. Madhu
 Darbara Singh, Shri
 Das, Shri A. C.
 Das, Shri Dharnidhar
 Dasappa, Shri Tulsidas
 Daschowdhury, Shri B. K.
 Deb, Shri Dasaratha
 Deo, Shri S. N. Singh
 Deshmukh, Shri K. G.
 Dhamankar, Shri
 Dharia, Shri Mohan
 Dharamgaj Singh, Shri
 Dhusia, Shri Anant Prasad
 Dinesh Singh, Shri
 Dixit, Shri G. C.
 Dixit, Shri J. C.
 Doda, Shri Hiralal
 Dumada, Shri L. K.
 Dutta, Shri Biren
 Dwivedi, Shri Nageshwar
 Gandhi, Shrimati Indira
 Ganga Devi, Shrimati
 Gangadeb, Shri P.
 Garcha, Shri Devinder Singh
 Gautam, Shri C. D.
 Gavit, Shri T. H.
 George, Shri A. C.
 Ghosh, Shrimati Bibha
 Ghosh, Shri P. K.
 Gill, Shri Mohinder Singh
 Godara, Shri Mani Ram
 Gogoi, Shri Tarun
 Gohain, Shri C. C.

Gokhale, Shri H. R.
 Gotkhinde, Shri
 Gopal, Shri K.
 Goswami, Shri Dinesh Chand
 Govind Das, Dr.
 Gowda, Shri Pampan
 Guha, Shri Samar
 Gupta, Shri Indrajit
 Haldar, Shri Madhuryya
 Halder, Shri Krishna
 Hausda, Shri Subodh
 Hanumanthaia, Shri
 Hari Kishore Singh, Shri
 Hari Singh, Shri
 Hazra, Shri Manoranjan
 Ishaque, Shri A. K. M.
 Jadeja, Shri
 Jaffer Shariff, Shri C. K.
 Jagjivan Ram, Shri
 Jamilurrahman, Shri Md.
 Janardhanan, Shri C.
 Jeyalakshmi, Shrimati
 Jha, Shri Bhogendra
 Jha, Shri Chiranjib
 Jha, Shri Vinoda Nand
 Jitendra Prasad, Shri
 Joarder, Shri Dinesh
 Joseph, Shri M. M.
 Joshi, Shri Popatlal
 Joshi, Shrimati Subhadra
 Kadam, Shri Dattajirao
 Kadannappalli, Shri Ramachandran
 Kadar, Shri
 Kailas, Dr.
 Kakodkar, Shri Purushottam
 Kakoti, Shri Robin
 Kale, Shri
 Kalyanasundaram, Shri
 Kamakshaiah, Shri
 Kamala Prasad, Shri
 Kamble, Shri N. S.
 Kamble, Shri T. D.
 Kamla Kumari, Kumari
 Kapur, Shri Sat Pal
 Karan Singh, Dr.
 Kasture, Shri A. S.
 Kathamuthu, Shri M.
 Kaul, Shrimati Sheila
 Kavde, Shri B. R.
 Kedar Nath Singh, Shri
 Khadilkar, Shri R. K.
 Kinder Lal, Shri
 Kisku, Shri A. K.
 Kotoki, Shri Liladhar
 Kotrashatti, Shri A. K.
 Krishna, Shri S. M.
 Krishnan, Shri M. K.

Krishnappa, Shri M. V.
 Kulkarni, Shri Raja
 Kumaramangalam, Shri Mohan
 Kureel, Shri B. N.
 Kushok Bakula, Shri
 Lakkappa, Shri K.
 Lakshmikanthamma, Shrimati
 Lakshminarayanan, Shri
 Lutfal Haque, Shri
 Madhukar, Shri K. M.
 Mahajan, Shri Vikram Chand
 Maharaj Singh, Shri
 Mabata, Shri D. N.
 Mahishi, Dr. Sarojini
 Majhi, Shri Gajadhar
 Majhi, Shri Kumar
 Malaviya, Shri K. D.
 Mallanna, Shri K.
 Mallikarjun, Shri
 Mandal, Shri J. N.
 Marandi, Shri Ishwar
 Maurya, Shri B. P.
 Mehta, Dr. Mahipatray
 Melkote, Dr.
 Menon, Shri Krishna
 Minimata Agamdas, Shrimati
 Mishra, Shri Bibhuti
 Mishra, Shri G. S.
 Mishra, Shri Jagannath
 Mishra, Shri S. N.
 Modak, Shri B. K.
 Modi, Shri Shrikishan
 Mohammad Ismail, Shri
 Mohammad Tahir, Shri
 Mohammad Yusuf, Shri
 Mohan Swarup, Shri
 Mohanty, Shri Surendra
 Mohapatra, Shri S. S.
 Mohsin, Shri
 Mukerjee, Shri H. N.
 Mukherjee, Shri Saroj
 Murthy, Shri B. S.
 Muruganantham, Shri
 Nahata, Shri Amrit
 Naik, Shri B. V.
 Nair, Shri Sreekantan
 Nanda, Shri
 Negi, Shri Pratap Singh
 Nimbalkar, Shri
 Oraon, Shri Kartik
 Oraon, Shri Tuna
 Oza, Shri Ghanshyam
 Pahadia, Shri Jagannath
 Painuli, Shri Paripoornanand
 Palodkar, Shri
 Panda, Shri D. K.

Pandey, Shri Damodar
 Pandey, Shri K. C.
 Pandey, Shri N. N.
 Pandey, Shri R. S.
 Pandey, Shri Sarjoo
 Pandey, Shri Sudhakar
 Pandey, Shri Tarkeshwar
 Panigrahi, Shri Chintamani
 Pant, Shri K. C.
 Paokai Haokip, Shri
 Parashar, Prof. Narain Chand
 Parikh, Shri Rasiklal
 Partap Singh, Shri
 Parthasarathy, Shri
 Paswan, Shri Ram Bhagat
 Patel, Shri Prabhudas
 Patil, Shri C. A.
 Patil, Shri E. V. Vikhe
 Patil, Shri Krishnarao
 Patil, Shri S. B.
 Patil, Shri T. A.
 Patnaik, Shri Banamali
 Peje, Shri S. L.
 Pillai, Shri R. Balakrishna
 Pradhani, Shri K.
 Qureshi, Shri Mohd. Shafi
 Radhakrishnan, Shri S.
 Raghu Ramaiah, Shri
 Raj Bahadur, Shri
 Rajdeo Singh, Shri
 Raju, Shri M. T.
 Ram Dhan, Shri
 Ram Prakash, Shri
 Ram Sewak, Ch.
 Ram Surat Prasad, Shri
 Ram Swarup, Shri
 Ram, Shri T.
 Ramji Ram, Shri
 Ramshekhar Prasad Singh, Shri
 Rana, Shri M. B.
 Rao, Shrimati B. Radhabai A.
 Rao, Shri Jaganath
 Rao, Dr. K. L.
 Rao, Shri K. Narayana
 Rao, Shri Nageswara
 Rao, Shri M. Satyanarayan
 Rao, Shri P. A. P.
 Rao, Shri Pattabhi Rama
 Rao, Shri Rajagopala
 Rao, Dr. V. K. R. Varadaraja
 Rathia, Shri Umed Singh
 Raut, Shri Bhola
 Ray, Shri Siddhartha Shanker
 Reddy, Shri B. N.
 Reddy, Shri Eswara
 Reddy, Shri Ganga
 Reddy, Shri K. Ramakrishna

Reddy, Shri K. K. Rami
 Reddy, Shri M. Ram Gopal
 Reddy, Shri P. Narasimha
 Reddy, Shri P. Venkata
 Richhariya, Dr. Govind Das
 Robatgi, Shrimati Sushila
 Roy, Shri Bishwanath
 Roy, Dr. Saradish
 Rudra Pratap Singh, Shri
 Sadhu Ram, Shri
 Saha, Shri A. K.
 Saha, Shri Gadadhar
 Saini, Shri Mulki Raj
 Salve, Shri N. K. P.
 Samanta, Shri S. C.
 Sambhali, Shri Ishaq
 Sankata Prasad, Dr.
 Sant Bux Singh, Shri
 Sarkar, Shri S. K.
 Satish Bhandra, Shri
 Satpathy, Shri Devendra
 Savant, Shri Shankarrao
 Savitri Shyam, Shrimati
 Sayajirao, Shri
 Sen, Shri Robin
 Sethi, Shri Arjun
 Sethi, Shri P. C.
 Shafi, Shri A.
 Shafquat Jung, Shri
 Shahnawaz Khan, Shri
 Shailani, Shri C. P.
 Shambhu Nath, Shri
 Shankar Dayal Singh, Shri
 Shankar Dev, Shri
 Shankaranand, Shri B.
 Shankergiri, Shri V.
 Sharma, Shri A. P.
 Sharma, Dr. H. P.
 Sharma, Shri Madhoram
 Sharma, Shri N. K.
 Sharma, Shri R. N.
 Sharma, Shri S. D.
 Shashi Bhushan, Shri
 Shastri, Shri Biswanarayan
 Shastri, Shri Raja Ram
 Shastri, Shri Ramavatar
 Shastri, Shri Shivpujan
 Shenoy, Shri P. R.
 Sher Singh, Shri
 Shinde, Shri Annasaheb, P.

Shiva Chandrika, Shri
 Shukla, Shri B. R.
 Shukla, Shri Vidya Charan
 Siddayya, Shri S. M.
 Siddheshwar Prasad, Shri
 Singh, Shri V. N. P.
 Sinha, Shri N. K.
 Sinha, Shri R. K.
 Sobhan Lal, Shri T.
 Sokhi, Shri Swaran Singh
 Sonar, Dr. A. G.
 Stephen, Shri C. M.
 Sunder Lal, Shri
 Surendra Pal Singh, Shri
 Suryanarayana, Shri K.
 Swaminathan, Shri R. V.
 Swamy, Shri Sidrameshwar
 Swaran Singh, Shri
 Swatantra, Shri Teja Singh
 Tarodekar, Shri V. B.
 Tayyab Hussain Khan, Shri
 Tewari, Shri Shankar
 Thakre, Shri S. B.
 Thakur, Shri Krishnarao
 Tiwary, Shri D. N.
 Tiwary, Shri K. N.
 Tombi Singh, Shri N.
 Tula Ram, Shri
 Uikey, Shri M. G.
 Unnikrishnan, Shri
 Vekaria, Shri
 Venkatasubbaiah, Shri P.
 Venkatswamy, Shri G.
 Verma, Shri Balgovind
 Verma, Shri S. P.
 Vidyalkar, Shri A. N.
 Virbhadra Singh, Shri
 Vijay Pal Singh, Shri
 Vikal, Shri R. C.
 Yadav, Shri Chandrajeet
 Yadav, Shri Karan Singh
 Yadav, Shri N. P.
 Yadav, Shri R. P.
 Yadava, Shri D. P.
 Yajnik, Shri
 Zulfiqar Ali Khan, Shri

MR. SPEAKER : The result* of the
 division is : Ayes 31 ; Noes 362.

The motion was negatived.

*The following Members also recorded their votes :

AYES : Prof. S. L. Saksena, Sarvashri D. D. Desai, Onkar Lal Berwa, Virendra
 Agarwal, Rajmata Gayatri Devi and Shrimati Shakuntala Nayar.

NOES : Dr. Jivraj Mehta, Sarvashri H.N. Bahuguna, Shivnath Singh, Priya Ranjan
 Das Munsli, Anantrao Patil, Shivaji Rao S. Deshmukh, P. M. Sayeed, Nihar Laskar,
 N. K. Sanghi, Ankineedu, J. B. Patnaik, Vayalar Ravi, M. C. Daga, K. K. Shetty,
 J. G. Kadam, C. C. Desai and A. K. Gopalan.

MR. SPEAKER : I will now put Amendment No. 20 by Shri Ebrahim Sulaiman Sait. The question is :

Page 1, line 8,—

after "Constitution" insert—

"excepting articles 15, 16, 17, 19, 25, 26, 29 and 30" (20)

The motion was negatived.

MR. SPEAKER : Now, the question is

"That Clause 2 stand part of the Bill."

Let the lobbies be cleared.

Now, Division.

The Lok Sabha divided:

Division No. 20]

[17.26 hrs.

AYES

Achal Singh, Shri
 Afzalpurkar, Shri Dharamrao
 Aga, Shri Ahmed
 Agrawal, Shri Shrikrishna
 Ahirwar, Shri Nathu Ram
 Ahmed, Shri F. A.
 Alagesan, Shri
 Ambesh, Shri
 Ankineedu, Shri
 Ansari, Shri Ziaur Rahman
 Appalanaidu, Shri
 Arvind Netam, Shri
 Asgar Hussain, Shri
 Austin, Dr. Henry
 Awdhesh Chandra Singh, Shri
 Azad, Shri Bhagwat Jha
 Aziz Imam, Shri
 Babunath Singh, Shri
 Bahuguna, Shri H. N.
 Bajpai, Shri Vidya Dhar
 Balakrishniah, Shri T.
 Balathandayutham, Shri
 Banamali Babu, Shri
 Barman, Shri R. N.
 Banerjee, Shrimati Mukul

Banerjee, Shri S. M.
 Barua, Shri Bedabrata
 Barupal, Shri P. L.
 Basappa, Shri K.
 Basumatari, Shri D.
 Besra, Shri S. C.
 Bhagat, Shri B. R.
 Bhagirath Bhanwar, Shri
 Bhandare, Shri R. D.
 Bhargava, Shri B. N.
 Bhatia, Shri D. D.
 Bhattacharyya, Shri Chapal
 Bhattacharyya, Shri Dinen
 Bhattacharyya, Shri Jagadish
 Bhattacharyya, Shri S. P.
 Bhaura, Shri B. S.
 Bhuvarahan, Shri
 Bisht, Shri N. S.
 Bosu, Shri Jyotirmoy
 Brahman, Shri Rattanlal
 Brahmanandji, Shri Swami
 Buta Singh, Shri
 Chanda, Shrimati Jyotsna
 Chandrakar, Shri Chandulal
 Chandrappan Shri C. K.
 Chandre Gowda, Shri
 Chandrika Prasad, Shri
 Chatterjee, Shri Somnath
 Chaturvedi, Shri R. L.
 Chaudhary, Shri Nitiraj Singh
 Chaudhuri, Shri Tridib
 Chaudhury, Shri Amarsinh
 Chavan, Shri D. R.
 Chavan, Shri Yeshwantrao
 Chawla, Shri A. N.
 Chellachami, Shri
 Chhotey Lal, Shri
 Choudhury, Shri Moinul Haque
 Chhuttan Lal, Shri
 Dalbir Singh, Shri
 Dalip Singh, Shri
 Damani, Shri S. R.
 Dandavate, Prof. Madhu
 Darbara Singh, Shri
 Das, Shri A. C.
 Das, Shri Dharnidhar
 Dasappa, Shri Tulsidas
 Daschowdhury, Shri B. K.
 Deb, Shri Dasaratha
 Desai, Shri D. D.
 Desai, Shri Morarji
 Deshmukh, Shri K. G.
 Deshmukh, Shri Shivaji Rao S.
 Dhamankar, Shri
 Dharia, Shri Mohan
 Dharamgaj Singh, Shri
 Dinesh Singh, Shri

Dixit, Shri G. C.
 Dixit, Shri J. C.
 Doda, Shri Hiralal
 Dumada, Shri L. K.
 Durairasu, Shri
 Dutta, Shri Biren
 Dwivedi, Shri Nageshwar
 Gaekwad, Shri Fatesingh
 Gandhi, Shrimati Indira
 Ganga Devi, Shrimati
 Gangaded, Shri P.
 Garcha, Shri Devinder Singh
 Gautam, Shri C. D.
 Gavit, Shri T. H.
 George, Shri A. C.
 Ghosh, Shrimati Bibha
 Ghosh, Shri P. K.
 Gill, Shri Mohinder Singh
 Gogoi, Shri Tarun
 Gohain, Shri C. C.
 Gokhale, Shri H. R.
 Gotkhinde, Shri
 Gopal, Shri K.
 Gopalan, Shri A. K.
 Goswami Shri Dinesh Chandra
 Govind Das, Dr.
 Gowda, Shri Pampan
 Gowder, Shri J. M.
 Gupta, Shri Indrajit
 Haldar, Shri Madhuryya
 Halder, Shri Krishna
 Hansda, Shri Subodh
 Hanumanthaiya, Shri
 Hari Kishore Singh, Shri
 Hashim, Shri M. M.
 Hazra, Shri Manoranjan
 Horo, Shri N. E.
 Ishaque, Shri A. K. M.
 Jadeja, Shri
 Jaffer Shariff, Shri C. K.
 Jagjivan Ram, Shri
 Jamilurrahman, Shri Md.
 Janardhanan, Shri C.
 Jayalakshmi, Shrimati
 Jha, Shri Bhogendra
 Jha, Shri Chiranjib
 Jitendra Prasad, Shri
 Jearder, Shri Dinesh
 Joshi, Shri Popatlal
 Joshi, Shrimati Subhadra
 Kadam, Shri Dattajirao
 Kadam, Shri J. G.
 Kadannappalli, Shri Ramachandran
 Kadar, Shri
 Kailas, Dr.
 Kakodkar, Shri Purushottam
 Kakoti, Shri Robin
 Kale, Shri

Kalyanasundaram, Shri M.
 Kamakshaiah, Shri
 Kamala Prasada, Shri
 Kamble, Shri T. D.
 Kamla Kumari, Kumari
 Kapur, Shri Sat Pal
 Karan Singh, Dr.
 Kasture, Shri A. S.
 Kathamuthu, Shri M.
 Kaul, Shrimali Sheila
 Kavde, Shri B. R.
 Kedar Nath Singh, Shri
 Kinder Lal, Shri
 Kisku, Shri A. K.
 Kotoki, Shri Liladhar
 Kotrashatti, Shri A. K.
 Krishna, Shri S. M.
 Krishnan, Shri M. K.
 Krishnappa, Shri M. V.
 Kulkarni, Shri Raja
 Kumaramangalam, Shri Mohan
 Kureel, Shri B. N.
 Kushok Bakula, Shri
 Lakkappa, Shri K.
 Lakshmikanthamma, Shrimati
 Lakshminarayanan, Shri
 Laskar, Shri Nihar
 Lutfal Haque, Shri
 Madhulkar, Shri K. M.
 Mahajan, Shri Vikram Chand
 Maharaj Singh, Shri
 Mahata, Shri D. N.
 Mahishi, Dr. Sarojini
 Majhi, Shri Gajadhar
 Majhi, Shri Kumar
 Malaviya, Shri K. D.
 Mallanna, Shri K.
 Mallikarjun, Shri
 Mandal, Shri J. N.
 Manoharan, Shri K.
 Maran, Shri Murasoli
 Marandi, Shri Ishwar
 Maurya, Shri B. P.
 Mehta, Dr. Jivraj
 Mehta, Dr. Mahipatray
 Melkote, Dr.
 Minimata Agamdas, Shrimati
 Mishra, Shri Bibhuti
 Mishra, Shri G. S.
 Mishra, Shri Jagannath
 Mishra, Shri Shyamnandan
 Misra, Shri S. N.
 Modak, Shri B. K.
 Modi, Shri Shrikrishan
 Mohammad Ismail, Shri
 Mohammad Tabir, Shri
 Mohammad Yusuf, Shri
 Mohan Swarup, Shri

Mohanty, Shri Surendra	Ram Swarup, Shri
Mohapatra, Shri S. S.	Ram, Shri T.
Mohsin, Shri	Ramji Ram, Shri
Mukerjee, Shri H. N.	Ramkanwar, Shri
Murthy, Shri B. S.	Ramshekhar Prasad Singh, Shri
Muruganantham, Shri	Rana, Shri M. B.
Nahta, Shri Amrit	Rao, Shrimati B. Radhabai A.
Naik, Shri B. V.	Rao, Shri Jagannath
Nair, Shri Sreeekantan	Rao, Dr. K. L.
Nanda, Shri	Rao, Shri K. Narayana
*Nayar, Shrimati Shakuntala	Rao, Shri Nageswara
Negi, Shri Pratap Singh	Rao, Shri M. Satyanarayan
Nimbalkar, Shri	Rao, Shri P. Ankineedu Prasada
Oraon, Shri Kartik	Rao, Shri Pattabhi Rama
Oraon, Shri Tuna	Rao, Shri Rajagopala
Oza, Shri Ghanshyam	Rao, Dr. V. K. R. Varadaraja
Pahadia, Shri Jagannath	Rathia, Shri Umed Singh
Painuli, Shri Paripoornanand	Raut, Shri Bhola
Palodkar, Shri	Ravi, Shri Vayalar
Pandey, Shri Damodar	Ray, Siddhartha Shankar
Pandey, Shri K. C.	Reddy, Shri B. N.
Pandey, Shri N. N.	Reddy, Shri Eswara
Pandey, Shri R. S.	Reddy, Shri Ganga
Pandey, Shri Sarjoo	Reddy, Shri K. K. Rami
Pandey, Shri Tarkeshwar	Reddy, Shri M. Ram Gopal
Panigrahi, Shri Chintamani	Reddy, Shri P. Narasimha
Pant, Shri K. C.	Reddy, Shri P. Venkata
Paokai Haokip, Shri	Richhariya, Dr. Govind Das
Parashar, Prof. Narain Chand	Rohatgi, Shrimati Sushila
Parikh, Shri Rasiklal	Roy, Shri Bishwanath
Parmar, Shri Bhaljibhai	Roy, Dr. Saradish
Partap Singh, Shri	Sadhu Ram, Shri
Parthasarathy, Shri	Saha, Shri A. K.
Paswan, Shri Ram Bhagat	Saha, Shri Gadadhar
Patel, Shri Nanubhai N.	Saksena, Prof. S. L.
Patel, Shri Prabhudas	Salve, Shri N. K. P.
Patil, Shri Anantrao	Samanta, Shri S. C.
Patil, Shri C. A.	Sambhali, Shri Ishaq
Patil, Shri E. V. Vikhe	Sanghi, Shri N. K.
Patil, Shri Krishnarao	Sankata Prasad, Dr.
Patil, Shri S. B.	Sant Bux Singh, Shri
Patil, Shri T. A.	Sarkar, Shri S. K.
Patnaik, Shri Banamali	Satish Chandra, Shri
Patnaik, Shri J. B.	Satpathy, Shri Devendra
Peje, Shri S. L.	Savant, Shri Shankarrao
Pillai, Shri R. Balakrishna	Savitri Shyam, Shrimati
Pradhani, Shri K.	Sayajirao, Shri
Qureshi, Shri Mohd. Shafi	Sen, Shri Robin
Radhakrishnan, Shri S.	Sethi, Shri Arjun
Raghu Ramaiah, Shri	Sethi, Shri P. C.
Raj Bahadur, Shri	Sezhiyan, Shri
Rajdeo Singh, Shri	Shafi, Shri A.
Raju, Shri M. T.	Shafquat Jung, Shri
Ram Dhan, Shri	Shahnawaz Khan, Shri
Ram Sewak, Ch.	Shailani, Shri C. P.
Ram Surat Prasad, Shri	

*Wrongly voted for Ayes.

