

[Mr. Speaker]

elected Member of Lok Sabha from Chanda constituency, has resigned his seat in Lok Sabha with effect from the 24th April, 1964.

INDIAN COINAGE (AMENDMENT)
BILL*

The Deputy Minister in the Ministry of Finance (Shrimati Tarkeshwari Sinha): On behalf of Shri T. T. Krishnamachari, I beg to move for leave to introduce a Bill further to amend the Indian Coinage Act, 1905.

Mr. Speaker: The question is:

"That leave be granted to introduce a Bill further to amend the Indian Coinage Act, 1905."

The motion was adopted.

Shrimati Tarkeshwari Sinha: I introduce the Bill.

12.03 hrs.

CONSTITUTION (EIGHTEENTH)
AMENDMENT BILL*

Mr. Speaker: Now, Shri A. K. Sen may move for leave to introduce his Bill.

Shri Surendranath Dwivedy (Kendrapara): Before the hon. Minister is called upon to move for leave for the introduction of his Bill, I have to make a submission to you.

As you know, this is a very controversial Bill about which we have already . . .

Mr. Speaker: That will be seen after the hon. Minister has moved for leave.

Shri Surendranath Dwivedy: I am only making a submission before that, about which all of us had written to the hon. Prime Minister also, namely that it would be better if this Bill

was not introduced now, because at the introduction stage, we have a convention in this House that ordinarily we do not oppose the introduction of Bills.

Mr. Speaker: I have received notices from some hon. Members that they want to oppose the introduction.

Shri Surendranath Dwivedy: We shall have to oppose it if it is sought to be introduced. I am only submitting even at this last moment, that the hon. Minister may choose not to introduce the Bill.

Mr. Speaker: That is not for me to say.

The Minister of Law (Shri A. K. Sen): I beg to move for leave to introduce a Bill further to amend the Constitution of India.

Mr. Speaker: Motion moved:

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

Shri N. C. Chatterjee (Burdwan): I want to oppose this.

Mr. Speaker: I have received intimation from Shri H. N. Mukerjee, Shri S. M. Banerjee, and Shri N. C. Chatterjee.

Shri Ranga (Chittoor): We all oppose this Bill.

Shri Kapur Singh (Ludhiana): We oppose this.

Shri Surendranath Dwivedy: We oppose this.

Mr. Speaker: I have received intimations from those hon. Members. I can only allow one Member to speak. If the hon. Members concerned could agree among themselves as to who should speak, that would be better.

Shri S. M. Banerjee (Kanpur): Last time, in the case of the Preventive

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Detention (Continuance) Bill, you had allowed opportunity to everyone of us.

Shri Ranga: You have mentioned that you have received intimation from some hon. Members. If you would give me permission, I would also like to associate myself with those hon. Members.

Shri Surendranath Dwivedy: We all oppose it. There are many more hon. Members who want to oppose it.

Mr. Speaker: I have received intimation from some hon. Members, and I shall have to select one from among them. If they could agree among themselves as to who should speak, I shall have no objection.

Shri Kapur Singh: You may give half a minute to each Member. I also want to say something.

Shri H. N. Mukerjee (Calcutta Central): I have a submission to make on this. I have a feeling that this motion might be opposed among other grounds, on the ground that the Bill initiates legislation which is outside the legislative competence of the House.

In that case, under Rule 72. . . .

Mr. Speaker: I can permit that. Let me first hear one Member. After that question is raised, I will listen and then I can decide whether we can allow it.

Shri Mukerjee or Shri Chatterjee?
They can agree among themselves.

Shri H. N. Mukerjee: Whoever you call?

Mr. Speaker: Let it be Shri Chatterjee. He has been defending some of those cases.

Shri N. C. Chatterjee: Mr. Speaker, Sir . . .

Mr. Speaker: It would be a brief statement.

Shri N. C. Chatterjee: Yes.

This is the blackest day in the history of this country when the Government, headed by Prime Minister Nehru, who is known to be a true democrat, comes before this Parliament with this kind of measure which shows that the Government has flouted the guaranteed freedoms and also the guaranteed rights of the citizens under the Constitution. Therefore, they want to amend the Constitution, to condone the violations of the Constitution by the Government which was pledged to uphold the Constitution.

I oppose the introduction of this Bill because the Government, constituted under this Constitution, can claim no moral or legal right to amend the Constitution for the purpose of covering up their violations of the fundamental rights.