Shambhu Nath, Shri
 Shankar Dayal Singh, Shri
 Shankar Dev, Shri
 Shankaranand, Shri B.
 Shankergiri, Shri V.
 Sharma, Shri A. P.
 Sharma, Dr. H. P.
 Sharma, Shri Madhoram
 Sharma, Shri N. K.
 Sharma, Shri R. N.
 Sharma, Shri S. D.
 Shashi Bhushan, Shri
 Shastri, Shri Biswanarayan
 Shastri, Shri Raja Ram
 Shastri, Shri Ramavatar
 Shastri, Shri Shivpujan
 Shenoy, Shri P. R.
 Sher Singh, Shri
 Shinde, Shri Annasaheb P.
 Shiva Chandika, Shri
 Shivrath Singh, Shri
 Shukla, Shri B. R.
 Shukla, Shri Vidya Charan
 Siddayya, Shri S. M.
 Siddheshwar Prasad, Shri
 Singh, Shri D. N.
 Singh, Shri V. N. P.
 Sinha, Shri N. K.
 Sinha, Shri R. K.
 Sinha, Shri S. N.
 Sohan Lal, Shri T.
 Sokhi, Shri Swaran Singh
 Solanki, Shri Somchand
 Somasundaram, Shri
 Sonar, Dr. A. G.
 Stephen, Shri C. M.
 Sunder Lal, Shri
 Surendra Pal Singh, Shri
 Suryanarayan, Shri K.
 Swaminathan, Shri R. V.
 Swamy, Shri Sidrameshwar

Swaran Singh, Shri
 Swatantra, Shri Teja Singh
 Tarodekar, Shri V. B.
 Tayyab Hussain Khan, Shri
 Tewari, Shri Shanker
 Thakre, Shri S. B.
 Thakur, Shri Krishnarao
 Tiwary, Shri D. N.
 Tiwary, Shri K. N.
 Tombi Singh, Shri N.
 Tula Ram, Shri
 Uikey, Shri M. G.
 Ulaganambi, Shri R. P.
 Unnikrishnan, Shri
 Vekaria, Shri
 Venkatasubbaiah, Shri P.
 Verma, Shri Balgovind
 Vidyalkar, Shri A. N.
 Vijay Pal Singh, Shri
 Vikal, Shri R. C.
 Virbhadra Singh, Shri
 Yadav, Shri Chandrajeet
 *Yadav, Shri G. P.
 Yadav, Shri Karan Singh
 Yadav, Shri N. P.
 Yadav, Shri R. P.
 Yadava, Shri D. P.
 Yajnik, Shri
 Zulfiqar Ali Khan, Shri

NOES

Agarwal, Shri Virendra
 Anthony, Shri Frank
 Bade, Shri R. V.
 Banera, Shri Hamendra Singh
 Chaudhary, Shri Ishwar
 Chauhan, Shri Bharat Singh
 Deo, Shri P. K.
 Gayatri Devi Rajmata
 Joshi, Shri Jagannathrao

*Wrongly voted for Ayes.

Kachwai, Shri Hukam Chand
 Kamble, Shri N. S.
 Lambodar Baliyar, Shri
 Maha Deepak Singh, Shri
 Malik, Shri Mukhtiar Singh
 Mody, Shri Piloo
 Patel, Shri H. M.
 Pradhan, Shri Dhan Shah
 Purty, Shri M. S.
 Ranabahadur Singh, Shri
 Scindia, Shri Madhavrao
 Scindia, Rajmata V. R.
 Sharma, Shri R. R.
 Vajpayee, Shri Atal Bihari

ging the right of freedom of speech and expression, right to assemble, right to form associations or unions [and right to personal liberty." (8)

SHRI FRANK ANTHONY : I beg to move :

Page 2, line 1,—

after "Constitution" insert—
 "other than articles 26, 29 and 30," (14)

SHRI ATAL BIHARI VAJPAYEE : I beg to move :

Page 2,—

after line 2, insert—

"Provided that if any such amendment seeks to take away or abridge any of the Fundamental Rights enumerated in Part III of the Constitution, the amendment shall also require to be ratified by the people through a referendum to be held on the basis of adult suffrage by a simple majority of the votes cast in such a referendum." (9)

MR. SPEAKER : The result* of the division is : Ayes : 379 ; Noes : 23

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

The motion was adopted.

Clause 2 was added to the Bill.

MR. SPEAKER : There is an amendment by Shri D. K. Panda seeking to insert a new clause 2A. Is he moving it ?

SHRI D. K. Panda : No, Sir. I am not moving it.

Clause 3—(Amendment of article 368)

SHRI A. K. GOPALAN (Palghat) : I beg to move :

Page 2,—

after line 2, insert—

"Provided that the Parliament shall not make any provision abrid-

SHRI INDRAJIT GUPTA (Alipore) : I beg to move :

Page 2,—

after line 2, insert—

"Provided that nothing in section 3 shall affect the operation of sub-clauses (a), (b), (c), (d), (e) and

*The following Members also recorded their votes :

AYES : Sarvashri Priya Ranjan Das Munsji, Hari Singh, R. K. Khadiilkar, P.M. Sayeed, S. N. Singh Deo, Rudra Pratap Singh, Mulki Raj Saini, Mani Ram Godara, Ram Prakash, Sanjeevi Rao, Y. S. Mahajan, M. C. Daga, K. K. Shetty, Sudhakar Pandey, Anant Prasad Dhusia, C. C. Desai, G. Venkataswamy, Samar Guha, M. M. Joseph, S. P. Verma, K. Kamaraj, K. S. Chavda, Muthuswamy, Saroj Mukherjee and R. P. Das.

NOES : Sarvashri Onkar Lal Berwa, G. P. Yadav and Shrimati Shakuntala Nayyar.

(g) of clause (1) of article 19, and articles 20, 21, 22, 23, 24, 25, 26, 27, 28, 29 and 30," (26)

SHRI K. MANOHARAN : I beg to move :

Page 2,—

after line 2, insert—

"Provided that if any amendment seeks to snatch away or abrogate or abridge any of the Fundamental Rights enumerated in Part III of the Constitution, the amendment shall require to be ratified by not less than 75 per cent of the State Legislatures." (29)

SHRI S. A. SHAMIM : I beg to move :

Page 2,—

after line 2, insert—

"Provided that if any such amendment seeks to take away or abridge any of the Fundamental Rights enumerated in Part III of the Constitution it shall also require to be ratified by half of the State Legislatures in the country." (27)

SHRI SOMNATH CHATTERJEE (Burdwan) : I beg to move :

Page 2,—

after line 2, insert—

"Provided that nothing herein shall apply to the provisions contained in sub-clauses (a) to (e) of clause (1) of article 19 and clauses (1) and (2) of article 22 of the Constitution." (38)

PROF. S. L. SAKSENA (Maharajanji) : I beg to move :

Page 2,—

after line 2, insert—

"Provided that nothing in this section shall affect the operation of sub-clauses (a), (b), (c), (d), (e) and (g) of clause (1) of article 19,

and articles 14, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29 and 30." (40)

Page 2,—

omit lines 3 to 7. (41)

SHRI M. MUHAMMED ISMAIL (Manjeri) : I beg to move :

Page 2, line 1.—

after "Constitution" insert—

"excepting articles 15, 16, 17, 19, 25, 26, 29 and 30" (24)

PROF. MADHU DANDAVAT (Rajapur) : I beg to move :

Page 2,—

after line 2, insert—

"Provided that Parliament shall not make any provision that takes away or abridges the right of freedom of speech and expression, right to assembly and right to form associations or unions." (30)

MR. SPEAKER : These amendments are now before the House.

SHRI A. K. GOPALAN : I have moved amendment No. 8. While moving this I have to explain why I am moving it. Shri S. Mohan Kumaramangalam as well as the Law Minister Shri H. R. Gokhale had asked us to withdraw all the amendments. I am sorry that I cannot withdraw those amendments, and I may be permitted to give the reasons why I do not want to withdraw those amendments.

In the speeches that have been made including that of the Prime Minister, it has been said that the force is the force of the people and basic changes come only if the people act and the Constitution is an instrument of changes and struggles. While supporting the stand that Parliament has got the right to amend any part of the Constitution, here I have only sought to make it clear that :

"Provided that the Parliament shall not make any provision abridging the

[Shri A. K. Gopalan]

right of freedom of speech and expression, right to assemble, right to form associations or unions and right to personal liberty.”

Why have I sought to include this proviso? I know that these provisions are there in the Constitution. If the present clause 3 is passed as it stands, then those rights may be abridged and so many other things may happen. I want first of all to point that changes come about not because of constitutional amendments. Changes come; social and economic changes can only come by the action of the people.

Take social changes. Untouchability has been legally abolished. But there are even today places where it is practised. It was the untouchables and others who wanted that this evil system should go. It was their action and sacrifice that made it go. By banning an evil thing, it will not just go; the people who want the change, who have got the consciousness and the willingness to see that it goes have to act to see that it goes.

Similarly, as economic changes are concerned, whatever changes have taken place have been as a result of action by the toiling masses of this country.

Everyone who spoke on the other said that changes come with the will of the people. For improving the condition of the people, the toiling masses must act. Here a theory has been propounded that the people are the instruments of change and the Constitution is only to help them to act, to make changes. If this is so, the freedom of the people to act should remain unabridged; rather it should be enriched and expanded. Therefore, there should be no question of curtailing that freedom.

What is the position today? You have the monopoly press. They will make use of it against the common people. But only when the people move, organise themselves from associations or unions can they assert themselves for change. That must be encouraged and helped. Therefore, there must be a provision in this that whatever funda-

mental rights are there concerning freedom of speech, organisation, unions and so on should remain unabridged. But today what is happening? What about the civil liberties? The other day when the Internal Security Bill was passed here, the Home Minister said that it would not be used against the interests of the workers. This morning I got a telegram from Hyderabad that a worker had been arrested and kept under detention under the Act. Was there no Cr. P. C. or some other law under which action could not be taken? In Tamil Nadu, four trade union workers were arrested under the Act. This is the position even with the assurance that this power would never be used against the interests of the workers. So what is happening is that it is being used against the toiling masses who are the instruments of change who should be helped and encouraged. No changes will come unless the people move and act. But it is they who are now being suppressed. There is 144. People are arrested for violation of it. But what about those who violate Acts? What action is being taken against those who violate the Provident Fund Act? The other day I showed you how Acts passed by Parliament and the State legislatures, specially Parliament, are not implemented. But has anything been done against it? Nothing is done against it. Where is the action taken? Action is taken against the people concerned if they organise, if they agitate, if they struggle in the name of law and order or in the name of something else. Only then action is taken. It is a question of freedom of speech and expression. The other day, I got a report saying that at Chittaranjan, the workers and the office-bearers of the union have been transferred. There are instances. I do not want to quote them because there are so many instances. When the workers act for the implementation of the legislation already passed, the workers are victimised and arrested, and they are oppressed.

What is happening in the country today? Even the elementary freedom of organisation, and expression and civil liberties, are curbed, and that is used against the toiling masses. We must see that whatever the Constitution is, the laws are implemented, and they help the Government; for a change if they really want a change.

That is why I say, according to my experience, we have been for the last so many years, dealing with such provisions here ; the monopoly press or some other monopoly will use it, and then there may be some provision saying that the freedom will be allowed only to those persons who are helping for a radical change in society, social and economic changes, and for those who are against those changes, certainly those freedoms will not be given. Already, there is power for the Government to make change in the Constitution. It has been asked who will be in power tomorrow : those on the other side may continue in power but it is the people who have to decide. what was in 1967, in many States in India, it was not the same party that was in power. So, if those who come to power tomorrow want to crush or take away the little freedom that is there, freedom of speech and organisation, then certainly, whatever the objectives are—a socialist pattern of society and a radical change—these changes cannot come. That is the reasons why I have given this amendment, from our own experience in this country for the last so many years. That is why I say that this provision must be there, and unless it is there, certainly even the very little freedom of speech and organisation will not be there.

So, I commend my amendment to the acceptance of the House.

श्री अटल बिहारी वाजपेयी : अध्यक्ष जी, इस विधेयक के विवाद में प्रधान मंत्री को छोड़ कर तीन वकीलों ने भाग लिया। लेकिन वकीलों की यह त्रिमूर्ति इस बात का कोई समाधानकारक उत्तर नहीं दे सकी कि यदि हम नागरिकों के मूलभूत अधिकार समाप्त करना चाहते हैं या कम करना चाहते हैं तो हमें नागरिकों के पास जाने में क्यों आपत्ति होनी चाहिए कल मैंने एक उदाहरण भी दिया था कि गोआ में महाराष्ट्रवादी गोंमतक पार्टी चुनाव में विजयी हुई। गौआ की जनता ने उस के हाथ में सत्ता रख दी। लेकिन जब गौआ को महाराष्ट्र में मिलाने का सवाल आया और उस सवाल पर जनता की राय ली गई तो जो

निर्णय चुनाव में था जनता ने उस निर्णय को बदल दिया।.....

श्री शिवाजी राव एस. देशमुख (परभण्ण):
नान-गोवन्ज ने वोट किया था।

श्री अटल बिहारी वाजपेयी : अध्यक्ष जी, यह कोई तर्क नहीं है, इस समय इन्होंने वोट दिया था उस समय उन्होंने वोट दिया था। क्या कोई सम्भावना को रद्द सकता है? आम चुनाव में जनता एक ढंग से निर्णय कर सकती है, लेकिन जब बुनियादी अधिकारों को कम करने का सवाल आये तो जनता और ढंग से अपनी प्रतिक्रिया प्रकट कर सकती है।

इस लिए हमारा निवेदन है कि जिन्हें जनता में विश्वास है और जनता की सर्व-प्रभुता की दुहाई देते हैं, जो यह मानते हैं कि संसद सर्वोच्च है, लेकिन जनता उस से भी सर्वोच्च है, उन्हें जनता के पास जाने में किसी तरह का एतराज नहीं होना चाहिये। मुझे दुख है इस विवाद में यह बात कही गई कि मैं इस विधेयक को पारित होने से रोकने के लिये या जनता का ध्यान हटाने के लिये रेफ्रेण्डम की बात कर रहा हूँ। आरोप लगाना तर्क करना नहीं है। आरोप का उत्तर आरोप से दिया जा सकता है। मैं भी यह आरोप लगा सकता हूँ कि बंगला देश के बारे में अपनी विफलता पर परदा डालने के लिये सरकार इस अनावश्यक विधेयक को ले आई है। गोलकनाथ का निर्णय सन 1967 में हुआ, तीन साल तक आप को आर्थिक और सामाजिक परिवर्तन की प्रक्रिया में तेजी लाने का विचार नहीं आया.....

वित्त मंत्री (श्री यशवन्तराव चव्हाण) :
तैयारी में थे।

श्री अटल बिहारी वाजपेयी : चुनाव जीते हुए आप को कई महीने हो गये, अगर अभी

(श्री अटल बिहारी वाजपेयी)

तक आप चाहते तो सुप्रीम कोर्ट को मामला भेज कर उस की राय प्राप्त कर सकते थे या लोक सभा के पहले अधिवेशन में विधेयक ला सकते थे। लेकिन मैं आप के इरादों पर अविश्वास प्रकट नहीं करना चाहता और मैं यह भी नहीं चाहता कि मेरे उद्देश्यों में किसी किसी तरह का आक्षेप करें। मूलभूत अधिकारों में कमी का प्रश्न कोई साधारण प्रश्न नहीं है। जनता को अधिकार है कि वह यह कहे कि इस तरह की कोई कमी करने से पहले आप हमारी राय लीजिये।

इस विवाद पर कल श्री सिद्धार्थ शंकर राय ने अपना भीषण भाषण दिया। मुझे खेद है कि उस समय मैं सदन में उपस्थित नहीं था। लेकिन आज मैंने उन के भाषण को पढ़ा है। वह मेरे लिये कहते हैं कि मेरी शादी नहीं हुई है। लेकिन अगर मैं 20 साल पहले शादी करता तो कई बीवियां रख सकता था, लेकिन अब एक बीवी से ज्यादा नहीं रख सकता हूं। उन का मतलब यह था कि बीवी रखने का अधिकार बदल रहा है, मेरे लिये बदल रहा है, शायद सिद्धार्थ शंकर राय के लिये भी बदल रहा है, लेकिन मोइनुल हक चौधरी के लिये एक से ज्यादा बीवियां रखने का हक नहीं बदल रहा है।

आप संविधान के निदेशक सिद्धान्तों की बात करते हैं। संविधान के निदेशक सिद्धान्तों में लिखा है कि देश में कामन सिविल कोड होना चाहिये। यह सवाल इस विधेयक के पारित होने के बाद कसौटी पर कसा जानेवाला है... (व्यवधान)...

श्री राम सहाय पाण्डे : (राजनंदगांव) माइनीरिटीज की रक्षा के लिये उन की व्यवस्थाओं की रक्षा करनी चाहिये।

श्री अटल बिहारी वाजपेयी : मैं मानता हूँ कि अधिकार बदलते हैं और सम्पत्ति का अधिकार भी समाज सापेक्ष अधिकार है। सम्पत्ति का अधिकार एक्सोल्स्यूट अधिकार नहीं है। कभी पत्नी की गणना भी सम्पत्ति में होती थी, लेकिन आज पत्नी बराबर की हकदार है और हमारे जीवन दर्शन ने, हमारी संस्कृति ने कभी भी परिवर्तन का निषेध नहीं किया। अलग अलग स्मृतियां लिखी गई हैं, अलग अलग अधिकारों की व्याख्या हुई है। जब हम ने शाश्वत धर्म की चार्चा की तो हम ने युग धर्म पर भी बल दिया और युग धर्म की अपेक्षा है कि सम्पत्ति का अधिकार सीमित किया जाना चाहिये तो उस से कोई इन्कार नहीं करेगा। लेकिन मैं इस लिये विरोध कर रहा हूँ कि आज मैं एक से अधिक बीवी नहीं रख सकता यह विनोद पैदा करने की बात हो सकती है, लेकिन यह श्री सिद्धार्थ शंकर राय के पक्ष को बलवान नहीं बनाती है। कठिनाई यह है कि वह सिद्धार्थ हैं और मैं यथार्थ को लेकर चलता हूँ। वह अपने अर्थ को सिद्ध करना चाहते हैं और मैं देश के यथार्थ की ओर संकेत करना चाहता हूँ। और यथार्थ का तकाजा यह है कि जनता के पास जाकर उसकी राय ली जानी चाहिए। मैं मानता हूँ कि समय बदलता है और समय के बदने के साथ हमें भी बदलना चाहिए। श्री सिद्धार्थ शंकर राय भी बदलें। मुझे वह दिन भी याद है जब आसम ट्रिब्यून के मामले में श्री सिद्धार्थ शंकर राय श्री मोइनुल हक चौधरी के खिलाफ खड़े थे। उस समय उन्होंने क्या कहा था मैं उसको दोहराना नहीं चाहता। आज उनकी स्थिति बदल गई है। आज श्री सिद्धार्थ शंकर राय और श्री मोइनुल हक चौधरी एक बेंच पर बैठे हैं। तो परिवर्तन का कोई विरोधी नहीं है लेकिन देखना यह है कि परिवर्तन जनता के हक में है या नहीं। एक तो प्रेम होता है और एक श्रेय होता है।

सस्ती लोकप्रियता प्राप्त करने के लिए भी कुछ किया जा सकता है और तात्कालिक क्षणिक उन्माद के बीच भी जो स्थाई मूल्य है उनकी रक्षा करने का साहस जुटाने का प्रयत्न करना होता है। ऐसा दिखाई देता है कि हम प्रेय को पूजा कर रहे हैं और श्रेय को तिलांजलि देने जा रहे हैं अन्यथा इस बात में किसी को आपत्ति नहीं होनी चाहिए थी कि अगर मूलभूत अधिकार कम किये जायें तो आप रेफ्रेन्डम मानिए। हमारे विधि मंत्री कहते हैं कि यह व्यावहारिक नहीं है। इतने करोड़ लोग सत्तारूढ़ दल को वोट देते हैं तब वे अच्छे हो जाते हैं लेकिन जब मेरे रेफ्रेन्डम के सुझाव को मानने की बात आती है तो यह संख्यासुर बन जाते हैं। बहुत से असुर हमारे देश में हैं और एक संख्यासुर भी है। अगर करोड़ों लोग हैं तो उनकी राय ली जा सकती है। अगर प्रधानमंत्री की सुविधा के लिए, अगर सत्तारूढ़ दल की सुविधा के लिए एलेशन कमीशन डेढ़ महीने के भीतर मध्यावधि चुनावों को सम्भव कर सकता है तो एक ऐसे आधारभूत विषय पर जनता की राय लेने का एक महीने के भीतर प्रबन्ध क्यों नहीं किया जा सकता है? करना चाहिए। यह जनता को जागृत करने का भी एक तरीका होगा, लोगों को राजनीति में खींचने का भी तरीका होगा और उन्हें प्रबुद्ध बनाकर महत्वपूर्ण प्रश्नों पर उनका निर्णय लेने का भी एक तरीका होगा। इसलिए मैं कहना चाहता हूँ कि अगर आप रेफ्रेन्डम की बात को स्वीकार नहीं कर रहे हैं तो आप जनता के पास जाने से डर रहे हैं, आपके मन में भय है। आपको आशंकार्ये हैं। यदि आशंकार्ये नहीं हैं तो अभी भी समय है, रेफ्रेन्डम के सुझाव को माना जा सकता है और फिर हम इस विधेयक के पूरी तरह से साथ हैं।

SHRI SIDHARTHA SHANKAR RAY :
On a point of personal explanation, Sir.

The leader of the Jan Sangh had referred to the fact that I had appeared for *Assam Tribune* in a case against Mr. Moinul Haque Chaudhury. As usual, his facts are wrong, I did not appear for *Assam Tribune* I appeared for *Shillong Times* and it had nothing to do with politics. As a lawyer I was briefed. Just as Mr. Vajpayee's people used to come to Calcutta and brief me, *Shillong Times* also briefed me and in 1957 or 1958 I had defended *Shillong Times* in a prosecution which was filed by the Government of Assam against that paper. That case was compromised.

SHRI ATAL BIHARI VAJPAYEE : I stand corrected ; it was *Shillong Times* and not *Assam Tribune*.

SHRI SEZHIYAN (Kumbakonam) : Sir, I commend amendment No. 29 moved by Mr. Manoharan to the House, it wants to provide that any amendment of the Constitution which seeks to abrogate or abridge any of the fundamental rights in Part III should be ratified by not less than 72 per cent of the State legislatures. The spirit behind amendment No. 27 moved by Shri Shamim is also the same. I invite the attention of the House to the Constitution Amendment Bill moved by the late Mr. Nath Pai, which was referred to a joint Committee gave a unanimous report which says :

"The committee feel that in view of the importance of fundamental rights the State legislatures should also be associated with the amendment of the provisions contained in Part III. They have accordingly brought Part III within the proviso to article 368. Henceforth all constitutional amendments relating to Part III would also have to be ratified by the legislatures of not less than half of the States."

This is the unanimous report given by the Joint Select Committee, which has been accepted by the Law Minister, Shri Govinda Menon. The 45 members who participated in it gave a unanimous decision and that was accepted by the then government. So, there should be no difficulty in accepting that proposal now That is why, I am suggesting

[Shri Sezhiyan]

that when we are amending article 368 we can include a proviso that whenever Part III is amended that Amending Bill should be ratified by the State legislatures. Whether it should be two-thirds or half of the State can be left to the wisdom of the Law Minister, but the principle should be accepted. That the purpose of amendment No. 29 standing in the name of Shri Manoharan and amendment No. 27 standing in the name of Shri Shamim. I hope government will accept this amendment of Shri Manoharan.