Any Member of Parliament bound by his oath to uphold the Constitution will, I submit, be failing in his duty to his country and to the Constitution if he does not demand the resignation of the Government which persists in such unconstitutional and undemocratic actions, specially when it admits that it has flouted the Constitution and demands the condonation of such violations, and specially when it demands that in future it will have the right to violate the Constitution and to escape the effects of such violation. If a State Government had behaved in this manner, if it had admitted that it has flouted the Constitution and has trampled upon basic human rights guaranteed to the citizens of India, then this Parliament and the President would have been justified in demanding the dismissal of that Government.

The most tragic feature today is that the highest law officer of the State, the Attorney-General of India, had to concede before the Chief Justice and the Judges of the Supreme Court on the Constitution Bench that the arrests and detentions under the Defence of India Act and Rules were—wholly illegal and unconstitutional. May I read to you the judgment....

Mr. Speaker: That is all right. He has referred to it.

Shri N. C. Chatterjee: At that time, Justice Gajendragadkar asked him that question . . .

Mr. Speaker: But . . .

Shri Nath Pai (Rajapur): For the edification of the House, he may be allowed to read it. That is the pronouncement of the highest Judge . . .

Mr. Speaker: At this stage, we cannot go into the details of arguments.

Shri N. C. Chatterjee: I am not doing that.

Shri Nath Pai: It is the pronouncement of the Chief Justice . . .

He may be allowed to read it.

Shri N. C. Chatterjee: I am pointing out that Justice Gajendragadkar records that—

"It appears that as regards the validity and constitutionality of the impugned provisions of the Defence of India Act and the Rules, the Attorney-General was not in a position to challenge the contentions of the appellants that the Act contravened article 14, article 21, article 22 (4), (5) and (7) of the Constitution"

Therefore all these articles were violated. I am submitting that this is a crude attempt really to cover up the violations of these articles which were consciously incorporated in order to effect equality in the eye of law, afford equal protection and minimum protection for all citizens deprived of their liberties.

Another Judge said:

"Three courses are open to the Government and to Parliament. Parliament can make a valid law without infringing fundamental rights other than article 19"—

You know under article 358, only article 19 is suspended, but under ar-

ticle 359 other fundamental rights continue to be in full force and they are not at all to be affected. The learned Judge said:

"The second course open is that Parliament can amend section 491, of the Criminal Procedure Code in order to take away the right of *habeas corpus*, or thirdly, Parliament can do both".

But Shri Sen, the Law Minister, is today pursuing an extraordinary course. He is pursuing a course really to amend the Constitution. Why? He wants to bend the Constitution to fit in with his unconstitutional laws. On the other hand, he ought to have bent the laws in order to fit in with the guarantees of the Constitution.

Therefore, I am submitting that this is a course which Parliament should avoid.

We have been told by a distinguished lady, for whom we have some respect, that the Prime Minister of India, Mr. Nehru, is "the greatest living democrat". I want that democrat not to preside over the liquidation of democracy in this country today. If we allow this kind of amendment of the Constitution, then the rule of law is finished. The result is that in spite of the Supreme Court's clear judgment, and in spite of their pronouncement, all fundamental rights from tomorrow can be completely violated and trampled under foot. I submit the Executive should not be given such uncontrolled power.

The Constitution-makers deliberately and consciously made it the law that only one article 19 could be affected during an emergency. Under the plea of emergency, you cannot violate article 14, article 21, article 22, which are very important rights given to the citizens. We are proud of our Constitution, we are also proud that we have not merely guaranteed rights but they are not meant to be

platitudes, we want them to be effective rights. Therefore, as Mr. Justice Patanjali Sastri, as you may remember, had stated in a leading case, we had made one departure which is not to be found in any other Constitution in the world. We have given a remedy, which is also a guaranteed fundamental right. The remedial right has been made a guaranteed right. The effect of this amendment would be not only to vest the Executive with complete, uncontrolled and uncanalised power to set at nought any of the fundamental rights, apart from article 19, but also to give it retrospective effect. I think that it is wholly illegal and wholly unconstitutional, and therefore it should not be permitted.

Shri H. N. Mukerjee: It is unusual to oppose at this time, but this is, even for this Government, which has shown monumental ineptitude in regard to legislation about law and the Constitution, a most unusual Bill.

I notice prevarication, sheer prevarication, in the Statement of Objects and Reasons, where the Minister suggests that doubts arising from difference in language between articles 358 and 359 are very innocently being sought to be resolved, but the real intention, as we shall have occasion to say later, and as Mr. Chatterjee has suggested, is to extinguish the fundamental rights.