SHRI INDRAJIT GUPTA : I want to speak on amendment No. 26 and some other amendments which stand in the name of some other members of my party. They all reflect the apprehension and fear that we felt in view of the record of this government in the past. I have made that clear in my statement yesterday before this House that there was nothing which prevented them from making Acts in consonance with the directive principles or to further strengthen the effect of fundamental rights all these years. As Shri Gopalan has pointed out, despite the fundamental rights remaining in Part III of the Constitution, there is a whole plethora of legislations or Acts in this country which, in our opinion, go counter to the essence and spirit of the fundamental rights.

After this debate I wanted to see what assurances, new assurances, if any, were going to come from the other side. On that score I must say that we have been disappointed. Because, assurances are not enough. Even after the 1971 midterm election many of the actions of the government are such that they do not generate any confidence about the ushering in of the democratic socialism to which so much reference has been made. Have the ruling party taken any steps, serious steps to advance towards that goal at a rapid pace? Rather, they have done many things which go against that, and they are continuing to do that. Therefore, as far as the assurances are concerned, I am afraid I am not at all satisfied with them.

At the same time, as I pointed out yesterday also, there are futile attempts being made by friends on both sides to depict this

Twentyfourth Amendment Bill as something which is terribly revolutionary and radical. Both Shri Anthony and the other side are doing it.

SHRI FRANK ANTHONY : I am thinking only of the minorities.

SHRI INDRAJIT GUPTA : What is this Bill in essence? It is an attempt to restore the position as it existed before the Golak Nath case decision. There is nothing very revolutionary, radical or alarming in it. What does it mean? The Golak Nath case judgment came in February 1967. So, out of 21 years for 17 years till the Golak Nath judgment came the Supreme Court has upheld the position that the Parliament had the right to amend any part of the Constitution. So, there is nothing more in it.

Of course, it is significant. I do not minimise its importance and that is why I welcome it and support it. But it is useless trying to read something into it. For 17 years out of 21 years we lived under a Constitution, which permitted this Parliament to amend to Constitution, recognised its right to amend the Constitution. We are now going back to that position. Therefore, I feel that in future it is up to us, up to that side as well as this side, to bring forward amending Bills to the Constitution which would satisfy whatever hopes or aspirations we have as well as to remove whatever apprehensions and fears that we might have. But, I feel, Sir, that this is not the occasion for it. A Bill which has a limited purpose of restoring the *status quo* as it existed prior to the Golaknath case should not be the occasion now to try to introduce some amendment which will take it further that it was before the Golaknath judgement. That cannot be done. It is out of place here completely. That is why I told Mr. Siddhartha Shankar Ray and Shri Mohan Kumaramangalam that I am not a bit convinced by the so-called assurances they gave here because practice in the past does not justify at all and it remains to be seen in the future. The test will come as to what they are prepared to do or not to do. I am talking about it within this House. Outside what has to be done will be done.

SHRI MOHAN KUMARAMANGALAM : I did not give any assurance.

SHRI INDRAJIT GUPTA : There was the question of doctrine of fear, I know the doctrine of fear is a very real thing. Mr. Gopalan and I may be afraid that such people may come to power who will even remove the Fundamental right chapter altogether and Mr. Anthony may have a fear that one day communists will come to power and everything will be expropriated. But as all these learned counsels on this side have pointed out to a layman like myself that the doctrine of fear is not a doctrine on the basis of which you can restrict the giving of power. That task remains un-fulfilled. That has to be done in the future both by bringing in new amending legislation and by carrying on struggle outside and also I would say by passing laws which further strengthen these rights—minority communities and so on. Why should not laws be passed which further strengthen those rights ?

Therefore, I am not pressing this amendment but this does not mean in any way that I am convinced by their assurances but it is out of place here because all that we are doing is restoring a position which existed for 17 years prior to the Golaknath judgment and this is not the occasion when we can suddenly import something which will take it still further. That has to be done by new amending legislation which I hope will come in the future.

SHRI FRANK ANTHONY : Mr. Speaker, Sir, number 14 is very similar to number 12. All that it seeks to do in effect is to except from the constituent powers being given to Parliament the three fundamental rights—Articles 26, 29 and 30. My friend, Shri Indrajit Gupta, was lecturing me about the doctrine of fear. As I said, if you had only brought this I would have supported it but the fear has fructified into a reality when you simultaneously introduced this poisonous 25th amendment Bill. See, what you have done; I do not know whether you studied it. You fogged off the reply on to the Prime Minister. I want to refer here to Mr. Indrajit Gupta who said they got a bad strategy. You probably did it by way of preventive strike against communists. You want to outthered the communists. So, you

brought in the 25th amendment Bill effacing everything.

He was saying that they have stolen his thunder.

18 hrs.

SHRI INDRAJIT GUPTA : I did not say that. My thunder is going on very well.

SHRI FRANK ANTHONY : He was saying that they have stolen his thunder by bringing in the Twenty-fifth Amendment as a pre-emptive strike against the Communists. But what I am concerned with is the pre-emptive strike against the fundamental rights. Let Shri Chavan's and mine fundamental rights go.

SHRI INDRAJIT GUPTA : I never said this. It was Shri Anthony who said to me, "They have stolen your thunder."

SARI SIDDHARTHA SHANKAR RAY : What Shri Gupta wants to say is that he has no thunder at all; so, there is no question of stealing.

SHRI FRANK ANTHONY : The pre-emptive strike is against the fundamental rights of the minorities and against the Supreme Court. That is why I asked my friend. But he indulges in an exercise of evasion. He says that the Prime Minister has answered it. How can she interpret it ? I know, your assurance will have no validity in a court of law but at least let me have some kind of little satisfaction of knowing that a person of your legal eminence can give me an assurance that my rights are not effaced by the Twenty-fifth Amendment.

SHRI S. A. SHAMIM (Srinagar) : I am glad that this august House is making the fundamental rights touchable. They were declared to be untouchable by the Supreme Court and this august House restores the respect that we have for the fundamental rights.

Shri Atal Bihari Vajpayee has asked for a referendum. My humble request to the ruling party will be that his demand should be accepted, of course not in the manner in

[Shri S. A. Shamim]

which he is asking. I, on behalf of the ruling party, accept this challenge. He does not accept the referendum of March 1971. I give him a date when we are going to have a referendum, that is, February 1976. Then it will be open to Shri Atal Bihari Vajpayee and Shri Frank Anthony to make an issue of this as to whether this Parliament had the right or not. I assure him that if the people vote for Shri Atal Bihari Vajpayee, the ruling party will not be there and Atal Biharji will be there.

SHRI ATAL BIHARI VAJPAYEE : But there will be no elections to Parliament.

SHRI S. A. SHAMIM : There will be elections to Parliament. If Shri Atal Bihari Vajpayee has lost faith in 1976 also, I cannot help.

My amendment is that if this Parliament decides to abridge fundamental rights, it should be ratified by half the Legislatures in the country. Now that it is amply demonstrated that the people are for a change—and it is proved here in this House that an overwhelming majority of the people are for a change—let us anticipate that the people will express themselves in the elections to be held in 1972 and will give you a majority in the States as well. Therefore there should be no hitch or apprehension that this amendment may not be supported by half the Legislatures. This recommendation was contained in the report of the Select Committee on Shri Nath Pai's Bill. India, having a federal Constitution, and being a federal policy, let the people of the States be also associated with it.

MR. SPEAKER : That is already provided in the Constitution.

SHRI S. A. SHAMIM : Not for the fundamental rights. That is not necessary as far as the fundamental rights are concerned.

MR. SPEAKER : For this amendment of the Constitution.

SHRI S. A. SHAMIM : Not as far as fundamental rights are concerned.

MR. SPEAKER : Of course, not for that. But this one will go to the States.

SHRI S. A. SHAMIM : This will also give the States a sense of participation in this important change. Therefore, this amendment of mine should be accepted.

PROF. S. L. SAKSENA : Mr. Speaker, Sir, I congratulate the hon. Minister for having brought this Bill before the House. I consider the Bill to be historic and I support it wholeheartedly. But in the Statement of Objects and Reasons, it is said that :—

“The Supreme Court in the well-known Golak Nath case reversed by, a narrow majority, its own earlier decisions upholding the power of Parliament to amend all parts of the Constitution including Part III relating to Fundamental Rights...It is, therefore, considered necessary to provide expressly that Parliament has power to amend any provision of the Constitution so as to include the provision of Part III within the scope of the amending power.”

The Bill is amended to meet that contingency. That is all right. But my amendment No. 40 only seeks to exclude articles 14, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, and 30. You certainly do not want to amend the rights of equality before law etc. Why do you then not allow these articles to remain inviolable? What is the harm therefore, in accepting my amendment? What I say is that the Government will not lose anything by allowing the rights which are already guaranteed in these articles to remain inviolable. As regards the question of procedure for amending article 368, about Fundamental Rights, I fully agree with you. But I do not think there is any reasons why the rights enshrined in these articles mentioned in my amendment should not continue to exist. I request the Government to accept my amendment.

As regards my amendment No. 41, I am really surprised to see sub-clause 3(c) of this Bill. It says :

(c) in clause (2) as so re-numbered, ...for the words “it shall be presented to the President for his assent and upon such assent being given to the

Bill," the words "it shall be presented to the President who shall give his assent to the Bill and thereupon" shall be substituted ;

I think, it is a blot on the Bill. When the Government sends a Bill to the President for his assent, he gives his assent as a matter of Convention. If the Government wants him to sign, he signs it. Why should you say that he cannot refuse to give his assent? This provision in clause 3(c) betrays distrust in the President. I do not think this provision should be there. Therefore, my amendment seeks to omit this sub-clause 3 (c) from the Bill. I hope government will accept my amendments.

श्री राम रतन शर्मा (बांदा) : अध्यक्ष महोदय, मेरा संशोधन संख्या 16 है। इस संविधान संशोधन के संदर्भ में कल से मैंने देश के महान नेताओं और जूरिस्ट्स के विचार सुने। जो मैंने अपना संशोधन दिया है उसके संदर्भ में मुझे यह कहना है कि संविधान में संशोधन लाने वाले हमारे बंधुओं को न तो जनता में विश्वास है क्योंकि वह रेफ्रेंडम की बात मानते नहीं, सुप्रीम कोर्ट पर भी विश्वास नहीं क्योंकि वह कहते हैं कि जजेज ठीक न्याय नहीं करते, तमाम आक्षेप जूडिशियरी पर लगाये गए हैं और उन्होंने जो यह लिखा है उससे यह बात स्पष्ट है कि उनको राष्ट्रपति पर भी विश्वास नहीं है क्योंकि वह लिखते हैं—

“इस प्रकार पुनःस्थापित खण्ड (2) में, ‘वह राष्ट्रपति के समक्ष उसकी अनुमति के लिए रखा जाएगा तथा विधेयक को ऐसी अनुमति दी जाने के पश्चात् ‘शब्दों के स्थान पर’ वह राष्ट्रपति के समक्ष रखा जाएगा जो विधेयक को अपनी अनुमति देगा और तदुपरि शब्द” प्रस्थापित किए जायेंगे।”

इसमें मेरा यह संशोधन है कि लाइन 13 से 17 तक सब निकाल दिया जाय।

SHRI M. MUHAMMAD ISMAIL (Manjeri) : A similar amendment to the

24th Amending Bill has been moved from our side to a previous section of the Bill. He want only the confirmation of the present Fundamental Rights. Because the minorities are anxious that when this amendment Bill is passed as it stands their fundamental rights may go one day. It is to reassure them that we want our amendment should be accepted.

The assurance given by the Prime Minister is there. We have repeatedly said that we have got full confidence in the Prime Minister and in the assurance she has given that the fundamental rights of the minorities will not be changed. There is absolutely no doubt about it. At the same time, in future what will happen, one cannot say. Therefore, even as the present Constitution has put these fundamental rights on a permanent basis, the same permanent basis may be continued. That is all that we want.

It is said and we know that the rights of the minorities are dependent upon the good-will of the majority. That is known to everybody. We fully believe in it. But with regard to the majority, there are many rights adumbrated in the Constitution. Why they are put there? Does it mean that the majority community does not have confidence in itself? Certainly not on the same analogy, we too want some indication to be indicated in this Bill to show that the minority rights will not be adversely affected. That is what we want.

PROF. MADHU DANDAVATE : My amendment is :

after line 2, insert—

“Provided that Parliament shall not make any provision that takes away or abridges the right of freedom of speech and expression, right to assembly and right to form associations or unions.”

Anticipating the restlessness in the House, whatever I have to say in support of my amendment, I have already said it during the general discussion. Therefore, without taking the time of the House, since I have full faith in the Parliament, I leave the fate

[Prof. Madhu Dandavate]

of my amendment to the decision of the Parliament.

SHRI SOMNATH CHATTERJEE :
We have supported generally this Constitution Amendment Bill.

My amendment which is at serial No. 38 is :

after line 2, insert—

“Provided that nothing herein shall apply to the provisions contained in sub-clauses (a) to (c) of clause (1) of article 19 and clauses (1) and (2) of article 22 of the Constitution.”

Assurances have no doubt been given by the hon. Law Minister in his opening speech and also by Mr. Mohan Kumaramangalam. My hon. friend said that there is no reason to fear that those fundamental rights as are contained in sub-clauses (a) to (c) of clause (1) of Art. 19 would be interfered with. We have also heard the Prime Minister intervening in the debate and giving her commitment and her party's commitment that there is no reason to fear about any interference with these fundamental rights. Commitment will have meaning only if you have faith and belief in those ideas and concepts. When that is so, what is the difficulty in making it entrenched in the Constitution of India? That is what we ask. Why should the people be merely satisfied with assurances like this? Why should it not be entrenched in the Constitution of India? Why cannot it be recorded in the Constitution permanently? After the Golaknath case, all of us criticised the judgment and asked that proper legislative measures should be taken to restore to Parliament its power to amend the Constitution, which is an expression of the sovereign will of the people of the country.

The people of the country are entitled to have certain basic human rights. Why should they not be enshrined in the Constitution? Why should they be merely satisfied with the assurance of the Prime Minister or the Home Minister or the Minister in charge of the Bill? We are not expressing

any doubts on their *bonafides*. Let us be clear about this. But our experience is this that they have not always practised what they preached.

Since the last election two ‘momentous’—if I may use that expression—legislative measures have been brought before the House. One is the taking over of General Insurance about which Mr. Indrajit Gupta referred to and which was criticised during the debate. We have provided for a payment of Rs. 33 lakhs compensation every month. The other legislative measure to which the opposition objected was the Maintenance of Internal Security Bill. This is how the rights of the people are preserved. We registered our protest. Therefore, we are apprehensive. Therefore, we want, when they have given such assurances, let such assurances be recorded. There are already provisions in Art. 19, sub-article (6) to impose reasonable restrictions on any of the rights. Therefore, in respect of any social or economic proposal, if it is found that something is standing in the way, you can amend it. What we are saying is this, even when it is necessary to make that encroachment on the fundamental rights, come along, we shall support you then, but at the moment, why should we leave it to your mere assurances. That is all. Assurances are given because it is felt that it is necessary to give assurance to the people at large; otherwise there is no need to give any assurance at all. We do not want any assurance with regard to fundamental right to property; we don't want such assurance and no such assurance was given.

Why I say this is because it is necessary to set at rest people's misgivings because there are certain genuine fears in the minds of the people. What we apprehend is this. The way the Government is moving makes one think that in some manner, all their intentions are not sincere. What is happening in West Bengal? Who have a supra-Constitutional authority to guide the destinies of West Bengal; it has been converted into a Police State. We are living in a Police State. More and more powers are taken by the Government to take away certain basic human rights. That is why we are pressing this amendment to keep out of the pale of the ordinary

legislative and amending process only those rights which are really basic and fundamental to mankind. That is why we are proposing this amendment.

SHRI KADAR (Bombay Central-South): I was listening to the speeches of the so-called champions of minorities in this House...

SHRI S. A. SHAMIM : On which amendment is he speaking ? He has not moved any amendment. Is he speaking on non-amendment ?

SHRI KADAR : I am opposing all the amendments.

SHRI S. M. BANERJEE : I suggest that he can speak during the third reading. If he is going to be allowed, then I may also be allowed, because I have got an amendment in my name which I have also not moved.

SHRI KADAR : As I said, I was listening to the speech of my hon. friends Shri Frank Anthony as well as the hon. Member from Kerala...

MR. SPEAKER : Can the hon. Member not speak during the third reading ?

SHRI KADAR : Yes, I shall speak during the third reading.

MR. SPEAKER : Now, the hon. Minister.

श्री अटल बिहारी वाजपेयी : मेरा भी संशोधन नं. 17 है ।

MR. SPEAKER : He cannot move that amendment now.

श्री अटल बिहारी वाजपेयी : मैं इतना ही चाहता हूँ कि विधि मंत्री स्पष्ट कर दें कि राष्ट्रपति को उनके डिस्क्रिशन से काम लेने में क्यों रोक जा रहा है ? क्या उनको अब राष्ट्रपति पर भी भरोसा नहीं है ?

THE MINISTER OF LAW AND JUSTICE (SHRI H. R. GOKHALE) : I am thankful to Shri Indrajit Gupta for having

declared that he is withdrawing the amendment. Some of the other amendments including that of Shri A. K. Gopalan are of a very similar type, and I would appeal to those hon. Members also to withdraw their amendments' because...

SHRI S. A. SHAMIM : It will save time.

SHRI H. R. GOKHALE : Apart from time, the whole position has already been made out that the fears which have been expressed here are really unfounded. Moreover, it might be necessary in an appropriate case to bring forward a measure for changing some of these fundamental rights also, for instance, if it is necessary to curb the monopoly interests or vested interests. That has been the experience of the court's decisions in the past.

SHRI SHYAMNANDAN MISHRA : What is he doing about industrial monopoly ? He is doing nothing.

SHRI H. R. GOKHALE : Repeated reference has been made to two earlier decisions where article 19 (a) was the main obstacle in bringing forward a measure to provide that monopoly could be curbed so far as the press was concerned. Therefore, is it right when Parliament is considering an amendment to give absolute power to Parliament to amend any provision of the Constitution that a limit should be placed on that power by way of these amendments ? I would request those Members to withdraw these amendments because firstly those fears are unfounded and secondly because it will take away the Government's power to amend these articles even in a genuine case where it is necessary to curb monopolies or where it is necessary to curb vested interests.

SHRI SHYAMNANDAN MISHRA : It is not curbing industrial monopoly which is the mother of all monopolies.

SHRI P. K. DEO : This is the the end of the wedge.

SHRI H. R. GOKHALE : The other amendments suggest that fundamental rights ought to be included in the proviso to article

[Shri H. R. Gokhale]

368 as an entrenched provision. As a fact it may be right that when this Bill was moved in the last Parliament, there was a Joint Committee and that committee has recommended that they should be included as entrenched provision, but theoretically and in principle it is not possible for me to agree to that decision for this reason that when we take the Constitution as it was, and as framed by the Constituent Assembly itself, these were not taken as entrenched provisions. These amendments really seek to put the clock back and go further than what even the Constituent Assembly had done. The Constituent Assembly when it framed the proviso to article 368, even at that time, in respect of the various checks and balances, did not think that along with the other articles mentioned in the provision, fundamental rights also should be there in the proviso. So, there is no justification at all now to include them. What has happened since that these should be included in the proviso.

The third theoretical reason is this ; and in principle, I am opposing the suggestion that it should be included as an entrenched Provision. If you look at the provisions of the provisos to art. 368, everyone of them pertains to the federal character of the Constitution where Centre-States relationship was involved, or where relationship between State and State was involved, or some thing which has to do with the federal structure of the Constitution. That gives the rational reason why even the Constituent Assembly did not include rights in the proviso.

SHRI SEZHIYAN : But the Joint Committee accepted it.

SHRI H. R. GOKHALE : Yes. But that does not preclude us from considering the whole thing on principle and on merits. If this is put there, it will completely mutilate the structure of the whole art. 368, itself. It is because every one of the articles had something to do with the federal structure that they were included in 368. If this has no basis so far as the federal character is concerned, if Parliament had the power to fundamental rights the States did not come into the picture. That was the

theoretical base taken not by any one after the Constitution was framed but at the time the Constitution was framed, when the Constituent Assembly framed art. 368. Therefore, I cannot accept the amendment.

The third suggestion made is-it was discussed earlier also—the amendment of Shri Vajpayee's, regarding referendum. From the legal and practical aspect it is not feasible. I have already said it. I am not able to understand why the voice of this House does not represent the people of this country, a House elected by 350 million people. All these issues were discussed in the election campaign.

SHRI ATAL BIHARI VAJPAYEE : This is no argument.

SHRI H. R. GOKHALE : This was part of our party manifesto. The other parties had also derided us by saying before the electorate that the Congress should not get votes because they are going to interfere with fundamental rights. All these issues were before the electorate and there is no reasons why we should not accept this, now, unless one subscribes to the view of Shri Piloo Mody, which I believe no sensible person will do, that the electorate in this country is not able to understand anything. What has happened is that there has been a virtual referendum on this just a few months ago. From the practical point of view also, it is not feasible to accept the amendment, which Shri Vajpayee wants. If this were accepted, does it preclude amendment of fundamental rights proposed in Private Members' Bills being subjected to referendum or does he want to has hold a dozen referenda ?

SHRI ATAL BIHARI VAJPAYEE : In case Government accept them.

SHRI H. R. GOKHALE : It is not practicable.

SHRI ATAL BIHARI VAJPAYEE : What about curtailing the power of the President to withhold assent ?

SHRI H. R. GOKHALE : He raised it after the debate. But I will explain it by saying that in this the Government really is depriving itself of its power to advise the

President to withhold assent. Is that understood? Under ordinary law, President's assent means assent given or withheld on the advice of the Council of Ministers. In this case, this power of the Council of Ministers is taken away by saying that the President shall give his assent, the reasons being that in a matter where the Parliament has sat as a constituent body and exercised its sovereign power and done something, not even the Government should have the power to advise the President to use the power of veto over the will of the House. I wonder how objection can be taken to this.

MR. SPEAKER : Shall I put all the amendments together ?

SHRI ATAL BIHARI VAJPAYEE : I am not impressed by the arguments that he has given. I am pressing Amendment No. 9.

MR. SPEAKER : Are you pressing your amendment, Mr. Anthony ?

SHRI FRANK ANTHONY : I am pressing my amendment No. 14—about the minorities.

MR. SPEAKER : I am putting all of them together except those where the Members want a division.

SHRI DINEN BHATTACHARYYA (Serampore) : Amendment Nos. 8 and 38.

PROF. S. L. SAKSENA : I want a division on my amendments Nos. 40 and 41.

MR. SPEAKER : Let the lobbies be cleared. I am putting first, amendment No. 8 in the name of Shri A. K. Gopalan and others.

The question is :

Page 2,—

after line 2, insert—

“Provided that the Parliament shall not make any provision abridging the right of freedom of speech and expression, right to assemble, right

to form associations or unions and right to personal liberty.” (8)

The Lok Sabha Divided :

Division No. 21]

[18.38 hrs.

AYES

Agarwal, Shri Virendra
Anthony, Shri Frank
Bade, Shri R. V.
Banera, Shri Hamendra Singh
Bhattacharyya, Shri Dinan
Bhattacharyya, Shri Jagadish
Bhattacharyya, Shri S. P.
Bosun, Shri Jyotirmoy
Brahman, Shri Rattanlal
Chatterjee, Shri Somnath
Chaudhary, Shri Ishwar
Chaudhuri, Shri Tridib
Chauhan, Shri Bharat Singh
Das, Shri R. P.
Deb, Shri Dasarath
Deo, Shri P. K.
Deo, Shri R. R. Singh
Dutt, Shri Biren
Gayatri Devi, Rajmata
Ghosh, Shrimati Bibha
Gopalan, Shri A. K.
Halder, Shri Krishna
Hazra, Shri Manoranjan
Horo, Shri N. E.
Joarder, Shri Dinesh
Joshi, Shri Jagannathrao
Kachwai, Shri Hukam Chand
*Kadam, Shri J. G.
Krishnan, Shri M. K.
Lambodar Baliyar, Shri
Malik, Shri Mukhtiar Singh
Menon, Shri Krishna
Modak, Shri B. K.
Mody, Shri Piloo
Mohammad Ismail, Shri
Muhammad Ismail, Shri M.
Muhammed Sheriff, Shri
Mukherjee, Shri Saroj
Narendra Sinh, Shri
Nayak, Shri Boksi
Nayar, Shrimati Shakuntala
Patel, Shri H. M.
Pradhan, Shri Dhan Shah
Purty, Shri M. S.
Ramkanwar, Shri

*Wrongly voted for Ayes.

Ranabahadur Singh, Shri
 Reddy, Shri B. N.
 Roy, Dr. Saradish
 Saha, Shri A. K.
 Saha, Shri Gadadhar
 Sait, Shri Ibrahim Sulaiman
 Saksena, Prof S. L.
 Scindia, Shri Madhavrao
 Scindia, Rajmata V. R.
 Sen, Shri Robin
 Sharma, Shri R. R.
 Singh, Shri D. N.
 Vajpayee, Shri Atal Bihari
 Yadav, Shri G. P.

NOES

Achal Singh, Shri
 Afzalpurkar, Shri Dharamrao
 Aga, Shri Ahmed
 Agrawal, Shri Shrikrishna
 Ahirwar, Shri Nathu Ram
 Ahmed, Shri F. A.
 Alagesan, Shri
 Ambesh, Shri
 Ankineedu, Shri
 Ansari, Shri Ziaur Rahman
 Appalanaidu, Shri
 Arvind Netam, Shri
 Asgar Hussain, Shri
 Austin, Dr. Henry
 Awdhesh Chandra Singh, Shri
 Azad, Shri Bhagwat Jha
 Aziz Imam, Shri
 Babunath Singh, Shri
 Bajpai, Shri Vidya Dhar
 Balakrishniah, Shri T.
 Banamali Babu, Shri
 Barman, Shri R.N.
 Banerjee, Shrimati Mukul
 Barua, Shri Bedabrata
 Barupal, Shri P. L.
 Basappa, Shri K.
 Basumatari, Shri D.
 Besra, Shri S. C.
 Bhagat, Shri B. R.
 Bhagat, Shri H. K. L.
 Bhandare, Shri R. D.
 Bhargava, Shri B. N.
 Bhatia, Shri D. D.
 Bhattacharyya, Shri Chapal
 Bhuvaraman, Shri
 Bisht, Shri N. S.
 Brahmanandji, Shri Swami
 Buta Singh, Shri
 Chanda, Shrimati Jyotsna

Chandrakar, Shri Chandulal
 Chandre Gowda, Shri
 Chandrika Prasad, Shri
 Chaturvedi, Shri R. L.
 Chaudhary, Shri Nitiraj Singh
 Chaudhury, Shri Amarsinh
 Chavan, Shri D. R.
 Chavan, Shri Yeshwantrao
 Chawla, Shri A. N.
 Chellachami, Shri
 Chhotey Lal, Shri
 Choudhury, Shri Moinul Haque
 Chhuttan Lal, Shri
 Daga, Shri M. C.
 Dalbir Singh, Shri
 Dalip Singh, Shri
 Damani, Shri S. R.
 Darbara Singh, Shri
 Das, Shri A. C.
 Das, Shri Dharnidhar
 Dasappa, Shri Tulsidas
 Dashowdhury, Shri B. K.
 Deo, Shri S. N. Singh
 Deshmukh, Shri K. G.
 Deshmukh, Shri Shivaji Rao S.
 Dhamankar, Shri
 Dharia, Shri Mohan
 Dharamgaj Singh, Shri
 Dhusia, Shri Anant Prasad
 Dinesh Singh, Shri
 Dixit, Shri G.C.
 Dixit, Shri J. C.
 Doda, Shri Hiralal
 Dumada, Shri L. K.
 Dwivedi, Shri Nageshwar
 Gandhi, Shrimati Indira
 Ganesh, Shri K. R.
 Ganga Devi, Shrimati
 Gangadeb, Shri P.
 Garcha, Shri Devinder Singh
 Gautam, Shri C. D.
 Gavit, Shri T. H.
 George, Shri A. C.
 Ghosh, Shri P. K.
 Gill, Shri Mohinder Singh
 Godara, Shri Mani Ram
 Gogoi, Shri Tarun
 Gohain, Shri C. C.
 Gekhale, Shri H. R.
 Gotkhinde, Shri
 Gopal, Shri K.
 Goswami, Shri Dinesh Chandra
 Govind Das, Dr.
 Gowda, Shri Pampan
 Hansda, Shri Subodh
 Hanumanthaiya, Shri
 Hari Kishore Singh, Shri

- Hari Singh, Shri
 Ishaque, Shri A. K. M.
 Jadeja, Shri
 Jaffer Shariff, C. K.
 Jagjivan Ram, Shri
 Jamilurrahman, Shri Md.
 Jeyalakshmi, Shrimati
 Jha, Shri Chiranjib
 Jha, Shri Vinoda Nand
 Jitendra Prasad, Shri
 Joseph, Shri M. M.
 Joshi, Shri Popatlal
 Joshi, Shrimati Subhadra
 Kadam, Shri Dattajirao
 Kadannappalli, Shri Ramachandran
 Kadar, Shri
 Kailas, Dr.
 Kakoti, Shri Robin
 Kale, Shri
 Kamakshaiyah, Shri
 Kamala Prasad, Shri
 Kamble, Shri N. S.
 Kamble T. D.
 Kamla Kumari, Kumari
 Kapur, Shri Sat Pal
 Karan Singh, Dr.
 Kasture, Shri A. S.
 Kaul, Shrimati Sheila
 Kavde, Shri B. R.
 Kedar Nath Singh, Shri
 Khadijkar, Shri R. K.
 Kinder Lal, Shri
 Kisku, Shri A. K.
 Kotoki, Shri Litadhar
 Kotrashatti, Shri A. K.
 Krishna, Shri S. M.
 Krishnappa, Shri M. V.
 Kulkarni, Shri Raja
 Kumaramangalam, Shri Mohan
 Kereel, Shri B. N.
 Lakkappa, Shri K.
 Lakshmikanthamma, Shrimati
 Lakshminarayanan, Shri
 Lutfal Haque, Shri
 Mahajan, Shri Vikram Chand
 Mahajan, Shri Y. S.
 Maharaj Singh, Shri
 Mahata, Shri D. N.
 Mahishi, Dr. Sarojini
 Majhi, Shri Gajadhar
 Majhi, Shri Kumar
 Malaviya, Shri K. D.
 Mallanna, Shri K.
 Mallikarjun, Shri
 Mandal, Shri J. N.
 Marandi, Shri Ishwar
 Maurya, Shri B. P.
 Mayavan, Shri
 Mehta, Dr. Mahipatray
 Melkote, Dr.
 Minimata Agamdas, Shrimati
 Mishra, Shri Bibhuti
 Mishra, Shri G. S.
 Mishra, Shri Jagannath
 Misra, Shri S. N.
 Modi, Shri Shrikishan
 Mohammad Tahir, Shri
 Mohammad Yusuf, Shri
 Mohan Swarup, Shri
 Mohanty, Shri Surendra
 Mohapatra, Shri S. S.
 Mohsin, Shri
 Munsji, Shri P. R. Das
 Murthy, Shri B. S.
 Nahata, Shri Amrit
 Naik, Shri B. V.
 Nanda, Shri
 Negi, Shri Pratap Singh
 Nimbalkar, Shri
 Oraon, Shri Kartik
 Oraon, Shri Tuna
 Oza, Shri Ghanshyam
 Pahadia, Shri Jagannath
 Painuli, Shri Paripoornanand
 Palodkar, Shri
 Pandey, Shri Damodar
 Pandey, Shri K. C.
 Pandey, Shri N. N.
 Pandey, Shri R. S.
 Pandey, Shri Sudhakar
 Pandey, Shri Tarkeshwar
 Panigrahi, Shri Chintamani
 Pant, Shri K. C.
 Paokai Haokip, Shri
 Parashar, Prof. Narain Chand
 Parikh, Shri Rasiklal
 Partap Singh, Shri
 Parthasarathy, Shri
 Patel, Shri Prabhudas
 Patil, Shri Anantrao
 Patil, Shri C. A.
 Patil, Shri E. V. Vikhe
 Patil, Shri S. B.
 Patil, Shri T. A.
 Patnaik, Shri Banamali
 Peje, Shri S. L.
 Pillai, Shri R. Balakrishna
 Pradhani, Shri K.
 Radhakrishnan, Shri S.
 Raghu Ramaiah, Shri
 Raj Bahadur, Shri
 Rajdeo Singh, Shri
 Raju, Shri M. T.
 Ram Dhan, Shri

Ram Sewak, Ch.
 Ram Surat Prasad, Shri
 Ram Swarup, Shri
 Ram, Shri T.
 Ramji Ram, Shri
 Ramshekhar Prasad Singh, Shri
 Rana, Shri M. B.
 Rao, Shrimati B. Radhabai A.
 Rao, Shri Jaganath
 Rao, Dr. K. L.
 Rao; Shri K. Narayana
 Rao, Shri Nageswara
 Rao, Shri M. Satyanarayan
 Rao, Shri P. Ankineedu Prasada
 Rao, Shri Pattabhi Rama
 Rao, Shri Rajagopala
 Rao, Shri Sanjeevi
 Rao, Dr. V. K. R. Varadaraja
 Rathia, Shri Umed Singh
 Raut, Shri Bhola
 Ravi, Shri Vayalar
 Ray, Shri Siddhartha Shankar
 Reddy, Shri Ganga
 Reddy, Shri K. Ramakrishna
 Reddy, Shri K. K. Rami
 Reddy, Shri M. Ram Gopal
 Reddy, Shri P. Narasimha
 Reddy, Shri P. Venkata
 Richhariya, Dr. Govind Das
 Rohatgi, Shrimati Sushila
 Roy, Shri Bishwanath
 Rudra Pratap Singh, Shri
 Sadhu Ram, Shri
 Saini, Shri Mulki Raj
 Salve, Shri N. K. P.
 Samanta, Shri S. C.
 Sanghi, Shri N. K.
 Sankata Prasad, Dr.
 Sant Bux Singh, Shri
 Sarkar, Shri S. K.
 Satish Chandra, Shri
 Satpathy, Shri Devendra
 Savant, Shri Shankarrao
 Savitri Shyam, Shrimati
 Sayajirao, Shri
 Sethi, Shri Arjun
 Sethi, Shri P. C.
 Shafi, Shri A.
 Shafquat Jung, Shri
 Shahawaz Khan, Shri
 Shambhu Nath, Shri
 Shankar Dayal Singh, Shri
 Shankar Dev, Shri
 Shankaranand, Shri B.
 Shankergiri, Shri V.
 Sharma, Shri A. P.
 Sharma, Dr. H. P.
 Sharma, Shri Madhoram

Sharma, Shri N. K.
 Sharma, Shri R. N.
 Sharma, Shri S. D.
 Shashi Bhushan, Shri
 Shastri, Shri Biswanarayan
 Shastri, Shri Raja Ram
 Shastri, Shri Shivpujan
 Shenoy, Shri P. R.
 Sher Singh, Shri
 Shetty, Shri K. K.
 Shinde, Shri Annasaheb P.
 Shiva Chandika Shri
 Shivrath Singh, Shri
 Shukla, Shri B. R.
 Shukla, Shri Vidya Charan
 Siddayya, Shri S. M.
 Siddheshwar Prasad, Shri
 Singh, Shri V. N. P.
 Sinha, Shri N. K.
 Sinha, Shri R. K.
 Sohan Lal, Shri T.
 Sokhi, Shri Swaran Singh
 Sonar, Dr. A. G.
 Stephen, Shri C. M.
 Sudarsanam, Shri M.
 Sunder Lal, Shri
 Surendra Pal Singh, Shri
 Suryanarayana, Shri K.
 Swaminathan, Shri R. V.
 Swamy, Shri Sidrameshwar
 Swaran Singh, Shri
 Tayyab Hussain Khan, Shri
 Tewari, Shri C. M.
 Tewari, Shri Shankar
 Thakre, Shri S. B.
 Thakur, Shri Krishnarao
 Tiwary, Shri D. N.
 Tiwary, Shri K. N.
 Tombi Singh, Shri N.
 Tula Ram, Shri
 Tulsiram, Shri V.
 Uikey, Shri M. G.
 Unnikrishnan, Shri
 Vekaria, Shri
 Venkatasubbaiah, Shri P.
 Venkataswamy, Shri G.
 Verma, Shri Balgovind
 Verma, Shri S. P.
 Vidyalankar, Shri A. N.
 Vikal, Shri R. C.
 Virbhadra Singh, Shri
 Yadav, Shri Chandrajeet
 Yadav, Shri Karan Singh
 Yadav, Shri N. P.
 Yadav, Shri R. P.
 Yadava, Shri D. P.
 Yajnik, Shri
 Zulfiqar Ali Khan, Shri

MR. SPEAKER : The result* of the division is :

Ayes : 59 ; Noes : 326.

The motion was negatived.

MR. SPEAKER : I shall now put amendment No. 9 to vote.

The question is :

Page 2,—

after line 2, insert—

“Provided that if any such amendment seeks to take away or abridge any of the Fundamental Rights enumerated in Part III of the Constitution, the amendment shall also require to be ratified by the people through a referendum to be held on the basis of adult suffrage by a simple majority of the votes cast in such a referendum.” (9)

The Lok Sabha divided:

Division No. 22]

[18.40 hrs.

AYES

Anthony, Shri Frank
Bade, Shri R. V.
Banera, Shri Hamendra Singh
Chaudhary, Shri Ishwar
Chauhan, Shri Bharat Singh
Deo, Shri P. K.
Deo, Shri R. R. Singh
Gayatri Devi, Rajmata
Joshi, Shri Jagannathrao
Kachwaj, Shri Hukam Chand
Kalyanasundaram, Shri M.
Malik, Shri Mukhtiar Singh
Mody, Shri Pилоo

Narendra Sinh, Shri
Nayak, Shri Boksi
Patel, Shri H. M.
**Patil, Shri Anantrao
Pradhan, Shri Dhan Sah
Purty, Shri M. S.
Ramkanwar, Shri
**Satpathy, Shri Devendra
Scindia, Shri Madhavrao
Scindia, Rajmata V. R.
Sharma, Shri R. R.
Vajpayee, Shri Atal Bihari
Yadav, Shri G. P.

NOES

Achal Singh, Shri
Afzalpurkar, Shri Dharamrao
Aga, Shri Ahmed
Agrawal, Shri Shrikrishna
Ahirwar, Shri Nathu Ram
Ahmed, Shri F. A.
Alagesan, Shri
Ambesh, Shri
Ankineedu, Shri
Ansari, Shri Ziaur Rahman
Appalanaidu, Shri
Arvind Netam, Shri
Asgar Hussain, Shri
Austin, Dr. Henry
Awdhesh Chandra Singh, Shri
Azad, Shri Bhagwat Jha
Babunath Singh, Shri
Bajpai, Shri Vidya Dhar
Balakrishniiah, Shri T.
Balathandayulham, Shri
Banamali Babu, Shri
Barman, Shri R. N.
Banerjee, Shrimati Mukul
Banerjee, Shri S. M.
Barua, Shri Bedabrata
Basappa, Shri K.
Barupal, Shri P. L.
Basumatari, Shri D.
Besra, Shri S. C.
Bhagat, Shri B. R.
Bhagat, Shri H. K. L.
Bhagirath Bhanwar, Shri

*The following Members also recorded their votes :

AYES : Prof. Madhu Dandavate, Sarvashri Onkar Lal Berwa, Maha Deepak Singh and Madhuryya Haldar.

NOES : Sarvashri H. N. Bahuguna, Krishnarao Patil. V. B. Tarodekar, P. M. Sayeed, Kushok Bakula, Nihar Laskar, J. B. Patnaik, Purushottam Kakodkar, C. C. Desai, J. G. Kadam and Dr. Jivraj Mehta.

**Wrongly voted for Ayes.

Bhargava, Shri B. N.
 Bhatia, Shri D. D.
 Bhattacharyya, Shri Chapal
 Bhattacharyya, Shri Dinen
 Bhattacharyya, Shri Jagadish
 Bhattacharyya, Shri S. P.
 Bhaura, Shri B. S.
 Bhuvarahan, Shri
 Bisht, Shri N. S.
 Bosu, Shri Jyotirmoy
 Brahman, Shri Rattanlal
 Brahmanandji, Shri Swami
 Buta Singh, Shri
 Chanda, Shrimati Jyotsna
 Chandrakar, Shri Chandulal
 Chandrappan, Shri C. K.
 Chandre Gowda, Shri
 Chaturvedi, Shri R. L.
 Chaudhary, Shri Nitiraj Singh
 Chaudhury, Shri Amarsinh
 Chavan, Shri D. R.
 Chavan, Shri Yeshwantrao
 Chawla, Shri A. N.
 Chellachami, Shri
 Chhotey Lal, Shri
 Choudhury, Shri Moinul Haque
 Chhuttan Lal, Shri
 Daga, Shri M. C.
 Dalbir Singh, Shri
 Dalip Singh, Shri
 Damani, Shri S. R.
 Darbara Singh, Shri
 Das, Shri A. C.
 Das, Shri Dharnidhar
 Das, Shri R. P.
 Dasappa, Shri Tulsidas
 Daschowdhury, Shri B. K.
 Deb, Shri Dasaratha
 Deo, Shri S. N. Singh
 Desai, Shri C. C.
 Deshmuk, Shri K. G.
 Deshmukh, Shri Shivaji Rao S.
 Dhamankar, Shri
 Dhandapani, Shri
 Dharia, Shri Mohan
 Dharamgaj Singh, Shri
 Dhusia, Shri Anant Prasad
 Dinesh Singh, Shri
 Dixit, Shri G. C.
 Dixit, Shri J. C.
 Doda, Shri Hiralal
 Dumada, Shri L. K.
 Durairasu, Shri
 Dutta, Shri Biren
 Dwivedi, Shri Nageshwar
 Gandhi, Shrimati Indira
 Ganesh, Shri K. R.

Ganga Devi, Shrimati
 Gangadeb, Shri P.
 Garcha, Shri Devinder Singh
 Gattam, Shri C. D.
 Gavit, Shri T. H.
 George, Shri A. C.
 Ghosh, Shrimati Bibha
 Ghosh, Shri P. K.
 Gill, Shri Mohinder Singh
 Godara, Shri Mani Ram
 Gogoi, Shri Tarun
 Gohain, Shri C. C.
 Gokhale, Shri H. R.
 Gotkhinde, Shri
 Gopal, Shri K.
 Gopalan, Shri A. K.
 Goswami, Shri Dinesh Chandra
 Govind Das, Dr.
 Gowda, Shri Pampan
 Gupta, Shri Indrajit
 Halder, Shri Krishna
 Hansda, Shri Subodh
 Hanumanthaiya, Shri
 Hari Kishore Singh, Shri
 Hari Singh, Shri
 Hazra, Shri Manoranjan
 Ishaque, Shri A. K. M.
 Jadeja, Shri
 Jaffer Shariff, Shri C. K.
 Jagjivan Ram, Shri
 Jamilurrahman, Shri Md.
 Janardhanan, Shri C.
 Jeyalakshmi, Shrimati
 Jha, Shri Bhogendra
 Jha, Shri Chiranjib
 Jha, Shri Vinoda Nand
 Jitendra Prasad, Shri
 Joarder, Shri Dinesh
 Joseph, Shri M. M.
 Joshi, Shri Popatlal
 Joshi, Shrimati Subhadra
 Kadam, Shri Dattajirao
 Kadam, Shri J. G.
 Kadannapalli, Shri Ramachandran
 Kadar, Shri
 Kailas, Dr.
 Kakoti, Shri Robin
 Kale, Shri
 Kamakshaiyah, Shri
 Kamala Prasad, Shri
 Kamble, Shri T. D.
 Kamla Kumari, Kumari
 Kapur, Shri Sat Pal
 Karan Singh, Dr.
 Kasture, Shri A. S.
 Kathamuthu, Shri M.
 Kaul, Shrimati Sheila

Kavde, Shri B. R.
 Kedar Nath Singh, Shri
 Khadilkar, Shri R. K.
 Kinder Lal, Shri
 Kisku, Shri A. K.
 Kotoki, Shri Liladhar
 Kotrashatti, Shri A. K.
 Krishna, Shri S. M.
 Krishnan, Shri M. K.
 Krishnappa, Shri M. V.
 Kulkarni, Shri Raja
 Kumaramangalam, Shri Mohan
 Kureel, Shri B. N.
 Kushok Bakula, Shri
 Lakkappa, Shri K.
 Lakshmikanthamma, Shrimati
 Lakshminarayanan, Shri
 Lambodar Baliyar, Shri
 Laskar, Shri Nihar
 Lutfal Haque, Shri
 Madhukar, Shri K. M.
 Mahajan, Shri Vikram Chand
 Mahajan, Shri Y. S.
 Maharaj Singh, Shri
 Mahata, Shri D. N.
 Mahishi, Dr. Sarojini
 Majhi, Shri Gajadhar
 Majhi, Shri Kumar
 Malaviya, Shri K. D.
 Mallanna, Shri K.
 Mallikarjun, Shri
 Mandal, Shri J. N.
 Marandi, Shri Ishwar
 Maurya, Shri B. P.
 Mayavan, Shri
 Mehta, Dr. Mahipatray
 Melkote, Dr.
 Minimata Agamdas, Shrimati
 Mishra, Shri Bibhuti
 Mishra, Shri G. S.
 Mishra, Shri Jagannath
 Misra, Shri S. N.
 Modak, Shri B. K.
 Modi, Shri Shrikishan
 Mohammad Ismail, Shri
 Mohammad Tahir, Shri
 Mohammad Yusuf, Shri
 Mohan Swarup, Shri
 Mohanty, Shri Surendra
 Mohapatra, Shri S. S.
 Mohsin, Shri
 Muhammad Ismail, Shri M.
 Muhammad Sheriff, Shri
 Mukerjee, Shri H. N.
 Munsii, Shri P. R. Das
 Murthy, Shri B. S.
 Muruganantham, Shri