Government has very thoughtfully supplied us with copies of the judgment of the Supreme Court, and I hope Government had also thoughtfully assumed that Members of Parliament would not take the trouble of going through it. But if one does go through it, one discovers that the real game is something very different from what the Minister has stated in the Statement of Objects and Reasons.

Mr. Justice Gajendragadkar, apart from saying so many other things, to which I need not make a reference, has stated very clearly that if Parliament legislates in order to afford in-

demnity to the Executive in respect of illegal acts of detention, then, I am quoting his words, "the validity and the effect of such legislative action may have to be carefully scrutinised." This is, in the characteristically guarded language of our judiciary, a warning administered by the Supreme Court regarding the liability of the Executive for wrongful detention after the emergency is going to be lifted.

I remember that the Law Minister in the other House possibly, tried to pooh-pooh Members of the Opposition who had pointed this out and said that Government could afford to pay compensation, Government did not bother about indemnification of actions done in violation of the Constitution. He is now trying to circumvent the position, and the only weapon he knows is the bludgeon of a constitutional amendment.

And in regard to this, I wish to submit to you for your very serious consideration the fact that he is proposing retrospective operation of the amendment, he is trying to indemnify the executive in regard to actions, illegal actions, of detention. But article 34 of the Constitution lays down very clearly that such indemnification would be provided only in relation to acts done during a Martial Law period. An emergency, however, is by no means tantamount to Martial Law. Yet that sort of an attempt at indemnification is going to take place. Instead of following the advice given to Government by Mr. Justice Gajendragadkar and his brother judges, instead of coming before Parliament to rectify the defects in the Defence of India Act and the rules so that it did not militate against the Constitution, Government has chosen this course which is the most dangerous procedure. After all we have a written Constitution which puts an obligation on our judges to interpret and after all it is only in our judiciary that we can expect that independence, real and true, to be in operation. This right of the judiciary is sought to be taken

[Shri H. N. Mukerjee]

away, not even on a plea that the country is socio-economically to advance the fundamental interests of our country's development; this might be some warrant for deviation from a rigid interpretation of the law. Nothing of that sort of formulation is being put forward by the Government, but Government tries only to expand the power of the executive, an executive which is pilloried every day of its existence, in this House and outside, for its acts of omission and commission ranging from corruption and in efficiency to God-knows—what other default. This is the Executive which is trying to arrogate to itself powers in violation of the rights of the judiciary, in violation of the fundamental tenets of the Constitution and it is therefore that we wish to oppose with all our strength the introduction of the Bill which the Law Minister wishes to bring up before the House.

Mr. Speaker: He told me that he was objecting to the legislative competence of Parliament.

Shri H. N. Mukerjee. I referred to article 34 where it is laid down that indemnification of acts done in violation of some provision of the Constitution could only be offered by means of legislation if those acts referred to a martial law period, in a region where martial law was in application. Declaration of emergency is very different kettle of fish, very different from the operation of martial law. Therefore, indemnification with retrospective effects is something which goes against the spirit and the letter of article 34 and it is from that point of view that you and this House should consider this matter.

Mr. Speaker: I cannot agree there... (Interruptions.) Hon. Members only want to associate themselves. There ought to be some rules which should guide us. They will have an opportunity to speak later.

Shri S. M. Banerjee: They are to be used against us not against them.

Shri Ranga: It may be used against them when these friends here come into power.

Mr. Speaker: I do not think it is necessary that every one should speak. If they want to associate themselves, I shall take down their names; they can stand up.

Shri Ranga: Sir, this is a kind of a battle axe which they are placing on the heads of all of us in this House and all over India. It is only now that we can say something. Once this Bill is allowed to be introduced, of course their majority is there and we are at their mercy. This is the only occasion when we can possibly say something against this.

Mr. Speaker: But even at the introduction stage, such a majority is there.

Shri Ranga: That is a different matter.

Shrimati Renu Chakravartty (Barackpore): A letter was written by all the leaders of the opposition to the Prime Minister, he should also say something.

Mr. Speaker: If the House wants to suspend the rule I can allow all the hon. Members.

Shri Kapur Singh: A couple of sentences, Sir—not more than that.

Mr. Speaker: I can put in the names of those who want to associate themselves.

Shri Kapur Singh: No, Sir; vocal association by just saying one or two sentences.

Mr. Speaker: There ought to be some justification for suspending the rule or not.

Shri Kapur Singh: It will only give us some satisfaction that we associated ourselves with the people, and so, may say two sentences?