Nahata, Shri Amrit
 Naik, Shri B. V.
 Nanda, Shri
 Negi, Shri Pratap Singh
 Nimbalkar, Shri
 Oraon, Shri Kartik
 Oraon, Shri Tuna
 Oza, Shri Ghanshyam
 Pahadia, Shri Jagannath
 Painuli, Shri Paripoornanand
 Palodkar Shri
 Pandey, Shri Damodar
 Pandey, Shri K. C.
 Pandey, Shri R. S.
 Pandey, Shri Sudhakar
 Pandey, Shri Tarkeshwar
 Panigrahi, Shri Chintamani
 Pant, Shri K. C.
 Paokai, Haokip, Shri
 Parashar, Prof. Narain Chand
 Partap Singh, Shri
 Parthasarathy, Shri
 Patel, Shri Prabhudas
 Patil, Shri C. A.
 Patil, Shri E. V. Vikhe
 Patil, Shri Krishnarao
 Patil, Shri S. B.
 Patil, Shri T. A.
 Patnaik, Shri Banamali
 Patnaik, Shri J. B.
 Peje, Shri S. L.
 Pillai, Shri R. Balakrishna
 Pradhani, Shri K.
 Radhakrishnan, Shri S.
 Raghu Ramaiah, Shri
 Raj Bahadur, Shri
 Rajdeo Singh, Shri
 Raju, Shri M. T.
 Ram Dhan, Shri
 Ram Prakash, Shri
 Ram Sewak, Ch.
 Ram Surat Prasad, Shri
 Ram Swarup, Shri
 Ram, Shri T.
 Ramji Ram, Shri
 Ramshekhar Prasad Singh, Shri
 Rana, Shri M. B.
 Rao, Shrimati B. Radhabai A.
 Rao, Shri Jaganath
 Rao, Dr. K. L.
 Rao, Shri K. Narayana
 Rao, Shri Negeswara
 Rao, Shri M. Satyanarayan
 Rao, Shri P. Ankineedu Prasada

Rao, Shri Pattabhi Rama
 Rao, Shri Rajagopala
 Rao, Shri Sanjeevi
 Rao Dr. V. K. R. Varadaraja
 Rathia, Shri Umed Singh
 Raut, Shri Bhola
 Ravi, Shri Vayalar
 Ray, Shri Siddhartha Sankar
 Reddy, Shri B. N.
 Reddy, Shri Eswara
 Reddy, Shri Ganga
 Reddy, Shri K. Ramakrishna
 Reddy, Shri K. K. Rami
 Reddy, Shri M. Ram Gopal
 Reddy, Shri P. Narasimha
 Reddy, Shri P. Venkata
 Richhariya, Dr. Govind Das
 Rohatgi, Shrimati Sushila
 Roy, Shri Bishwanath
 Roy, Dr. Saradish
 Rudra Pratap Sing, Shri
 Sadhu Ram, Shri
 Saha, Shri A. K.
 Saha, Shri Gadadhar
 Saini, Shri Mulki Raj
 Sait, Shri Ebrahim Sulaiman
 Saksena, Prof. S. L.
 Salve, Shri N. K. P.
 Samanta, Shri S. C.
 Saminathan, Shri
 Sanghi, Shri N. K.
 Sankata Prasad, Dr.
 Sant Bux Singh, Shri
 Sarkar, Shri S. K.
 Satish Chandra, Shri
 Savant, Shri Shankarrao
 Savitri Shyam, Shrimati
 Sen, Shri Robin
 Sethi, Shri Arjun
 Sethi, Shri P. C.
 Shafi, Shri A.
 Shafquat Jung, Shri
 Shahnawaz Khan, Shri
 Shambhu Nath, Shri
 Shankar Dayal Singh, Shri
 Shankar Dev, Shri
 Shankaranand, Shri B.
 Shankergiri, Shri V.
 Sharma, Shri A. P.
 Sharma, Dr. H. P.
 Sharma, Shri Madhoram
 Sharma, Shri N. K.
 Sharma, Shri R. N.
 Sharma, Shri S. D.
 Shashi Bhushan, Shri
 Shastri, Shri Biswanarayan
 Shastri, Shri Raja Ram

Shastri, Shri Ramavatar
 Shastri, Shri Shivpujan
 Shenoy, Shri P. R.
 Sher Singh, Shri
 Shetty, Shri K. K.
 Shinde, Shri Annasaheb P.
 Shiva Chandika, Shri
 Shivnath Singh, Shri
 Shukla, Shri. B. R.
 Shukla, Shri Vidya Charan
 Siddayya, Shri S. M.
 Siddheshwar Prasad, Shri
 Singh, Shri, V. N. P.
 Sinha, Shri R. K.
 Sohan Lal, Shri T.
 Sokhi, Shri Swaran Singh
 Sonar, Dr. A. G.
 Stephen, Shri C. M.
 Sudarsanan Shri M.
 Sunder Lal, Shri
 Surendra Pal Singh, Shri
 Suryanaryana, Shri K.
 Swaminathan, Shri R.V.
 Swamy, Shri Sidrameshwar
 Swaraj Singh, Shri
 Swatantra, Shri Teja Singh
 Tarodekar, Shri V. B.
 Tayyab Hussain Khan, Shri
 Tewari, Shri C. M.
 Tewari, Shri Shankar
 Thakre, Shri S. B.
 Thakur, Shri Krishanarao
 Tiwary, Shri D. N.
 Tiwary, Shri K. N.
 Tombi Singh, Shri N.
 Tula Ram, Shri
 Tulsiram, Shri V.
 Uikey, Shri M. G.
 Ulaganambi, Shri R. P.
 Unnikrishnan, Shri
 Vekaria, Shri
 Venkatasubbajiah, Shri P.
 Venkatswamy, Shri G.
 Verma, Shri Balgovind
 Verma, Shri S. P.
 Vidyalkanker, Shri A. N.
 Vijay Pal Singh, Shri
 Vikal Shri, R. C.
 Virbhadra Singh, Shri
 Yadav, Shri Chandrajeet
 Yadav, Shri Karan Singh
 Yadav, Shri N. P.
 Yadav, Shri R. P.
 Yadava, Shri D. P.
 Yajnik, Shri
 Zulfiqar Ali Khan, Shri

MR. SPEAKER : The result * of the division is :

Ayes : 26 ; Noes : 370.

The motion was negatived.

MR. SPEAKER : The question is :

Page 2, line 1,—

after "Constitution" insert—

"other than articles 26, 29 and 30," (14)

The Lok Sabha divided :

Division No. 23]

[18.42 hrs.

AYES

Anthony, Shri Frank
Chaudhry, Shri Ishwar
Chauhan, Shri Bharat Singh
Deo, Shri P. K.
Deo, Shri R. R. Singh
Godfrey, Shrimati M.
Horo, Shri N. E.
Joshi, Shri Jagannathrao
Kachwai, Shri Hukam Chand
Lambodar, Baliyar, Shri
Malik, Shri Makhtiar Singh
Menon, Shri Krishna
Mody, Shri Piloo
Muhammed Sheriff, Shri
Narendra Sinh, Shri
Nayak, Shri Boksi
Nayar, Shrimati Shakuntala
Patel, Shri H. M.
Pradhan, Shri Dhan Shah
Purty, Shri M. S.
Ramkanwar, Shri
Ranabahadur Singh, Shri

Sait, Shri Ebrahim Sulaiman
Saksena, Prof. S. L.
Scindia, Rajmata V. R.
Vajpayee, Shri Atal Bihari
Yadav, Shri G. P.

NOES

Achal Singh, Shri
Afzalputkar' Shri Dharamrao
Aga, Shri Ahmed
Agrawal, Shri Shrikrishna
Ahirwar, Shri Nathu Ram
Ahmed Shri F. A.
Alagesan, Shri
Ambesh, Shri
Ankineedu, Shri
Ansari, Shri Ziaur Rahman
Appalanaidu, Shri
Arvind Netam, Shri
Asgar Hussain, Shri
Austin, Dr. Henry
Awdhesh Chandra Singh, Shri
Azad, Shri Bhagwat Jha
Aziz Imam, Shri
Babunath Singh, Shri
Bahuguna, Shri H. N.
Bajpai, Shri Vidya Dhar
Balakrishniah, Shri T.
Balathandayutham, Shri
Banamali Babu, Shri
Barman, Shri R. N.
Banerjee, Shrimati Mukul
Banerjee, Shri S. M.
Barua, Shri Bedabrata
Barupal, Shri P. L.
Basappa, Shri K.
Basumatari, Shri D.
Besra, Shri S. C.
Bhagat Shri B. R.
Bhagat, Shri H. K. L.
Bhagirath Bhanwar, Shri
Bhandare, Shri R. D.
Bhargava, Shri B. N.
Bhatia, Shri D. D.
Bhattacharyya, Shri Chapal
Bhattacharyya, Shri Dinen

*The following Members also recorded their votes :

Ayes : Sarvashri Onkar Lal Berwa, Maha Deepak Singh, Virendra Agarwal and Shrimati Shakuntala Nayar.

Noes : Sarvashri H. N. Bahuguna, N. K. Sinha, P. M. Sayced, N. N. Pandey, R. D. Bhandare, Chandrika Prasad, Aziz Imam, Purushottam Kakodkar, Rasiklal Parikh, N. S. Kamble M. Kalyanasandaram, Sarjoo Pandey, Saroj Mukherjee, Somnath Chatterjee, Anantrao Patil, Devendra Satpathy, Dr. Jivraj Mehta and Prof. Madhu Dandavate.

Bhattacharyya, Shri Jagadish
 Bhattacharyya, Shri S. P.
 Bhaura, Shri B. S.
 Bhuvarahan, Shri
 Bisht, Shri N. S.
 Bosu, Shri Jyotirmoy
 Brahman, Shri Rattanlal
 Brahmanandji, Shri Swami
 Buta Singh, Shri
 Chanda, Shrimati Jyotsna
 Chaudrakar, Shri Chandulal
 Chandrappan Shri C. K.
 Chandre Gowda, Shri
 Chandrika Prasad, Shri
 Chatterjee Shri Somnath
 Chaturvedi, Shri R. L.
 Chaudhary, Shri Nitiraj Singh
 Chaudhury, Shri Amarsinh.
 Chavan, Shri D. R.
 Chavan, Shri Yeshwantrao
 Chawla, Shri A. N.
 Chellachami, Shri
 Chhotey Lal, Shri
 Choudhury, Shri Moinul Haque
 Chhuttan Lal, Shri
 Daga, Shri M. C.
 Dalbir Singh, Shri
 Dalip Singh, Shri
 Damani, Shri S. R.
 Darbara Singh, Shri
 Das, Shri A. C.
 Das, Shri Dharnidhar
 Das, Shri R. P.
 Dasappa, Shri Tulsidas
 Daschowdhury, Shri B. K.
 Deb, Shri Dasaratha
 Deo, Shri S. N. Singh
 Desai, Shri C. C.
 Deshmukh, Shri K. G.
 Deshmukh, Shri Shivaji Rao S.
 Dhamankar, Shri
 Dharia, Shri Mohan
 Dharamgaj Singh, Shri
 Dhusia, Shri Anant Prasad
 Dinesh Singh, Shri
 Dixit, Shri G. C.
 Dixit, Shri J. C.
 Doda, Shri Hiralal
 Dumada, Shri L. K.
 Durairasu Shri,
 Dwivedi, Shri Nageshwar
 Gandhi, Shrimati Indira
 Ganesh, Shri K. R.
 Ganga Devi, Shrimati
 Gangadeb, Shri P.
 Garcha, Shri Devinder Singh
 Gautam, Shri C. D.
 Gavit, Shri T. H.

Gayatri Devi, Rajmata
 George, Shri A. C.
 Ghosh, Shrimati Bibha
 Ghosh, Shri P. K.
 Gill, Shri Mohinder Singh
 Godara, Shri Mani Ram
 Gogoi, Shri Tarun
 Gohain, Shri C. C.
 Gokhale, Shri H. R.
 Gotkhinde, Shri
 Gopal, Shri K.
 Goswami, Shri Dinesh Chandra
 Govind Das, Dr.
 Gowda, Shri Pampan
 Gupta, Shri Indrajit
 Haldar, Shri Madhuryya
 Hølder, Shri Krishna
 Hansda, Shri Subhodh
 Hanumanthaiya, Shri
 Hari Kishore Singh, Shri
 Hari Singh, Shri
 Hazra, Shri Manoranjan
 Ishaque, Shri A.K.M.
 Jadeja, Shri
 Jaffer Shariff, Shri C. K.
 Jagjivan Ram, Shri
 Jamilurrahman, Shri Md.
 Janardhanan, Shri C.
 Jeyalakshmi, Shrimati
 Jha, Shri Bhogendra
 Jha, Shri Chiranjib
 Jitendra Prasad, Shri
 Joarder, Shri Dinesh
 Joseph, Shri M. M.
 Joshi, Shri Popatlal
 Joshi Shrimati Subhadra
 Kadam, Shri Dattajirao
 Kadam, Shri J. G.
 Kadannappalli, Shri Ramachandran
 Kadar, Shri
 Kailas, Dr.
 Kakodkar, Shri Purushottam
 Kakoti, Shri Robin
 Kale, Shri
 Kalyanasundaram, Shri M.
 Kamakshaiyah, Shri
 Kamala Prasad, Shri
 Kamble, Shri T. Dr.
 Kamla Kumari, Kumari
 Kapur, Shri Sat Pal
 Karan Singh, Dr.
 Kasture, Shri A. S.
 Kathamuthu, Shri M.
 Kaul, Shrimati Sheila
 Kavde, Shri B. R.
 Kedar Nath Singh, Shri
 Kinder Lal, Shri
 Kisku, Shri A. K.

Kotoki, Shri Liladhar
 Kotrashatti, Shri A. K.
 Krishna, Shri S. M.
 Krishnan, Shri M. K.
 Krishnappa, Shri M. V.
 Kulkarni, Shri Raja
 Kumaramangalam, Shri Mohan
 Kureel, Shri B. N.
 Kushok Bakula, Shri
 Lakkappa, Shri K.
 Lakshmikanthamma, Shrimati
 Lakshminarayanan, Shri
 Laskar, Shri Nihar
 Lutfal Haque, Shri
 Madhukar, Shri K. M.
 Mahajan, Shri Vikram Chand
 Maharaj Singh, Shri
 Mahata, Shri D. N.
 Mahishi, Dr. Sarojini
 Majhi, Shri Gajadhar
 Majhi, Shri Kumar
 Malaviya, Shri K. D.
 Mallanna, Shri K.
 Mallikarjun, Shri
 Mandal, Shri J. N.
 Marandi, Shri Ishwar
 Maurya, Shri B. P.
 Mayavan, Shri
 Mehta, Dr. Jivraj
 Mehta, Dr. Mahipatray
 Melkote, Dr.
 Minimata Agamdas, Shrimati
 Mishra, Shri Bibhuti
 Mishra, Shri G. S.
 Mishra, Shri Jagannath
 Misra, Shri S. N.
 Modak, Shri B. K.
 Modi, Shri Shrikishan
 Mohammad Ismail, Shri
 Mohammad Tahir, Shri
 Mohammad Yusuf, Shri
 Mohan Swarup, Shri
 Mohanty, Shri Surendra
 Mohapatra, Shri S. S.
 Mohsin, Shri
 Mukerjee, Shri H. N.
 Mukherjee, Shri Saroj
 Munsli, Shri R. P. Das
 Murthy, Shri B. S.
 Muruganatham, Shri
 Nahata, Shri Amrit
 Naik, Shri B. V.
 Nanda, Shri
 Negi, Shri Pratap Singh
 Nimbalkar, Shri
 Oraon, Shri Kartik
 Oraon, Shri Tuna

Oza, Shri Ghanshyam
 Pahadia, Shri Jagannath
 Painuli, Shri Paripoornanand
 Palodkar, Shri
 Pandey, Shri Damodar
 Pandey Shri K. C.
 Pandey, Shri N. N.
 Pandey, Shri R. S.
 Pandey, Shri Sarjoo
 Pandey, Shri Sudhakar
 Pandey, Shri Tarkeshwar
 Panigrahi, Shri Chintamani
 Pant, Shri K. C.
 Paokai, Haokip, Shri
 Parashar, Prof Narain Chand
 Parikh, Shri Rasiklal
 Partap Singh, Shri
 Farthasarathy, Shri
 Patel, Shri Prabhudas
 Patil, Shri Anantrao
 Patil, Shri C. A.
 Patil, Shri E. V. Vikhe
 Patil, Shri Krishnarao
 Patil, Shri S. B.
 Patil, Shri T. A.
 Patnaik, Shri Banamali
 Peje, Shri S. L.
 Pillai, Shri R. Balakrishna
 Pradhani, Shri K.
 Radhakrishnan, Shri S.
 Raghu Ramaiah, Shri
 Raj Bahadur, Shri
 Rajdeo Singh, Shri
 Raju, Shri M. T.
 Ram Dhan, Shri
 Ram Prakash, Shri
 Ram Sewak, Ch.
 Ram Surat Prasad, Shri
 Ram Swarup, Shri
 Ram, Shri T
 Ramji Ram, Shri
 Ramshekhar Prasad Singh, Shri
 Rana, Shri M. B
 Rao, Shrimati B. Radhabai A
 Rao, Shri Jagannath
 Rao, Shri K. Narayana
 Rao, Shri Nageswara
 Rao, Shri M. Satyanarayan
 Rao, Shri P. Ankinedu Prasad
 Rao, Shri Pattabhi Rama
 Rao, Shri Rajagopala
 Rao, Shri Sanjeevi
 Rao, Dr. V. K. R. Varadaraja
 Rathia, Shri Umed Singh
 Raut, Shri Bhola
 Ravi, Shri Vayalar
 Ray, Shri Siddhartha Shankar
 Reddy, Shri Eswara

Reddy, Shri Ganga
 Reddy, Shri K. Ramakrishna
 Reddy, Shri K. K. Rami
 Reddy, Shri M. Ram Gopal
 Reddy, Shri P. Narasimha
 Reddy, Shri P. Venka a
 Richhariya, Dr. Govind Das
 Rohatgi, Shrimati Sushila
 Roy, Shri Bishwanath
 Roy, Dr. Saradish
 Rudra Pratap Singh, Shri
 Sadhu Ram, Shri
 Saha, Shri A. K.
 Saha, Shri Gadadhar
 Saini, Shri Mulki Raj
 Salve, Shri N.K.P.
 Samanta, Shri S. C.
 Saminathan, Shri
 Sanghi, Shri N. K.
 Sankata Prasad, Dr.
 Sant Bux Singh, Shri
 Sarkar, Shri S. K.
 Satish Chandra, Shri
 Satpathy, Shri Devendra
 Savant, Shri Shankarrao
 Savitri Shyam, Shrimati
 Sayajirao, Shri
 Sayeed, Shri P. M.
 Sethi, Shri Arjun
 Sethi Shri P. C.
 Shafi, Shri A.
 Shafquat Jung, Shri
 Shahnawaz Khan, Shri
 Shambhu Nath, Shri
 Shanker Dayal Singh, Shri
 Shankar Dev, Shri
 Shankaranand, Shri B.
 Shankergiri, Shri V.
 Sharma, Shri A. P.
 Sharma, Dr. H. P.
 Sharma, Shri Madhoram
 Sharma, Shri N. K.
 Sharma, Shri R. N.

Sharma, Shri S. D.
 Shashi Bhushan, Shri
 Shastri, Shri Biswanarayan
 Shastri, Shri Raja Ram
 Shastri, Shri Ramavatar
 Shastri, Shri Shivpujan
 Shenoy, Shri P. R.
 Sher Singh, Shri
 Shetty, Shri K. K.
 Shinde, Shri Annasaheb P.
 Shiva Chandika, Shri
 Shivnath Singh, Shri
 Shukla, Shri B. R.
 Shukla, Shri Vidya Charan
 Siddayya, Shri S. M.
 Siddheshwar Prasad, Shri
 Singh, Shri V. N. P.
 Sinha, Shri N. K.
 Sinha, Shri R. K.
 Sohan Lal, Shri T.
 Sokhi, Shri Swaran Singh
 Sonar, Dr. A. G.
 Stephen, Shri C. M.
 Sudarsanam, Shri M.
 Sunder Lal, Shri
 Surendra Pal Singh, Shri
 Suryanarayana, Shri K.
 Swaminathan, Shri R. V.
 Swamy, Shri Sidrameshwar
 Swaran Singh, Shri
 Swatantra, Shri Teja Singh
 Tarodekar, Shri V. B.
 Tayyab Hussain Khan, Shri
 Tewari, Shri C. M.
 Tewari, Shri Shankar
 Thakre, Shri S. B.
 Thakur, Shri Krishnarao
 Tiwary, Shri D. N.
 Tiwary, Shri K. N.
 Tombi Singh, Shri N.
 Tula Ram, Shri
 Tulsiram, Shri V.
 Uikey, Shri M. G.

Ulaganambi, Shri R. P.
 Unnikrishnan, Shri
 Vekaria, Shri
 Venkatasubbaiah, Shri P.
 Venkatswamy, Shri G.
 Verma, Shri Balgovind
 Verma, Shri S. P.
 Vidyalkar, Shri A. N.
 Vijay Pal Singh, Shri
 Vikal, Shri R. C.
 Virbhadra Singh, Shri
 Yadav, Shri Chandrajeet
 Yadav, Shri Karan Singh
 Yadav, Shri N. P.
 Yadav, Shri R. P.
 Yadava, Shri D. P.
 Yajnik, Shri
 Zulfiquar Ali Khan, Shri

MR. SPEAKER : The result* of the division is : Ayes 27 ; Noes 374.

The motion was negatived

MR. SPEAKER : Shri Indrajit Gupta is withdrawing his amendment No. 26. Has he the leave of the House to withdraw it.

HON. MEMBERS : Yes.

Amendment No. 26 was, by leave, withdrawn.

MR. SPEAKER : I will now put amendments Nos. 24, 27, 29, 30 and 38 together.

The question is :

Page 2, line 1,—

after "Constitution" insert—

"excepting articles 15, 16, 17, 19, 25, 26, 29 and 30" (24)

Page 2,—

after line 2, insert—

"Provided that if any such amendment seeks to take away or abridge any of the Fundamental Rights enumerated in Part III of the Constitution it shall also require to be ratified by half of the State Legislatures in the country." (27)

Page 2,—

after line 2, insert—

"Provided that if any amendment seeks to snatch away or abrogate or abridge any of the Fundamental Rights enumerated in Part III of the Constitution, the amendment shall require to be ratified by not less than 75 per cent of the State Legislatures." (29)

Page 2,—

after line 2, insert—

"Provided that Parliament shall not make any provision that takes away or abridges the right of freedom of speech and expression, right to assembly and right to form associations or unions." (30)

Page 2,—

after line 2, insert—

"Provided that nothing herein shall apply to the provisions contained in sub clauses (a) to (e) of clause (1) of article 19 and clauses (1) and (2) of article 22 of the Constitution." (38)

The motion was negatived.

*The following Members also recorded their votes.

Ayes : Shri Maha Deepak Singh.

Noes : Sarvashri R. K. Khadilkar, J. B. Patnaik, Y. S. Mahajan, N. S. Kamble, A. K. Gopalan, Robin Sen, Somasundaram, B. N. Reddy and Prof. Madhu Dandavate.

MR. SPEAKER : I will now put amendments Nos. 40 and 41 moved by Prof. S. L. Saksena. He wants a division.

The question is :

Page 2,—

after line 2, insert—

“Provided that nothing in this section shall affect the operation of sub-clauses (a), (b), (c), (d), (e) and (g) of clause (1) of article 19, and articles 14, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29 and 30.” (40)

Page 2,—

omit lines 3 to 7, (41)

The Lok Sabha Divided :

Division No. 24]

[18.46 hrs.

AYES

Deo, Shri P. K.
Horo, Shri N. E.
Mody, Shri Piloo
Muhammad Ismail, Shri M.
Muhammed Sheriff, Shri
Nayak, Shri Boksi
Patel, Shri H. M.
Purty, Shri M. S.
Ramkanwar, Shri
Sait, Shri Ebrahim Sulaiman
Saksena, Prof. S. L.