Mr. Speaker: Let him have that satisfaction.

Shri Kapur Singh: The principle of this Bill is that—the unconstitutional lawlessness of the Government should be. . . .

Shri S. S. More (Poona): Sir, on a point of order. Under the rules of procedure, there is no procedure for association.

Mr. Speaker: I am only allowing the Members, who want to oppose this, to have their say.

Shri S. S. More: But they are making speeches.

Mr. Speaker: I know that

Shri Kapur Singh: I want to say that the very principle of this Bill is that the unconstitutional lawlessness perpetrated by the Government should be constitutionally approved. In simple, plain and non-technical language, this is an act of banditry and I say that banditry is not within the competence of this House.

Mr. Speaker: I suppose he is satisfied now.

Shri S. M. Banerjee: We oppose this Bill, because, in my opinion and in the opinion of my friends, it destroys the democratic foundation of the sovereign democratic republic of India. It is a fraud on the Indian Constitution sought to be practised by Government constituted under the Constitution. I feel that the provisions of this Bill will make the people of this country defenceless and then this Government in power wants to apply the Defence of India Rules. I would request the hon. Prime Minister for whom there is some respect and confidence left in this country to rise as a democrat, and see that the fundamental rights of the people are not crucified on the cross of unconstitutionality that is being practised by the Law Minister, and as such I oppose this Bill tooth and nail, lock, stock and barrel.

Shri Nath Pai. Sir, I will be extremely brief. I would like to point out to you, to the Government, the Prime Minister and the Law Minister

the very dangerous precedent which we are about to set up in complete violation of the oath they took to uphold the Constitution. As Shri N.C. Chatterjee pointed out, they have very lightly come before the House, proceeding with the amendment. In the past, they have been guilty of maltreating the Constitution. But today, I am saying that they are bringing a Bill here which is nothing short of mauling and maiming the Constitution. What you are bringing today is not an amendment.

Shri Kapur Singh: Murdering the Constitution.

Shri Nath Pai. If this amendment is allowed to be passed, it will be substituting something very different from the Constitution to which we have pledged our allegiance when we became the Members of this House. I want to point out particularly to the Prime Minister a very dangerous anomaly—because the other points have been made—and it is this: that inadvertently an Act called the Enabling Act was allowed to be passed by the Reichstag; it had a retrospective effect, and it gave power to do away with the basic guarantees of the Constitution. That was the beginning and the end, of the Republic of Germany. I do not like that odious analogy to be brought here, particularly before a man who prided himself upon being the wonted opponent of that kind of rule. But unknowingly, we may be going down if so lightly we will be tampering with the basic guarantees of the Constitution. May I therefore, plead with them that they do not make it a matter of prestige, particularly the Congress back-benchers—(Interruption) am concluding; I have a right to make my point—and the Whip of the party should not be allowed to smother their conscience and allow them to forget the oath they took, that they will be here to enhance the rights of the citizen and not to curtail them. The Bill which the Law Minister is bringing is precisely calling upon you to do something which you have pledged yourself to fight.

श्री बजरज सिंह (बरेली) : अध्यक्ष महोदय, यह हमारा सदन भारतवर्ष के नागरिकों के मूल अधिकारों की सुरक्षा के लिये यहां बैठा हुआ है। जब भी कोई इमरजेंसी आई हम ने उन मूल अधिकारों को काटने के लिये पूरा अधिकार इस सरकार के हाथ में सौंप दिया परन्तु हम ने यह आशा नहीं की थी कि इमरजेंसी खत्म होने के बाद सरकार अपने इस तरह के इमरजेंट अधिकार कम करने के बजाय इस तरह से उलट पलट कर इस तरह का १५वां संशोधन संविधान का लाकर नागरिकों के मूल अधिकारों को समाप्त करने का जो अधिकार सरकार को डी०आई० आर० के मातहत मिला था उस अधिकार को वह इस तरह से हमेशा हमेशा के लिये लागू रखने और बरकरार रखने की चेष्टा करेगी। मैं इस बिल का विरोध ही नहीं करता बल्कि यह बता देना चाहता हूँ कि यह सरकार इस प्रकार से अपना कार्य कर के जनता के मस्तक में एक अपनी घोबेबाजी को स्पष्ट कर रही है। जनता आयन्दा से यह समझने लगेगी कि यह पार्लियामेंट भी इस तरीके से घोबा देकर और भुलावे में डाल कर अपने अधिकारों को इस तरीके से बनाती है कि वह हमारे मूल अधिकारों पर हमला कर सके। इस कारण मैं इस का पूरी तौर से विरोध करता हूँ।

Mr. Speaker: The hon. Law Minister.