NOES

Achal Singh, Shri
Afzalpurkar, Shri Dharamrao
Aga, Shri Ahmed
Agrawal, Shri Shrikrishna
Ahirwar, Shri Nathu Ram
Ahmed, Shri F. A.
Alagesan, Shri
Ambesh, Shri
Ankineedu, Shri
Ansari, Shri Ziaur Rahman
Appalanaidu, Shri
Arvind Netam, Shri
Asgar Hussain, Shri
Austin, Dr. Henry
Azad, Shri Bhagwat Jha
Aziz Imam, Shri
Babunath Singh, Shri

Bahuguna, Shri H. N.
Bajpai, Shri Vidya Dhar
Balakrishnaiah Shri T.
Balathandayutham, Shri
Banamali Babu, Shri
Barman, Shri R. N.
Benerjee, Shrimati Mukul
Benerjee, Shri S. M.
Barua, Shri Bedabrata
Barupal, Shri P. L.
Basappa, Shri K.
Basumatari, Shri D.
Besra, Shri S. C.
Bhagat Shri B. R.
Bhagat, Shri H. K. L.
Bhandare, Shri R. D.
Bhargava, Shri B. N.
Bhatia Shri D. D.
Bhattacharyya, Shri Chapal
Bhattacharyya, Shri Dinen
Bhattacharyya, Shri Jagdish
Bhattacharyya, Shri S. P.
Bhaura, Shri B. S.
Bhuvarahan, Shri
Bisht, Shri N. S.
Bosu, Shri Jyotirmoy
Brahman, Shri Rattanlal
Buta Singh, Shri
Chanda, Shrimati Jyotsna
Chadrakar, Shri Chandulal
Chandrappan, Shri C. K.
Chandre Gowda, Shri
Chandrika Prasad, Shri
Chatterjee, Shri Somnath
Chaturvedi, Shri R. L.
Chaudhary, Shri Nitiraj Singh
Chaudhary, Shri Ishwar
Chaudhary, Shri Amarsinh
Chavan, Shri D. R.
Chavan, Shri Yeshwantrao
Chawla, Shri A. N.
Chellachami, Shri
Chhotey Lal, Shri
Choudhury, Shri Moinul Haque
Chutten Lal, Shri
Daga, M. C.
Dalbir Singh, Shri
Dalip Singh, Shri
Damani, Shri S. R.
Darbara Singh, Shri
Das, Shri A. C.
Das, Shri Dharnidhar
Dasappa, Shri Tulsidas
Daschowdhury, Shri B. K.
Deb, Shri Dasaratha
Deo, Shri S. N. Singh
Desai, Shri C. C.
Deshmukh, Shri K. G.

Deshmukh, Shri Shiva ji Rao S.
 Dhamankar, Shri
 Dharia, Shri Mohan
 Dharamgaj Singh Shri
 Dhusia, Shri Anant Prasad
 Dinesh Singh, Shri
 Dixit, Shri G. C.
 Dixit, Shri J. C.
 Doda, Shri Hiralal
 Dumada, Shri L. K.
 Durairasu, Shri
 Dutta, Shri Biren
 Dwivedi, Shri Nageshwar
 Gandhi, Shrimati Indira
 Ganesh, Shri K. R.
 Ganga Devi, Shrimati
 Gangadeb, Shri P.
 Garcha, Shri Devinder Singh
 Gautam, Shri C. D.
 Gavit, Shri T. H.
 George, Shri A. C.
 Ghosh, Shrimati Bibha
 Ghosh, Shri P. K.
 Gill, Shri Mohinder Singh
 Godara, Shri Mani Ram
 Gogoi, Shri Tarun
 Gohain, Shri C. C.
 Gokhale, Shri H. R.
 Gotkhinde, Shri
 Gopal, Shri K.
 Gopalan, Shri A. K.
 Goswami, Shri Dinesh Chandra
 Govind Das, Dr.
 Gupta, Shri Indrajit
 Halder, Shri Madhurigya
 Halder, Shri Krishna
 Hansda, Shri Subodh
 Hanumanthaiya, Shri
 Hari Kishore Singh, Shri
 Hari Singh, Shri
 Hazra, Shri Manoranjan
 Ishaque, Shri A.K.M.
 Jadeja, Shri
 Jaffer Shariff, Shri C. K.
 Jamilurrahman, Shri M. D.
 Janardhanan, Shri C.
 Jeyalakshmi, Shrimati
 Jha, Shri Bhogendra
 Jha, Shri Chiranjit
 Jha, Shri Vinoda Nand
 Jitendra Prasad, Shri
 Joarder, Shri Dinesh
 Joseph, Shri M. M.
 Joshi, Shri Popatlal
 Joshi, Shrimati Subhadra
 Kadam, Shri Dattajirao
 Kadam, Shri J. G.
 Kadannappalli, Shri Ramachandran

Kadar, Shri
 Kailas, Dr.
 Kakodkar, Shri Purushotam
 Kakoti, Shri Robin
 Kale, Shri
 Kalyanasundram, Shri
 Kamakshaiyah, Shri
 Kamala Prasad, Shri
 Kamble Shri, N. S.
 Kamble, Shri T. D.
 Kamala Kumari, Kumari
 Kapur, Shri Sat Pal
 Kasture, Shri A. S.
 Kathamuthu, Shri M.
 Kaul, Shrimati Sheila
 Kavde, Shri B. R.
 Kedar Nath Singh, Shri
 Khadilkar, Shri R. K.
 Kinder Lal, Shri
 Kisku, Shri A. K.
 Kotoki, Shri Liladhar
 Kotrashatti, Shri A. K.
 Krishna, Shri S. M.
 Krishnan, Shri M. K.
 Krishnappa Shri M. V.
 Kulkarni, Shri Raja
 Kumaramangalam, Shri Mohan
 Kureel Shri B. N.
 Kushok Bakula, Shri
 Lakkappa, Shri K.
 Lakshmikanthamma, Shrimati
 Lakshminaraian, Shri
 Lambodar Baliyar, Shri
 Laskar, Shri Nihar
 Lutfal Haque, Shri
 Madhukar, Shri K. M.
 Mahajan, Shri Vikram Chand
 Mahajan, Shri Y. S.
 Maharaj Singh, Shri
 Mahata, Shri D. N.
 Mahishi, Dr. Sarojini
 Majhi, Shri Gajadhar
 Majhi, Shri Kumar
 Malaviya, Shri K. D.
 Mallannha, Shri K.
 Mallikarjun, Shri
 Mandal, Shri J. N.
 Marandi, Shri Ishwar
 Maurya, Shri B. P.
 Mayavan, Shri
 Mehta, Dr. Jivraj
 Mehta, Dr. Mahipatray
 Melkote, Dr.
 Minimata Agamdas, Shrimati
 Mishra, Shri Bibhuti
 Mishra, Shri G. S.
 Mishra, Shri Jagannath
 Misra, Shri S. N.

Modak, Shri B. K.
 Modi, Shri Shrikishan
 Mohammad Ismail, Shri
 Mohammad Tahir, Shri
 Mohanty, Shri Surendra
 Mohapatra, Shri S. S.
 Mohsin, Shri
 Mukerjee, Shri H. N.
 Mukerjee, Shri Saroj
 Munsli, Shri Priya Rajan Das
 Murthy, Shri B. S.
 Muruganantham, Shri
 Nahata, Shri Amrit
 Nayak, Shri B. V.
 Nanda, Shri
 Negi, Shri Pratap Singh
 Nibmalkar, Shri
 Oraon, Shri Kartik
 Oraon, Shri Tuna
 Oza, Shri Ghanshyam
 Pahadia, Shri Jagannath
 Painuli, Shri Paripoornanand
 Panda, Shri D. K.
 Pandey, Shri Damodar
 Pandey, Shri K. C.
 Pandey, Shri N. N.
 Pandey, Shri R. S.
 Pandey, Shri Sarjoo
 Pandey, Shri Sudhakar
 Pandey, Shri Tarkeshwar
 Panigrahi, Shri Chintamani
 Pant, Shri K. C.
 Paokai Haokip, Shri
 Parashar, Prof. Narain Chand
 Parikh, Shri Rasiklal
 Partap S. ngh, Shri
 Parthasarathy, Shri
 Patil, Shri Anantrao
 Patil, Shri C. A.
 Patil, Shri E. V. Vikhe
 Patil, Shri Krishnarao
 Patil, Shri S. B.
 Patil, Shri T. A.
 Patnaik, Shri Banamali
 Patnaik, Shri J. B.
 Peje, Shri S. L.
 Pillai, Shri R. Balakrishna
 Pradhani, Shri K.
 Radhakrishnan, Shri S.
 Raghu Ramaiah, Shri
 Raj Bahadur, Shri
 Rajdeo Singh, Shri
 Raju, Shri M. T.
 Ram Dhan, Shri
 Ram Prakash, Shri
 Ram Sewak, Ch.

Ram Surat Prasad, Shri
 Ram Swarup, Shri
 Ram, Shri T.
 Ramji Ram, Shri
 Ramshekhar Prasad Singh, Shri
 Rana, Shri M. B.
 Rao, Shrimati B. Radhabai A.
 Rao, Shri Jaganath
 Rao, Dr. K. L.
 Rao, Shri K. Narayana
 Rao, Shri Nageswara
 Rao, Shri M. Satyanarayan
 Rao, Shri P. Ankineedu Prasada
 Rao, Shri Pattabhi Rama
 Rao, Shri Rajagopala
 Rao, Dr. V.K.R. Varadaraja
 Rathia, Shri Umed Singh
 Rau, Shri Bhola
 Ravi, Shri Vayalar
 Ray, Shri Shiddhartha Shankar
 Reddy, Shri B. N.
 Reddy, Shri Eswara
 Reddy, Shri Ganga
 Reddy, Shri K. Ramakrishna
 Reddy, Shri K. K. Rami
 Reddy, Shri M. Ram Gopal
 Reddy, Shri P. Narasimha
 Reddy, Shri P. Venkata
 Richhariya, Dr. Govind Das
 Rohatgi, Shrimati Sushila
 Roy, Shri Bishwanath
 Roy, Dr. Saradish
 Rudra Pratap Singh, Shri
 Sadhu Ram, Shri
 Saha, Shri A. K.
 Saha, Shri Gadadhar
 Saini, Shri Mulki Raj
 Salve, Shri N. K. P.
 Samanta, Shri S. C.
 Sanghi, Shri N. K.
 Sankata Prasad, Dr.
 Sant Bux Singh, Shri
 Sarkar, Shri S. K.
 Satish Chandra, Shri
 Satpathy, Shri Devendra
 Savant, Shri Shankarroa
 Savitri Shyam, Shrimati
 Sayajirao, Shri
 Sen, Shri Robin
 Sethi, Shri Arjun
 Sethi, Shri P. C.
 Shafi, Shri A.
 Shafquat Jung, Shri
 Shahnawaz Khan, Shri
 Shambhu Nath, Shri
 Shankar Dayal Singh, Shri

Shankar Dev, Shri
 Shankaranand, Shri B.
 Shankargiri, Shri V.
 Sharma, Shri A. P.
 Sharma, Dr. H. P.
 Sharmn, Shri Madhoram
 Sharma, Shri N. K.
 Sharma, Shri R. N.
 Sharma, Shri S. D.
 Shashi Bhushan, Shri
 Shastri, Shri Biswanarayan
 Shastri, Shri Raja Ram
 Shastri, Shri Ramavatar
 Shastri, Shri Shivpujan
 Shenoy, Shri P. R.
 Sher Singh, Shri
 Shetty, Shri K. K.
 Shinde, Shri Annasaheb P.
 Shiva Chandika, Shri
 Shivnath Singh, Shri
 Shukla, Shri B. R.
 Shukla, Shri Vidya Charan
 Siddayya, Shri S. M.
 Siddheshwar Prasad, Shri
 Singh, Shri V. N. P.
 Shankergiri, Shri N. K.
 Sinha, Shri R. K.
 Sohan Lal, Shri T.
 Sokhi, Shri Swaran Singh
 Sonar, Dr. A. G.
 Stephen, Shri C. M.
 Sunder Lal, Shri
 Surendra Pal Singh, Shri
 Suryanarayana, Shri K.
 Swamy, Shri Sidrameshwar
 Swaran Singh, Shri
 Swatantra, Shri Teja Singh
 Tarodekar, Shri V. B.
 Tayyab Hussain Khan, Shri
 Tewari, Shri C. M.
 Tewari, Shri Shankar
 Thakre, Shri S. B.
 Thakur, Shri Kirshnarao
 Tiwary, Shri D. N.
 Tiwary Shri K. N.
 Tombi Singh, Shri N.
 Tula Ram, Shri
 Tulsiram, Shri V.
 Uikey, Shri M. G.
 Ulaganambi, Shri R. P.
 Unnikrishnan, Shri
 Vekaria, Shri

Venkatasubbaiah, Shri P.
 Venkataswamy, Shri G.
 Verma, Shri Balgovind
 Verma, Shri S. P.
 Vidyalkar, Shri A. N.
 Virbhadra Singh, Shri
 Vijay Pal Singh, Shri
 Vikal, Shri R. C.
 Yadav, Shri Chandrajeet
 Yadav, Shri Karan Singh
 Yadav, Shri N. P.
 Yadav, Shri R. P.
 Yadava, Shri D. P.
 Yajnik, Shri
 Zulfiquar Ali Khan, Shri

MR. SPEAKER : The result* of the division is : Ayes : 11 ; Noes : 372.

The motion was negatived.

MR. SPEAKER : I shall now put clause 3 to the vote of the House. Let the Lobbies be cleared. The question is :

“That clause 3 stand part of the Bill.”

Now, Division :

The Lok Sabha divided:

Division No. 25] [18.50 hrs.

AYES

Achal Singh, Shri
 Afzalpurkar, Shri Dharamrao
 Aga, Shri Ahmed
 Agrawal, Shri Shrikrishna
 Ahirwar, Shri Nathu Ram
 Ahmed, Shri F. A.
 Alagesan, Shri
 Ambesh, Shri
 Ankineedu, Shri
 Ansari, Shri Ziaur Rahman
 Appalanaidu, Shri
 Arvind Netam, Shri
 Asgar Hussain, Shri
 Austin, Dr. Henry
 Awdhesh Chandra Singh, Shri
 Azad, Shri Bhagwat Jha

*The following Members also recorded their votes for Noes :

Sarvashri Jagjivan Ram, P. M. Sayeed, Sanjeevi Rao, Swami Brahmanandji, Palodkar, R. V. Swaminathan, M. Sudarsanam, Somasundaram, Dr. Karan Singh and Prof. Madhu Dandavate.

Aziz Imam, Shri
 Babunath Singh, Shri
 Bahuguna, Shri H. N.
 Bajpai, Shri Vidya Dhar
 Balakrishniah, Shri T.
 Balathandayutham, Shri
 Banamali Babu, Shri
 Barman, Shri R. N.
 Banerjee, Shrimati Mukul
 Banerjee, Shri S. M.
 Barua, Shri Bedabrata
 Barupal, Shri P. L.
 Basappa, Shri K.
 Basumatari, Shri D.
 Besra, Shri S. C.
 Bhagat, Shri B. R.
 Bhagat, Shri H. K. L.
 Bhagirath Bhanwar, Shri
 Bhandare, Shri R. D.
 Bhargava, Shri B. N.
 Bhatia, Shri D. D.
 Bhattacharyya, Shri Chapal
 Bhattacharyya, Shri Dinen
 Bhattacharyya, Shri Jagadish
 Bhattacharyya, Shri S. P.
 Bhaura, Shri B. S.
 Bhuvarahan, Shri
 Bisht, Shri N. S.
 Bosu, Shri Jyotirmoy
 Brahman, Shri Rattanlal
 Brahmanandji, Shri Swami
 Buta Singh, Shri
 Chanda, Shrimati Jyotsna
 Chandrakar, Shri Chandulal
 Chandrappan, Shri C. K.
 Chandre Gowda, Shri
 Chandrika Prasad, Shri
 Chatterjee, Shri Somnath
 Chaturvedi, Shri R. L.
 Chaudhary, Shri Nitiraj Singh
 Chaudhuri, Shri Tridib
 Chaudhury, Shri Amarsinh
 Chavan, Shri D. R.
 Chavan, Shri Yeshwantrao
 Chavda, Shri K. S.
 Chawla, Shri A. N.
 Chellachami, Shri
 Chhotey Lal, Shri
 Choudhury, Shri Moinul Haque
 Chhuttan Lal, Shri
 Daga, Shri M. C.
 Dalbir Singh, Shri
 Dalip Singh, Shri
 Damani, Shri S. R.
 Dandavate, Prof. Madhu
 Darbara Singh, Shri
 Das, Shri Dharnidhar

Das, Shri R. P.
 Dasappa, Shri Tulsidas
 Daschowdhury, Shri B. K.
 Deb, Shri Dasaratha
 Deo, Shri S. N. Singh
 Desai, Shri C. C.
 Desai, Shri D. D.
 Desai, Shri Morarji
 Deshmukh, K. G.
 Deshmukh, Shri Shivaji Rao S.
 Dhamankar, Shri
 Dharia, Shri Mohan
 Dharamganj Singh, Shri
 Dhusia, Shri Anant Prasad
 Dinesh Singh, Shri
 Dixit, Shri G. C.
 Dixit, Shri J. C.
 Doda, Shri Hiralal
 Dumada, Shri L. K.
 Durairasu, Shri
 Dutta, Shri Biren
 Dwivedi, Shri Nageshwar
 Gaekwad, Shri Fatesinghrao
 Gandhi, Shrimati Indira
 Ganesh, Shri K. R.
 Ganga Devi, Shrimati
 Gangadeb, Shri P.
 Garcha, Shri Devinder Singh
 Gautam, Shri, C. D.
 Gavit, Shri T. H.
 George, Shri A. C.
 Ghosh, Shrimati Bibha
 Ghosh, Shri P. K.
 Gill, Shri Mohinder Singh
 Godara, Shri Mani Ram
 Gogoi, Shri Tarun
 Gohain, Shri C. C.
 Gokhale, Shri H. R.
 Gotkhinde, Shri
 Gopal, Shri K.
 Gopalan, Shri A. K.
 Goswami, Shri Dinesh Chandra
 Govind Das, Dr.
 Gowda, Shri Pampan
 Guha, Shri Samar
 Gupta, Shri Indrajit
 Haldar, Shri Madhuryya
 Hansda, Shri Subodh
 Hanumanthaiya, Shri
 Hari Kishore Singh, Shri
 Hari Singh, Shri
 Hazra, Shri Manoranjan
 Horo, Shri N. E.
 Ishaque, Shri A. K. M.
 Jadeja, Shri
 Jaffer Shariff, Shri C. K.
 Jagjivan Ram, Shri

Jamilurrahman, Shri Md.
 Janardhanan, Shri C.
 Jeyalakshmi, Shrimati
 Jha, Shri Bhogendra
 Jha, Shri Chiranjib
 Jha, Shri Vinoda Nand
 Jitendra Prasad, Shri
 Joarder, Shri Dinesh
 Joshi, Shri Popatlal
 Joshi, Shrimatt Subhadra
 Kadam, Shri Dattajirao
 Kadam, Shri J. G.
 Kadannappalli, Shri Ramachandran
 Kadar, Shri
 Kailas, Dr.
 Kakodkar, Shri Purushottam
 Kakoti, Shri Robin
 Kale, Shri
 Kalyanasundaram, Shri
 Kamakshaiah, Shri
 Kamala Prasad, Shri
 Kamaraj, Shri K.
 Kamble, Shri T. D.
 Kamla Kumari, Kumari
 Kapur, Shri Sat Pal
 Karan Singh, Shri
 Kasture, Shri A. S.
 Kathamuthu, Shri M.
 Kaul, Shrimati Sheilla
 Kavde, Shri B. R.
 Kedar Nath Singh, Shri
 Khadiikar, R. K.
 Kinder Lal, Shri
 Kisku, Shri A. K.
 Kotoki, Shri Liladhar
 Kotrashatti, Shri, A. K.
 Krishna, Shri S. M.
 Krishnan, Shri M. K.
 Krishnappa, Shri M. V.
 Kulkarni, Shri Raja
 Kumaramangalam, Shri Mohan
 Kureel, Shri B. N.
 Kushok Bakula, Shri
 Lakkappa, Shri K.
 Lakshmikanthamma, Shrimati
 Lakshminarayanan, Shri
 Laskar, Shri Nihar
 Lutfal Haque, Shri
 Madhukar, Shri K. M.
 Mahajan, Shri Vikram Chand
 Mahajan, Shri Y. S.
 Maharaj Singh, Shri
 Mahata, Shri D. N.
 Mahishi, Dr. Sarojini
 Majhi, Shri Gajadhar
 Majhi, Shri Kumar
 Malaviya, Shri K. D.

Mallanna, Shri K.
 Mallikarjun, Shri
 Mandal, Shri J. N.
 Marandi, Shri Ishwar
 Maurya, Shri B. P.
 Mayavan, Shri
 Mehta, Dr. Mahipatray
 Melkote, Dr.
 Menon, Shri Krishna
 Minimata Agamdas, Shrimati
 Mishra, Shri Bibhuti
 Mishra, Shri G. S.
 Mishra, Shri Jagannath
 Mishra, Shri Shyamnandan
 Misra, Shri S. N.
 Modak, Shri B. K.
 Modi, Shri Shrikishan
 Mohammad Ismail, Shri
 Mohammad Tahir, Shri
 Mohammad Yusuf, Shri
 Mohan Swarup, Shri
 Mohanty, Shri Surendra
 Mohapatra, Shri S. S.
 Mohsin, Shri
 Mukerjee, Shri H. N.
 Mukherjee, Shri Saroj
 Munsli, Shri Priya Ranjan Das
 Murthy, Shri B. S.
 Muruganatham, Shri
 Nahata, Shri Amrit
 Naik, Shri B. V.
 Nanda, Shri
 Negi, Shri Pratap Singh
 Nimbalkar, Shri
 Oraon, Shri Kartik
 Oraon, Shri Tuna
 Oza, Shri Ghanshyam
 Pahadia, Shri Jagannath
 Painuli, Shri Paripronnanand
 Palodkar, Shri
 Pandey, Shri Damodar
 Pandey, Shri K. C.
 Pandey, Shri N. N.
 Pandey, Shri R. S.
 Pandey, Shri Sarjoo
 Pandey Shri Sudhakar
 Pandey, Shri Tarkeshwar
 Panigrahi, Shri Chintamani
 Pant, Shri K. C.
 Paokai Haokip, Shri
 Parashar, Prof. Narain Chand
 Parikh, Shri Rasiklal
 Parmar, Shri Bhuljibhai
 Partap Singh, Shri
 Parthasarathy, Shri
 Patel, Shri Nanubhai N.

Patel, Shri Natvarlal
 Patel, Shri Prabhudas
 Patil, Shri Anantrao
 Patil, Shri C. A.
 Patil, Shri E. V. Vikhe
 Patil, Shri Krishnarao
 Patil, Shri S. B.
 Patil, Shri T. A.
 Patnaik, Shri Banamali
 Patnaik, Shri J. B.
 Peje, Shri S. L.
 Pillai, Shri R. Balakrishna
 Pradhani, Shri K.
 Radhakrishnan, Shri S.
 Raghu Ramajiah, Shri
 Raj Bahadur, Shri
 Rajdeo Singh, Shri
 Raju, Shri M. T.
 Ram Dhan, Shri
 Ram Prakash, Shri
 Ram Sewak, Ch.
 Ram Surat Prasad, Shri
 Ram Swarup, Shri
 Ram, Shri T.
 Ramji Ram, Shri
 Ramshekhar Prasad Singh, Shri
 Rana, Shri M. B.
 Rao, Shrimati B. Radhabai A.
 Rao, Shri Jaganath
 Rao, Dr. K. L.
 Rao, Shri K. Narayana
 Rao, Shri Nageswara
 Rao, Shri M. Satyanarayan
 Rao, Shri P. Ankineedu Prasada
 Rao, Shri Pattabhi Rama
 Rao, Shri Rajagopala
 Rao, Shri Sanjeevi
 Rao, Dr. V. K. R. Varadaraja
 Rathia, Shri Umed Singh
 Raut, Shri Bhola
 Ravi, Shri Vayalar
 Ray, Shri Siddhartha Shankar
 Reddy, Shri B. N.
 Reddy, Shri Eswara
 Reddy, Shri Ganga
 Reddy Shri K. K. Rami
 Reddy, Shri M. Ram Gopal
 Reddy, Shri P. Narasimha
 Reddy, Shri P. Venkata
 Richhariya, Dr. Govind Das
 Rohatgi, Shrimati Sushila
 Roy, Shri Bishwanath
 Roy, Dr. Saradish
 Rudra Partap Singh, Shri
 Sadhu Ram, Shri
 Saha, Shri A. K.

Saha, Shri Gadadhar
 Saini, Shri Mulki Raj
 Sakseena, Prof. S. L.
 Salve, Shri N. K. P.
 Samanta, Shri S. C.
 Sanghi, Shri N. K.
 Sankata Prasad, Dr.
 Sant Bux Singh, Shri
 Sarkar, Shri S. K.
 Satish Chandra, Shri
 Satpathy, Shri Devendra
 Savant, Shri Shankarrao
 Savitri Shyam, Shrimati
 Sayeed, Shri P. M.
 Sen, Shri Robin
 Sethi, Shri Arjun
 Sethi, Shri P. C.
 Sezhiyan, Shri
 Shafi, Shri A.
 Shafquat Jung, Shri
 Shahnawaz Khan, Shri
 Shailani, Shri C. P.
 Shambhu Nath Shri
 *Shamim, Shri S. A.
 Shankar Dayal Singh, Shri
 Shankar Dev, Shri
 Shankaranand, Shri B.
 Shankergiri, Shri V.
 Sharma, Shri A. P.
 Sharma, Dr. H. P.
 Sharma, Shri Madhoram
 Sharma, Shri N. K.
 Sharma, Shri R. N.
 Sharma, Shri S. D.
 Shashi Bhushan, Shri
 Shastri, Shri Biswanarayan
 Shastri, Shri Raja Ram
 Shastri, Shri Ramavatar
 Shastri, Shri Shivpujan
 Shenoy, Shri P. R.
 Sher Singh, Shri
 Shetty, Shri K. K.
 Shinde, Shri Annasaheb P.
 Shiva Chandika, Shri
 Shivnath Singh, Shri
 Shukla, Shri B. R.
 Shukla, Shri Vidya Charan
 Siddayya, Shri S. M.
 Siddeshwar Prasad, Shri
 Singh, Shri D. N.
 Singh, Shri V. N. P.
 Sinha, Shri N. K.
 Sinha, Shri R. K.
 Sinha, Shri S. N.
 Sohan Lal, Shri T.
 Sokhi, Shri Swaran Singh

*He voted by mistake from a wrong seat and later informed the Speaker accordingly.

Sonar, Dr. A. G.
 Stephen, Shri C. M.
 Sudarsanam, Shri M.
 Sunder Lal, Shri
 Surendra Pal Singh, Shri
 Suryanarayana Shri K.
 swamy, Shri Sidrameshwer
 Swar n Singh, Shri
 Swatantra, Shri Teja Singh
 Tarodekar, Shri V. B.
 Tayyab Hussain Khan, Shri
 Tewari, Shri Shankar
 Thakre, Shri S. B.
 Thakur, Shri Krishnarao
 Tiwary, Shri D. N.
 Tiwary Shri K. N.
 Tombi Singh, Shri N.
 Tula Ram, Shri
 Tulsiram, Shri V.
 Uickey, Shri M. G.
 Ulaganambi, Shri R. P.
 Unnikrishnan, Shri
 Vekaria, Shri
 Venkatasubbaiah, Shri P.
 Verma, Shri Balgovind
 Verma, Shri S. P.
 Vidyalankar, Shri A. N.
 Vijay Pal Singh, Shri
 Vikal, Shri R. C.
 Virbhadra Singh, Shri
 Yadav, Shri Chandrajeet
 Yadav, Shri Karan Singh
 Yadav, Shri N. P.
 Yadav, Shri R. P.
 Yadava, Shri D. P.
 Yajnik, Shri
 Zulfiqar Ali Khan, Shri

NOES

Agarwal, Shri Virendra
 Anthony, Shri Frank
 Bade, Shri R. V.
 Banera, Shri Hamendra Singh
 Chaudhry, Shri Ishwar
 Chauhan, Shri Bharat Singh
 Deo, Shri P. K.
 Deo, Shri R. R. Singh

*Joseph, Shri M. M.
 Joshi, Shri Jagannathrao
 Kachwai, Shri Hukam Chand
 Karni Singh, Dr.
 Malik, Shri Mukhtiar Singh
 Mody, Shri Pилоo
 Narendra Sinh, Shri
 Nayak, Shri Boksi
 Patel, Shri H. M.
 Pradhan, Shri Dhan Shah
 Purty, Shri M. S.
 Ramkanwar, Shri
 Ranabahudur Singh, Shri
 Saminathan, Shri
 Scindia, Shri Madhavrao
 Sharma, Shri R. R.
 Tewari, Shri C. M.
 Vajpayee, Shri Atal Bihari
 Yadav, Shri G. P.

MR. SPEAKER : The result** of the division is : Ayes 392 ; Noes 27.

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

The motion was adopted.

Clause 3 was added to the Bill.

MR. SPEAKER : The question is :

“That Clause 1, the Enacting Formula and the Long Title stand part of the Bill.”

The motion was adopted.

Clause 1, the Enacting Formula and the Long Title were added to the Bill.

SHRI H. R. GOKHALE : I beg to move :

“That the Bill be passed.”

MR. SPEAKER : Motion moved :

“That the Bill be passed.”

*Wrongly voted for Noes.

**The following Members also recorded their votes :

AYES : Sarvashri G. Venkataswamy, Sayajirao, D. K. Panda, Krishna Halder, Somasundaram, Dr. Jivraj Mehta and Shri M. M. Joseph.

NOES : Rajmata Gayatri Devi, Sarvashri Onkar Lal Berwa, Maha Deepak Singh and Shrimati Shakuntala Nayar.

SHRI H. N. MUKERJEE (Calcutta-North East) : Mr. Speaker, when the proceedings are coming to a close it is customary to make a few observations during the third reading. Our memory goes back to the days of the last Parliament when Shri Nath Pai had brought in a Bill to enable Parliament to amend the Constitution, to re-assert the right of Parliament which has been countered by a judicial decision. I am glad the Prime Minister has taken her cue from what Shri Manoharan has mentioned about Shri Nath Pai's Bill. But I would have been happier if the government had, in the very first session of the new Parliament, brought forward this Bill. I wish they had referred to some of the material which had been placed before the Joint Committee which was formed by this Parliament and in that case we could have got a measure which was more in conformity with the needs of the day. But anyhow we are passing a measure which was very important but I wish to tell Government that Government is on its trial. When the Law Minister yesterday moved his Motion I went up to him to tell him that before the House passes this measure it would be necessary for Government to take the House into confidence and to give us some idea about the programme of implementation of measures which the Government has in view. But I feel, Sir, that Government perhaps is not as serious about it as some of the speeches on that side tended to suggest. Government has told us over and over again that they have massive mandate from the people and they were doing it because people have sent them to this House with that mandate. I wish Government to remember what Abraham Lincoln on the occasion of his inaugural Address said in March 1861 :

"This country, with its institutions, belongs to the people who inhabit it. Whenever they shall grow weary of the existing government, they can exercise their constitutional right of amending it, or their revolutionary right to dismember or overthrow it."

If the Government does not take note of the impatience in the country to which reference has been made by some of the speakers on the other side then Government is going in for a bad time. I found Government talking in legalistic manner when Mr. Siddhartha

Shankar Ray was speaking. I know him for such a long time that our relations are such that I need not speak about them but I was recalling a limerick which used to be very well circulated in the precincts of the Calcutta High Court a little before Shri Ray joined our library which stressed how our people—this was round about 1946-47—so legal minded thought by some sort of legal manoeuvre we could get things done. The limerick ran somewhat like this :

"He thought, he saw a Congressman
A-spinning with a wheel.

He looked again and saw it was
A practising *vakeel*.

"If we should loose Swaraj", he said,
"We'll win it on appeal"."

That was the kind of feeling we had. By legal strategy you are not going to get a kind of society which the people want to achieve in this country. At one time we used to hear the expression 'divine discontent'. Now, all over—particularly among the youth of our country—there is 'divine impatience'. There is desire to do away with the rotten and corrupt structure of society and economy which subsists today with the patronage of so many in power in the Government of this country. This 'divine impatience' has to be taken into consideration and action has to follow. The country is prepared to give all powers to the Government provided action follows. Only yesterday Mr. Hanumanthaiya spoke defending the idea of saloons for few people who are entitled to them because it is a prescriptive right which he did not want to disturb. They do not want to disturb the prescriptive rights.

Today, the Prime Minister has told us so many good things; Shri Mohan Kumaramangalam has said so many good things, Shri Siddhartha Shankar Ray yesterday told us so many good things. The Law Minister spoke in his own way. But he is a complete lawyer, with an "eat". He spoke in his own way. But I want to find out what exactly they are going to do; what assurance they are going to give us.

Are they going to tell us that price-page schedule, which was recommended by

the majority of the Small Newspapers' Inquiry Committee, of which I happened to have been a member, which has not been implemented, which has not been legalised because of some difficulties in regard to the Fundamental Rights Chapter, are they going to give an undertaking to this House that the price-page schedule is going to be adopted? Are they going to give an undertaking to this House that in regard to bank nationalisation for which we have had to pay such a stupendous amount of money which this country neither in law nor in reason nor in justice could ever afford, they are going to reopen the matter? Are they going to give an undertaking to the country that in regard to general insurance they are going to take such steps as are in conformity with the rights of the people? Are they going to give an assurance to the people that in regard to the oil barons from abroad, who are now exploiting our country in the most shameless manner, we shall take steps in regard to expropriating their ill-gotten gains on the soil of India?

But that sort of thing is not forthcoming. That is why we feel that it is necessary for Government to wake up to the fact that time is running fast and that, therefore, something has got to be done. Even Jawaharlal Nehru had woken up to the fact that everything had to hurry in this country. But things have not hurried in this country. The kind of change expected of the Government has not been done. That is why we have our reservations; we have our misgivings; we have all sorts of suspicions in regard to how the Government is going to operate this power which has been placed in the hands of Parliament since Government has got a massive majority in Parliament.

I know, I will not get anything very worth while, but at least at the third reading stage some pious resolution, a little more concretely expressed, in regard to their projected implementation programme should be given to us. Without that announcement of a projected implementation programme of socio-economic reform, this sort of thing does not appear to be worth very much more than a legal exercise, an exercise in ingenuity and

eloquence of sort to which we have been treated here.

Anyhow, we have had an interesting and sometimes an impressive debate and I am glad that we are putting on the statute book something which enables Parliament to the last word in regard to the Constitution of our country.

SHRI KADAR : Sir, I was listening carefully to the speeches of my hon. friends during the first and second reading of this Bill. I do not propose to cover all aspects of the Bill or the arguments that have been advanced but I would like to cover some arguments about the protection of the rights of the minorities.

In our country today if there is one minority which is in existence, there is a small microscopic minority of the 'haves' and the majority is of the 'have-nots'. That is the only minority that exists in the country. No other minority exists. Today because of religion, whether one is a Hindu, Muslim, Parsi, Sikh or Isai, if he is to be brought on the political region and to be exploited for political ends in the name of minority, minority is really no minority at all. The real minority, as I said, are the 'haves' and it is for the 'have-nots' that this amendment is brought forward.

Today is a historic occasion. Today we are fulfilling one pledge. Today we are taking one step in the direction of the promise that we have made to our electorate.

I do not understand why my hon. friend, Shri Frank Anthony, wants to create and maintain a fear status. A fear status means that always in the name of minorities you should remind the House, the people and everybody that some day or the other you would be wiped out.

19 hrs.

If you look to the last General Elections, I would like to tell my hon. friend Mr. Frank Anthony who represents or who has been nominated to represent Anglo-Indian community, that in my constituency, there

[Shri Kadar]

is a large part of Anglo-Indian community which has voted for the majority party on the basis of their manifesto that there is going to an amendment to the Constitution. My hon. friend, Mr. Frank Anthony, is either busy with the Supreme Court or sometimes with the House that he has very little contact with his own community which he claims to represent. I can say with authority that a large part of the Anglo-Indian community has voted for the general stream of the last national General Elections.

My hon. friends opposite from Kerala spoke and I do not know in what capacity they spoke. Were they speaking as a representative of minorities or were they speaking in the capacity of a representative of Muslims ? I would like to know from them. As far as this House is concerned, everyone of us here is not a representative of the minority or majority. We are the representatives of the people and the people alone. They claim to safeguard the interests of minorities and that all the constitutional guarantees should be there in the Constitution may I ask these friends that the partition which was brought about by the so-called organisation like the Muslim League to which my hon. friends still belong...*(Interruption)*

SHRI EBRAHIM SULAIMAM SAIT : This Muslim League to which I belong is not responsible for the partition. He does not know the facts. This Muslim League has come into existence after Independence, the Indian Union Muslim League...*(Interruption)*

SHRI KADAR : I am not yielding.

They raised the question that Islam is in danger. Then they brought two-nation theory. They brought about the division of the country saying that was the only solution. After that when the country become Independent, is it not a fact that the minorities in the country have been given equal and fair treatment throughout ? I strongly urge upon my friends not to exploit and take political advantages in the name of minorities.

The Constitutions are made and they are broken also. The history has proved

it beyond doubt. Look at the neighbouring country, Was not a Constitution made and the Martial Law come in ? And the Constitution went phut.

Similarly, constitutional guarantees are no guarantees at all. Constitutional guarantees can be made and broken. Laws can be made and broken. Do you think the Supreme Court is going to protect the minorities? No, Sir. The only protection of the minorities should be enshrined not in the Constitution but in the hearts of the people. The earlier we realise that, the better it is. I am quite sure the minorities have realised it. They have voted in the mainstream for the national unity. I am quite sure about the minorities. The minorities are one with the nation. As long as they are one with the nation nobody can take away their rights ; nobody will take away their rights in future also. The minorities, as far as their religion is concerned, will be absolutely safe to perform and have their religious rights and all that. Nobody can interfered. This is what I wanted to bring to your attention.

SHRI SOMNATH CHATTERJEE : Sir, we are happy that we are to-day undoing Golak Nath after that judgement was delivered.

SHRI R. BALAKRISHNA PILLAI (Mavelikara) : I am moving for closure.

SHRI SURENDRA MOHANTY (Kendrapara) : I support it...*(Interruption)*

श्री हुकम चन्द कछवाय (मुरेना) :
अध्यक्ष महोदय, हाउस कब तक चलने वाला है ?

अध्यक्ष महोदय: तब तक चलता रहेगा जब जब तक यह बिल पास नहीं हो जाता ।

SHRI JYOTIRMOY BOSU : He has formally moved a motion for closure. It should be put to the House.

MR. SPEAKER : I have just told them. There are 3 or 4 speakers. Each will be allowed only two or three minutes. I don't agree with your closure just now. May I request you not to press it ?

SHRI SOMNATH CHATTERJEE : The people of this country will, by passing this Constitution Amendment Bill, reassert the sovereignty of the people and we refuse to recognise that there is any authority over the people as such which can take away the people's constituent right to amend the Constitution, to make or to remake the constitution. That is why we have supported this Bill whole-heartedly. But we have also expressed our misgivings which we generally reasonably felt, namely, that in view of the clear departure from the practices which has followed, departure from the preachings, that although this power is being taken, may not be really utilised for the good of the people. We have seen that many of the legislations which are already on the statute book have not been implemented and whatever assurances have been given, I am sorry to say, have not been implemented. I am sorry, Sir, these assurances are not acceptable wholly because recently when the Maintenance of Internal Security Bill was passed, assurances were given even by the hon. Prime Minister that it will not be used against political parties but I am very sorry to say that it has been utilised more against political parties and even against trade unions than against anti-social elements. It has been used for the purpose of curbing trade unions rights than to get hold of law-breakers. That is why we have brought this amendment and wanted that this should be entrenched in the constitution itself.

For criticising the judgment of the court recently for saying something about the class structure of the judiciary in this country, Mr. E. M. S. Namboodiripad was held guilty of contempt of court. It has been said here by the members on the opposite side and even by the hon. Ministers about the class structure of the judges in this country. That clearly shows that what Mr. Namboodiripad has said was right and what he said the other day is now being said by the ruling Party to show their supposed progressive outlook.

I believe and I end my speech with this hope that although in the past this ruling party has not kept its promises and assurances, in future, as far as utilising this power of amendment is concerned, they will really bring forward such legislation which will

help the people of this country to proceed further towards achieving the goal of real socialism.

श्री जगन्नाथ राव जोशी (शाजापुर) : संविधान, संसद और सर्वोच्च न्यायालय इन तीनों में वास्तव में कौन सर्वोच्च है इसके बारे में जब एक विवाद खड़ा हुआ तो उसका हल निकालने की कोशिश की जा रही है। किन्तु हम यह भूल गए कि इन तीनों में आपसी और परस्पर के सम्बन्ध हैं। जैसे इस सदन में हम आए और हमने शपथ ली। शपथ भी दो प्रकार से ली गई। एक तो भगवान में विश्वास प्रकट कर के ली गई, फेथ इन गाड और दूसरी Oath in the name of allegiance to the Constitution. जिस ने जिस तरह से चाहा ओथ ली। मुझ जैसे सदस्य ने भगवान पर श्रद्धा रख कर ली, चव्हाण जी ने भी भागवान पर श्रद्धा रख ली। लेकिन जो प्रगतिशील कहते हैं अपने आपको उन्होंने अपनी एलीजियेंस संविधान के प्रति व्यक्त की। इसका मतलब यही है कि संविधान सेक्रिड है।

ऐसी बात नहीं है कि संविधान में संशोधन नहीं हो सकता। संविधान में संशोधन करने की गुंजाइश रखी गई है। इसी वास्ते तो 23 संशोधन हो चुके हैं। ऐसा नहीं है कि यह पहला संशोधन हो रहा है। लेकिन आज जो संशोधन किया जा रहा है यह मूलभूत अधिकारों को ले कर किया जा रहा है। आखिर यह जो कंस्टिट्यूट असैम्बली थी इसको भी जनता ने चुना और यह जो संसद है इसको भी जनता ने चुना है। जब इन दोनों में कोई मतभेद होता है तो उस मतभेद का हल कौन करे। उस हल को निकालने की व्यवस्था की गई कि न्यायालय करेगा। किन्तु न्यायालय ने जो निर्णय दिया उसके बारे में विवाद खड़ा हुआ तो उसको आप इस तरह से हल करना चाहते हैं कि प्रमुख कौन है। आप कहते हैं कि

(श्री जगन्नाथ राव जोशी)

पार्लिमेंट सावरेन है। लेकिन मैं जब रात को ट्रेन से जा रहा था पिछली संसद का सदस्य होने के नाते तो रात को मुझे पता लगा कि संसद को बरखास्त कर दिया गया है और टिकट कलेक्टर मुझे कहने लग गया कि तुम्हारा पास खत्म हो गया हम कहते थे कि हम सावरेन हैं, सर्वोच्च हैं। किन्तु प्रधान मंत्री ने इसको डिसाल्व कर दिया आन दी वेसिस आफ व्हट। जो अधिकार उनको संविधान में मिले थे उनका उपयोग करके ही तो उन्होंने इसको बरखास्त किया। हम कहते हैं कि पार्लिमेंट सुप्रीम है किन्तु प्रधान मंत्री ने जिस आधार पर इस सदन को भंग किया वह आधार और अधिकार संविधान से ही तो उनको मिला था। उसी आधार पर सुप्रीम कोर्ट ने निर्णय दिया। अखिर यहां जो चुनने वाली है वह भी जनता है और संविधान सभा को चुनने वाली जो है वह भी जनता है। यह सवाल संविधान सभा के सामने आया था कि गवर्नर इलेक्टड हो। उस समय यह सवाल खड़ा हुआ कि चीफ मिनिस्टर भी इलेक्टड होगा और गवर्नर भी इलेक्टड होगा तो दोनों में मतभेद खड़ा हो सकता है। इसलिए सोच समझ कर गवर्नर को नामिनेटिड रखा गया। यहां भी जब विवाद खड़ा हो गया है कि सर्वोच्च कौन है, न्यायालय जो कहता है वह हमें मंजूर नहीं है तो the matter must be referred to the people from whom you derive power.

गोखले जी ने बताया है कि उनको मैसिव मॅडेट मिला है। अटल बिहारी वाजपेयी जी ने उदहारण दिये हैं। यह ठीक है कि संसद के लिए जब हुए थे तब आप जीत गए। लेकिन उसके साथ साथ आप देखें कि जब कारपोरेशन के लिए चुनाव हुआ तो हम जीत गए। यह कैसे हुआ? इसका अर्थ यह है कि

राजधानी की जनता दो महीने में बदल गई। अगर आप इसको नहीं मानते हैं तो आषको चाहिये कि आप लोगों के पास जायें, जनता के पास जाएं और आपको पता चल जाएगा कि जनता क्या चाहती है। जब राजधानी में कारपोरेशन के लिए चुनाव हुए तो जनता ने दिखा दिया कि उसका विश्वास किस के साथ go to the people now. When you talk of confidence of the people, we equally talk of confidence of the people.

कहा जाता है कि बैड वर्कमैन क्वैरल्ज विद हिज़ दूल्ज। 23 संशोधन 23 साल में हो गए। मैं पूछना चाहता हूँ कि क्या ज़मींदारी, जागीरदारी, इनामदारी अदि के एबालिश के बिल जब यहां आए तो क्या हमने अपना समर्थन नहीं किया? लैंड सीलिंग एक्ट आप लाये। लेकिन उसको आपने राज्यों में इम्प्लेमेंट नहीं किया। क्यों नहीं किया?