Shri H. P. Chatterjee (Nabadwip): They are sowing the wind and they shall have to reap the whirlwind.

The Minister of Law (Shri A. K. Sen): Sir, may I at the very outset correct the impression which is sought to be created by some that this is a Law Minister's Bill.

An Hon. Member: You are a helpless spokesman.

Shri A. K. Sen: It is a Government Bill and Government stands fully. . .

Shri S. M. Banerjee: You are a Shikhandi of the Government (*Interruptions*).

Mr. Speaker: He has had his say; let us hear the Law Minister.

Shri H. P. Chatterjee: He is not the Law Minister; he has thrown law to the winds.

Mr. Speaker: Then too we have to listen to him.

Shri A. K. Sen: As I said, this is a Bill introduced by the Government after full consideration of all the circumstances and conditions which have to be taken into account. (*Interruptions*). Mr. Ranga will at least extend to me the same courtesy which I have extended to him, and listen to me, even if he has to condemn me later on.

I quite anticipated a heated discussion even at this stage. It is necessary to explain clearly the object which has prompted the Government to introduce this amendment. A perusal of articles 358 and 359 would convince anyone that these articles are meant to be applied after the emergency has been declared. When an emergency is declared, *ipso facto* the powers of the Legislature and of the Government are extended. Article 358 completely abrogates article 19 of the Constitution. The purpose is, when an emergency is declared, the framers of the Constitution knew that even to maintain the Constitution and the free Government which it creates, it may be necessary for the Government to be invested with extraordinary powers and if the fetters of article 19 still operated on the Legislature and the Government, it would be impossible to meet the demands of an emergency.

With regard to article 359, the framers of the Constitution contemplated that all the other fundamental rights need not be abrogated automatically like article 19, but that the President should be invested with power to declare from time to time by an order which other articles are

to be specified by him in the orders in question, so that all remedies for the enforcement of the fundamental rights covered by the orders in question would be barred. The purpose is obvious. The legislators thought that as soon as there is an emergency, article 19 must go. So far as the other articles are concerned, they felt that they need not go all at once, but the President should be the guardian to see which of the articles should be barred, so far as the enforcement of remedies are concerned, and when the President makes an order, such order should be subject to review by Parliament, because the President is a constitutional President.

If that is so, the purpose of article 359 is also clear, as the Chief Justice of the Supreme Court in his judgement in the latest case has said, that no remedies are open to challenge a Government action or legislation passed by Parliament on the ground that they contravene any of the articles other than article 19 so long as the emergency operates. The point taken was a point which was left open completely by the Supreme Court, on behalf of the Government that when remedies were barred in regard to particular fundamental rights, those rights must be deemed to be suspended also during the period, because it was a trite principle of law that there was no right without a remedy and if there was no remedy, there was no right. That point was left completely open by the Supreme Court.

Shri Nath Pai: I think you are misquoting the Supreme Court. They said the remedy is barred.

Shri A. K. Sen: I am reading those words.

They said:— Page 7, last paragraph

“Before proceeding further, we may, at this stage, in parenthesis, observe that there has been some

argument before us on the question as to whether the fundamental rights specified in the Presidential order issued under article 359 are even theoretically alive during the period specified in the said order. The learned Attorney General has contended that the enforcement of the said rights in law amounts to the suspension of the said rights themselves for the said period. We do not propose to decide this question in the present case.”

They left the question open.

Shri H. N. Mukerjee: Read further. They said:

“We will assume in favour of the appellants that the said rights are in theory alive.”

Shri A. K. Sen: Any lawyer would tell Shri Mukerjee that that means the question has been left open and it has not been decided. Therefore, the point is not correct, when made by Shri Chatterjee, that the Attorney General conceded that the orders were invalid.

Shri N. C. Chatterjee: I read the very language. I was present there in the Supreme Court. I can assure the House that the Law Minister has been thoroughly misinformed. He did concede that the law is unconstitutional (*Interruptions*).

Shrimati Renu Chakravartty: Why are you not being honest. Read the whole thing.

Shri A. K. Sen: I hope Shrimati Renu Chakravartty will not impute dishonesty to anyone. The entire judgment has been printed for perusal. I am very sorry Shrimati Renu Chakravartty used that expression.

An Hon. Member: That remark should be expunged.