जहां तक गरीबी हटाओ के नारे का सम्बन्ध है, विनोबा जी ने सम्पत्ति दान का नारा दिया है। सामने बैठे हुए कौन से मननीय सदस्य हैं, यह मैं पूछना चाहता हूँ जिन्होंने अपनी सम्पत्ति को छोड़ा है, जिन्होंने अपनी सम्पत्ति दान में दी है? क्यों नहीं कोई सामने आया? इस इस के लिए रास्ते में कोई कानून या संविधान नहीं आता है। सब कुछ परित्याग कर के समाज-कल्याण की भावना को ले कर हमेशा काम करना, यही तो यहां कि संस्कृति रही है। यहां की संस्कृति सनातन है। परिस्थिति के बदलने के साथ कई स्मृतियां आती हैं, कई दर्शन आते हैं, गीता के अर्थ बदल जाते हैं। मूल भावना में डेस, धक्का, न लगाते हुए परिवर्तन करने, बदल करने, का गुण उस में है। इसी लिए यहां की संस्कृति को सनातन कहा गया है। चेंज इज वि ला आफ लाइफ वट वन शुड अंडर-स्टैंड वि लिमिटेड आफ वेट ला। मर्यादायें प्रमुख होती हैं। मर्यादायें भंग न हों।

जब यह विवाद खड़ा होता है कि कौन प्रमुख है, तो हम ने कहा है कि जनता की राय लेनी चाहिए। लेकिन सत्तारूढ़ दल ने इस बात को नहीं माना। हमारे कई विरोधी दलों ने इस विधेयक का समर्थन करते हुए भी इस बात पर जोर दिया है कि भाषण स्वातंत्र्य, पूजा-स्वातंत्र्य आदि को धक्का न लगे। यह क्यों कहना पड़ता है? पिछ्छी लोक सभा में सरकार की और से संगठन-स्वातंत्र्य पर कुठाराघात करने वाला एक बिल पेश किया गया, जिस का विरोध सारे सदन ने किया। इसलिए उस को वापिस ले लिया गया। क्यों लाया गया था वह बिल? इस लिए आज श्री फ्रैंक एन्थनी के मन में जितनी आशंका है, उतनी ही आशंका श्री गोपालन और डी. एम. के. के सदस्यों के मन में है।

जब मूलभूत अधिकारों पर कुठाराघात करने की बात आती है, तो डी. एम. के. कहती है कि रेफर इट टु दि एसेम्बलीज लेकिन हम कहते हैं कि रेफर इट टु दी पीपुल। एक दफा इस सरकार को कोई अधिकार दे दिया गया, तो वह उस का उपयोग किस प्रकार करेगी, आशंका इसी बारे में होती है।

सरकार की और से प्लेजिज की बात कही जाती है। 1945-46 में सत्तारूढ़ दल की और से यह घोषण की गई थी कि चाहे कुछ भी हो जाये, चाहे आस्मान टूट पड़े, लेकिन हमारा देश अखंड रहेगा। क्या उस ने अपना यह कमिटमेंट पूरा किया? 14 नवम्बर, 1962 को, पंडित जवाहर-लाल नेहरू के जन्म-दिन पर, इसी सदन में यह प्रस्ताव स्वीकार किया गया कि हम चीन को अपनी धरती से पीछे हटायेगे। क्या इस सरकार ने अपने उस कमिटमेंट को फुलफिल किया? इस सरकार की और से हर एक योजना के बारे में कहा गया कि उस के द्वारा देश में बेरोजगारों

मिट जायेगी और लोगों का आर्थिक स्तर ऊंचा हो जायेगा। क्या उस ने अपना यह कमिटमेंट पूरा किया? आखिर उस ने कौन सा कमिटमेंट पूरा किया है? इस लिए हम केवल एशोरेंस नहीं चाहते हैं, बल्कि कांस्टीट्यूशनल गारंटी चाहते हैं।

श्री शमीम ने कहा है कि 1976 में चुनाव होंगे। We are not afraid to go to the people. We will go to the people in 1976, but if the Prime Minister is willing, we may go even earlier. Why are you afraid to go to the people? केरल में कितनी बार चुनाव हुए? वहां पर 1957, 1960, 1965, 1967, और 1970 में चुनाव हुए। एक प्रदेश में दल-बदल के कारण इतनी बार चुनाव हुए। उत्तर प्रदेश में भी 1967 और 1969 में चुनाव हुए और शायद फिर 1972 में होंगे। तो फिर यह सरकार मूलभूत अधिकारों के प्रश्न पर जनता के पास क्यों नहीं जाना चाहती है? वह ऐसा करने से क्यों डरती है! जब जनता ने उस को अधिकार दिया है, तो वह जनता के पास जाये। इस से जानता के मन में विश्वास पैदा होगा। यह सदन सर्वोच्च है, लेकिन जब मूलभूत अधिकारों का सवाल खड़ा होता है, तो इस बारे में जनता की राय लेनी चाहिए।

SHRI SEZHIYAN: On this occasion I am very glad that we are passing with near-unanimity this Constitution amendment Bill which has been a very long-awaited measure. The previous speaker said just now that the CPM, the CPI, and the DMK had their differences. Yes, we expected something more. But on that score, we are not opposing this Bill. We are fully supporting it but we want something more, and I hope that this will be considered by the House and the Government.

My hon. friend has been saying that this House is supreme, and the Constitution which created this House is more supreme; I can extend that logic and say that the people who created the Constitution are more supreme than the Constitution itself.

SHRI ATAL BIHARI VAJPAYEE :
Therefore, go to the people.

SHRI SEZHIYAN : In 1971, we went to the people, and in 1976 we would again go to the people and at that time we can settle this.

The Constitution is not an end in itself. It is only a means ; it is an instrument in the hands of the people and in the hands of this House to improve the lot of the people through their representatives in this House.

As has been pointed out, there is no confrontation between the legislature and the Supreme Court. The Supreme Court is supreme in its sphere of interpretation of law and the Constitution. This House is supreme in the sphere of legislating. Whatever we legislate, they can interpret in the way they like. If any confrontation is put by them, we shall again remove it, to fulfil the demands and the needs of the people.

In 1950 the Constitution was given life. In 1971, we are saving the Constitution from going into decay as a stagnant measure, by passing this amendment Bill. Actually, by restoration of the amending provision, we are giving life-giving blood to the Constitution which was sought to be emaciated by the ruling of the Supreme Court.

So many members have quoted Justice Holmes. I conclude my speech by quoting some famous words of the same Justice Holmes. He said :

“The constitution of a free country is not what the Judges say, it is but what the people want it to be”.

The Indian people want their Constitution to meet the changing needs of the marching times and we shall act by their wishes.

SHRI R. S. PANDEY (Rajnandgaon) :
I beg to move :

“That the question be now put”

MR. SPEAKER : I have avoided it twice. Now I am going to put it. The question is :

“That the question be now put”.

The motion was adopted

MR. SPEAKER : The hon. Law Minister.

SHRI P. K. DEO : This is very bad (*Interruptions*). This is a constitution amendment Bill and we have the right to speak at this stage.

SHRI PILOO MODY : I move a closure on the Minister's speech.

SHRI H. R. GOKHALE : I do not want to make a long speech. I want to thank hon. members for their massive support given to this measure by the decision which they are taking to pass this Bill into law.

The discussion has been prolonged and most of points raised in the earlier debate have been argued over and over again in the debate since yesterday and answers have already been given by me and by my colleagues, particularly by the Prime Minister this afternoon.

Shri H. N. Mukerjee asked what measures Government would take once this Bill became law. But this Bill has yet to become law. It has to go to the States for their ratification when it will become law. So far as the programme of our party is concerned, it was made clear in our manifesto. Our record would show that whenever we had the power we have taken big measures to implement our programme. I have no doubt that with our assuming this power vigorous steps will be taken to implement the programme.

MR. SPEAKER : The voting will be by division. Let the Lobbies be cleared.

Order please. The Lobbies have been cleared now. Before I put the question, may I invite the attention of Mr. Piloo Mody to rule 155 ?

SHRI PILOO MODY : You first accept the point of order and then you give the ruling. You cannot say that my point of order cannot be recorded and then give your ruling.

MR. SPEAKER : Will you please sit down ? The proviso says :

“Provided further that the Short Title, the Enacting Formula and the Long Title may be adopted by a simple majority”.

SHRI PILOO MODY : “May be adopted by a simple majority”. You have to prove the simple majority with the lights on the board. Ayes and Noes will not do. You have to prove it by the lights on the board.

MR. SPEAKER : It is going to be proved now, “By a simple majority” means unless a division is claimed.

SHRI INDRAJIT GUPTA : The simple majority should have been ascertained by a voice vote. Even for a simple majority, the voice vote has to be taken. Why do you leave it open to doubt ?

SHRI SHYAMNANDAN MISHRA : You did not ascertain it by a simple majority also.

MR. SPEAKER : Order, order. Voice vote was taken.

The question is :

“That the Bill be passed.”

Now, Division.

The Lok Sabha divided:

Division No. 26]

[19.33 hrs.

AYES

Achal Singh, Shri
Afzalpurkar, Shri Dharamrao
Aga, Shri Ahmed
Agarwal, Shri Shrikrishna
Ahirwar, Shri Nathu Ram
Ahmed, Shri F. A.
Alagesan, Shri

Ambesh, Shri
Ankineedu, Shri
Ansari, Shri Ziaur Rahman
Appalanaidu, Shri
Arvind Netam, Shri
Asgar Hussain, Shri
Austin, Dr. Henry
Awdhesh Chandra Singh, Shri
Azad, Shri Bhagwat Jha
Aziz Imam, Shri
Babunath Singh, Shri
Bahuguna, Shri H. N.
Bajpai, Shri Vidya Dhar
Balakrishniah, Shri T.
Balathandayutham, Shri
Banamali Babu, Shri
Barman, Shri R. N.
Banerjee, Shrimati Mukul
Banerjee, Shri S. M.
Barua, Shri Bedabrata
Barupal, Shri P. L.
Basappa, Shri K.
Basumatari, Shri D.
Besra, Shri S. C.
Bhagat, Shri B. R.
Bhagat, Shri H. K. L.
Bhagirath Bhanwar, Shri
Bhandare, Shri R. D.
Bhargava, Shri B. N.
Bhatia, Shri D. D.
Bhattacharyya, Shri Chapal
Bhattacharyya, Shri Dinen
Bhattacharyya, Shri Jagadish
Bhattacharyya, Shri S. P.
Bhaura, Shri B. S.
Bhuvanarhan, Shri
Bisht, Shri N. S.
Bosu, Shri Jyotirmoy
Brahmanandji, Shri Swami
Buta Singh, Shri
Chanda, Shrimati Jyotsna
Chandrakar, Shri Chandulal
Chandrappan, Shri C. K.
Chandre Gowda, Shri
Chandrika Prasad, Shri
Chatterjee, Shri Somnath
Chaturvedi, Shri R. L.
Chaudhury, Shri Nitiraj Singh
Chaudhuri, Shri Tridib
Chaudhury, Shri Amarsinh
Chavan, Shri D. R.
Chavan, Shri Yeshwantrao
Chavda, Shri K. S.
Chawla, Shri A. N.
Chellachami, Shri
Chhotey Lal, Shri
Choudhury, Shri Moinul Haque
Chhuttan Lal, Shri

Daga, Shri M. C.
 Dalbir Singh, Shri
 Dalip Singh, Shri
 Damani, Shri S. R.
 Dandavate, Prof Madhu
 Darbara Singh, Shri
 Das, Shri A. C.
 Das, Shri Dharnidar
 Das, Shri R. P.
 Dasappa, Shri Tulsidas
 Daschowdhury, Shri B. K.
 Deb, Shri Dasaratha
 Deo, Shri S. N. Singh
 Desai, Shri D. D.
 Deshmukh, Shri K. G.
 Deshmukh, Shri Shivaji Rao S.
 Dhamankar, Shri
 Dharia, Shri Mohan
 Dharamgaj Singh, Shri
 Dhusia, Shri Anant Prasad
 Dinesh Singh, Shri
 Dixit, Shri G. C.
 Dixit, Shri J. C.
 Doda, Shri Hiralal
 Dumada, Shri L. K.
 Dutta, Shri Biren
 Dwivedi, Shri Nageshwar
 Gaekwad, Shri Fatesinghrao
 Gandhi, Shrimati Indira
 Ganesh, Shri K. R.
 Ganga Devi, Shrimati
 Gangadeb, Shri P.
 Garcha, Shri Devinder Singh
 Gautam, Shri C. D.
 Gavit, Shri T. H.
 George, Shri A. C.
 Ghosh, Shrimati Bibha
 Ghosh, Shri P. K.
 Gill, Shri Mohinder Singh
 Godara, Shri Mani Ram
 Gogoi, Shri Tarun
 Gohain, Shri C. C.
 Gokhale, Shri H. R.
 Gotkhinde, Shri
 Gopal, Shri K.
 Gopalan, Shri A. K.
 Goswami, Shri Dinesh Chandra
 Govind Das, Dr.
 Gowda, Shri Pampan
 Guha, Shri Samar
 Gupta, Shri Indrajit
 Haldar, Shri Madhuryya
 Halder, Shri Krishna
 Hansda, Shri Subodh
 Hanumanthaiya, Shri
 Hari Kishore Singh, Shri
 Hari Singh, Shri

Hazra, Shri Manoranjan
 Horo, Shri N. E.
 Ishaque, Shri A. K. M.
 Jadeja, Shri
 Jaffer Shariff, Shri C. K.
 Jagjivan Ram, Shri
 Jamilurrahman, Shri Md.
 Janardhanan, Shri C.
 Jeyalakshmi, Shrimati
 Jha, Shri Bhogendra
 Jha, Shri Chiranjib
 Jha, Shri Vinoda Nand
 Jitendra Prasad, Shri
 Joarder, Shri Dinesh
 Joshi, Shri Popatlal
 Joshi, Shrimati Subhadra
 Kadam, Shri Dattajirao
 Kadam, Shri J. G.
 Kadannappalli, Shri Ramachandran
 Kadar, Shri
 Kailas, Dr.
 Kakodkar, Shri Purushottam
 Kokoti, Shri Robin
 Kale, Shri
 Kalyanasundaram, Shri
 Kamakshaiyah, Shri
 Kamla Prasad, Shri
 Kamble, Shri T. D.
 Kamla Kumari, Kumari
 Kapur, Shri Sat Pal
 Karan Singh, Dr.
 Kasture, Shri A. S.
 Kathamuthu, Shri M.
 Kaul, Shrimati Sheila
 Kavde, Shri B. R.
 Kedar Nath Singh, Shri
 Khadilkar, Shri R. K.
 Kinder Lal, Shri
 Kisku, Shri A. K.
 Kotoki, Shri Liladhar
 Kotrashatti, Shri A. K.
 Krishna, Shri S. M.
 Krishnan, Shri M. K.
 Krishnappa, Shri M. V.
 Kulkarni, Shri Raja
 Kumaramangalam, Shri Mohan
 Kureel, Shri B. N.
 Kushok Bakula, Shri
 Lakkappa, Shri K.
 Lakshmiathanamma, Shrimati
 Lakshminarayanan, Shri
 Laskar, Shri Nihar
 Lutfal Haque, Shri
 Mahajan, Shri Vikram Chand
 Mahajan, Shri Y. S.
 Maharaj Singh, Shri
 Mahata, Shri D. N.

Mahishi, Dr. Sarojini
 Majhi, Shri Gajadhar
 Majhi, Shri Kumar
 Malaviya, Shri K. D.
 Mallanna, Shri K.
 Mallikarjun, Shri
 Mandal, Shri J. N.
 Marandi, Shri Ishwar
 Maurya, Shri B. P.
 Mehta, Dr. Jivraj
 Mehta, Dr. Mahipatray
 Melkote, Dr.
 Menon, Shri Krishna
 Minimata Agamdas, Shrimati
 Mishra, Shri Bibhuti
 Mishra, Shri G. S.
 Mishra, Shri Jagannath
 Mishra, Shri Shyamnandan
 Misra, Shri S. N.
 Modi, Shri Shrikrishan
 Mohammad Ismail, Shri
 Mohammad Tahir, Shri
 Mohammad Yusuf, Shri
 Mohan Swarup, Shri
 Mohanty, Shri Surendra
 Mohpatra, Shri S. S.
 Mohsin, Shri
 Mukerjee, Shri H. N.
 Mukherjee, Shri Saroj
 Munshi, Shri Priya Ranjan Das
 Murthy, Shri B. S.
 Muruganantham, Shri
 Nahata, Shri Amrit
 Naik, Shri B. V.
 Nanda, Shri
 Negi, Shri Pratap Singh
 Nimbalkar, Shri
 Oraon, Shri Kartik
 Oraon, Shri Tuna
 Oza, Shri Ghanshyam
 Pahadia, Shri Jagannath
 Painuli, Shri Paripoornanand
 Palodkar, Shri
 Pandey, Shri Damodar
 Pandey, Shri K. C.
 Pandey, Shri R. S.
 Pandey, Shri Sarjoo
 Pandey, Shri Sudhakar
 Pandey, Shri Tarkeshwar
 Panigrahi, Shri Chintamani
 Pant, Shri K. C.
 Paokai Haokip, Shri
 Parashar, Prof. Narain Chand
 Parikh, Shri Rasiklal
 Parmar, Shri Bhaljibhai
 Partap Singh, Shri

Parthasarathy, Shri
 Patel, Shri Nanubhai N.
 Patel, Shri Natvarlal
 Patel, Shri Prabhudas
 Patil, Shri Anantrao
 Patil, Shri C. A.
 Patil, Shri E. V. Vikhe
 Patil, Shri Krishnarao
 Patil, Shri S. B.
 Patil, Shri T. A.
 Patnaik, Shri Banamali
 Patnaik, Shri J. B.
 Peje, Shri S. L.
 Pillai, Shri R. Balakrishna
 Pradhani, Shri K.
 Purty, Shri M. S.
 Qureshi, Shri Mohd. Shafi
 Radhakrishnan, Shri S.
 Raghu Ramaiah, Shri
 Raj Bahadur, Shri
 Rajdeo Singh, Shri
 Raju, Shri M. T.
 Ram Dhan, Shri
 Ram Prakash, Shri
 Ram Sewak, Ch.
 Ram Surat Prasad, Shri
 Ram Swarup, Shri
 Ram, Shri T.
 Ramji Ram, Shri
 Ramshekhar Prasad Singh, Shri
 Rana, Shri M. B.
 Rao, Shrimati B. Radhabai A.
 Rao, Shri Jaganath
 Rao, Dr. K. L.
 Rao, Shri K. Narayana
 Rao, Shri Nageswara
 Rao, Shri M. Satyanarayan
 Rao, Shri P. Ankincedu Prasada
 Rao, Shri Pattabhi Rama
 Rao, Shri Rajagopala
 Rao, Shri Sanjeevi
 Rao, Dr. V. K. Varadaraja
 Rathia, Shri Umed Singh
 R ut, Shri Bhola
 Ravi, Shri Vayalar
 Ray, Shri Siddhartha Shankar
 Reddy, Shri B. N.
 Reddy, Shri Eswara
 Reddy, Shri Ganga
 Reddy, Shri K. K. Rami
 Reddy, Shri M. Ram Gopal
 Reddy, Shri P. Narasimha
 Reddy, Shri P. Venkata
 Richhariya, Dr. Govind Das
 Rohatgi, Shrimati Sushila
 Roy, Shri Bishwanath

Roy, Dr. Saradish
 Sadhu Ram, Shri
 Saha, Shri A. K.
 Saha, Shri Gadadhar
 Saini, Shri Mulki Raj
 Saksena, Prof. S. L.
 Salve, Shri N. K. P.
 Samanta, Shri S. C.
 Sambhali, Shri Ishaq
 Sankata Prasad, Dr.
 Sant Bux Singh, Shri
 Sarkar, Shri S. K.
 Satish Chandra, Shri
 Satpathy, Shri Devendra
 Savant, Shri Shankarrao
 Savitri Shyam, Shrimati
 Sayajirao, Shri
 Sen, Shri Robin
 Sethi, Shri Arjun
 Sethi, Shri P. C.
 Sezhiyan, Shri
 Shafquat Jung, Shri
 Shahnawaz Khan, Shri
 Shambhunath, Shri
 Shankar Dayal Singh, Shri
 Shankar Dev, Shri
 Shankaranand, Shri B.
 Shankergirl, Shri V.
 Sharma, Shri A. P.
 Sharma, Dr. H. P.
 Sharma, Shri Madhoram
 Sharma, Shri N. K.
 Sharma, Shri R. N.
 Sharma, Shri S. D.
 Shashi Bhushan, Shri
 Shastri, Shri Biswanarayan
 Shastri, Shri Raja Ram
 Shastri, Shri Ramavatar
 Shastri, Shri Shivpujan
 Shenoy, Shri P. R.
 Sher Singh, Shri
 Shetty, Shri K. K.
 Shinde, Shri Annasaheb P.
 Shiva Chandika, Shri
 Shukla, Shri B. R.
 Shukla, Shri Vidya Charan
 Siddayya, Shri S. M.
 Siddheshwar Prasad, Shri
 Singh, Shri D. N.
 Singh, Shri V. N. P.
 Sinha, Shri N. K.
 Sinha, Shri R. K.
 Sohan Lal, Shri T.
 Sokhi, Shri Swaran Singh
 Somasunadaram, Shri

Sonar, Dr. A. G.
 Stephen, Shri C. M.
 Sundarsanam, Shri M.
 Sunder Lal, Shri
 Surendra Pal Singh, Shri
 Suryanarayana, Shri K.
 Swamy, Shri Sidrameshwar
 Swaran Singh, Shri
 Swatantra, Shri Teja Singh
 Swell, Shri G. G.
 Tarodekar, Shri V. B.
 Tayyab Hussain Khan, Shri
 Tewari, Shri C. M.
 Tewari, Shri Shankar
 Thakre, Shri S. B.
 Thakur, Shri Krishnarao
 Tiwari, Shri D. N.
 Tiwary, Shri K. N.
 Tombi Singh, Shri N.
 Tula Ram, Shri
 Tulsiram, Shri V.
 Uikey, Shri M. G.
 Ulaganambi, Shri R. P.
 Unnikrishnan, Shri
 Vekaria, Shri
 Venkatasubbaiah, Shri P.
 Verma, Shri Balgovind
 Verma, Shri S. P.
 Vidyalankar, Shri A. N.
 Vikal, Shri R. C.
 Virbhadra Singh, Shri
 Yadav, Shri Chandrajeet
 Yadav, Shri Karan Singh
 Yadav, Shri N. P.
 Yadav, Shri R. P.
 Yadav, Shri D. P.
 Yajnik, Shri
 Zulfiquar Ali Khan, Shri

NOES

Bade, Shri R. V.
 Banera, Shri Hamendra Singh
 *Brahman, Shri Rattanlal
 Chauhan, Shri Bharat Singh
 Deo, Shri P. K.
 Deo, Shri R. R. Singh
 Joshi, Shri Jagannathrao
 Kachwai, Shri Hukam Chand
 Karni Singh, Dr.
 Lambodar Baliyar, Shri
 *Madhukar, Shri K. M.
 Maha Deepak Singh, Shri
 Malik, Shri Mukhtiar Singh

*Wrongly voted for Noes.

*Modak, Shri B. K.
 Mody, Shri Piloo
 Nayak, Shri Boksi
 Patel, Shri H. M.
 Ranabhadur Singh, Shri
 Scindia, Shri Madhavrao
 *Shafi, Shri A.
 Sharma, Shri R. R.
 Vajpayee, Shri Atal Bihari
 Yadav, Shri G. P.

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

The motion was adopted.

MR. SPEAKER : The provision is that the Bill be passed by the required majority. The other precautions were just precautions.

19.32 hrs.

MR. SPEAKER : The result** of the Division is : Ayes : 384 ; Noes : 23.

The Lok Sabha then adjourned till Eleven of the Clock on Thursday, August 5, 1971/Sravana 14, 1893 (Saka).

*Wrongly voted for Noes.

**The following members also recorded their votes :

AYES : Sarvashri P. M. Sayeed, N. K. Sanghi, R. V. Swaminathan, G. Venkataswamy, K. Ramakrishna Reddy, A. Shafi, Rattanlal Brahman, B. K. Modak and K. M. Madhukar ;

NOES : Sarvashri Onkar Lal Berva and Ishwar Chaudhry.