Shri A. K. Sen: I do not take any notice of it. The question is, what the Attorney General conceded was, if those articles were in operation, namely, articles 21, 22 and others, these

[Shri A. K. Sen]

orders would certainly be in contravention of those articles. There was no question that....

Shri N. C. Chatterjee: It is not correct. May I read the exact language? The Chief Justice said:

"As regards the validity of the impugned provisions of the Defence of India Act and rules the Attorney General was not in a position to challenge the contention of the appellants (Mr. Setalwad's contention and my contention) that the Act contravened articles 14, 21 and 22(4)(5) and (7)."

Mr. Speaker: That is in the latter portion. It was put down: "we need not go into that question; we will assume in favour of the appellants".

Shri A. K. Sen: On page 30 what was contended was that those orders which were challenged would certainly, from a very perusal of them, show that they were in conflict with article 20 and others. But the whole contention of the Government was that in an emergency when those very articles are specified in the Presidential order, the remedy is completely barred and those articles must also be deemed to be barred during the period of the emergency. That is the whole question. It is a curious interpretation, in my submission, if I may say so with respect to Shri Chatterjee and others, to say that remedies for enforcement would be barred and Government would be entitled to act in a particular manner notwithstanding the limitations of those articles during an emergency, and the moment the emergency revives there would be right of action against the officers who had carried out those orders because it is well known that the Government is not liable at all and it is only the officers who are. It is a curious interpretation of the framers of the Constitution that, when they gave this power to the President to bar remedies as regards particular articles, they were contemplating that action under these very articles,

remedies of which would be barred during an emergency, can be taken immediately after the emergency against officers who would be faithfully carrying out these very orders. It is only to clarify the position which, according to us, is quite clear, namely, that when remedies are completely barred as regards particular rights during an emergency, the rights themselves must be deemed to be in suspense. This is the purpose of the present amendment.

A lot of things have been said about the Prime Minister, about us. The Prime Minister needs no defence by me or by others. It has been said that we are all presiding over the liquidation of the Constitution.

Shri Ranga: Quite right.

Shri Nambiar (Tiruchirapalli): Democracy (*Interruptions*).

Shri A. K. Sen: I am very glad to hear voices of devotion from the other side about democracy. But we believe, unlike them, that there should be more parties than one and that democracy has to work with the action and inter-action of opposing parties and not by the action and inter-action of one single party. In order to preserve that very democracy, it is necessary in an emergency to act in a certain manner. But the Parliament is always the guardian of the rights of the citizens.

श्री रामेश्वरानन्द (करनाल) : यदि केवल बहुमत की ही बात मानी गई, तो फिर प्रजातन्त्र क्या हुआ - वह तो डिक्टेटरशिप ही हुआ, वह तो सामन्तशाही ही हो गई ।

अध्यक्ष महोदय : स्वामी जी अब बैठ जायें ।

श्री रामेश्वरानन्द : मैं तो बैठ जाता हूँ लेकिन आप इन कों कुछ भी नहीं कहते ।

अध्यक्ष महोदय : इस वक्त कौन खड़ा है दूसरा, जिस को मैं वहाँ ?

Shri A. K. Sen: The emergency does not abrogate parliamentary control over the executive. Democracy means parliamentary democracy so far as our concept goes, and so long as the government has to account for its actions even in the exercise of these powers with which it is invested, democracy continues. The moment an emergency is declared by the President certain rights are barred by the Presidential Order. Even during that emergency we are accountable for every action in Parliament and so long as parliamentary control continues, I deny, repudiate the suggestion that democracy ceases to function. All that happens is that Parliament is freed from some of the limitations imposed by Parliament by reason of this constitutional guarantee. Parliamentary control is untouched. For every little action that is taken in exercise of these emergency powers, parliamentary control still continues in its old form and Parliament remains as supreme as ever in its field as a guardian of the liberties and freedoms of our citizens. . . .

Shri J. B. Kripalani (Amroha): Parliament has been created by the Constitution.

Shri A. K. Sen: . . . and in seeing that the executive does not transcend the limits which Parliament would think proper for the executive to be confined to.

Shri Ranga: This Bill comes in the way.

Shri A. K. Sen: Therefore, in my submission, though these high-sound-

ing phrases about democracy, rights and so on sound quite pleasant, when we make a cold analysis we find these phrases appear to be quite empty of meaning; when the larger objective is fighting the aggression with which the country is threatened, when we know the large-scale espionage activities with which this country is faced from one end of the country to another, when all sorts of subversive activities are to be tackled . . .

An hon. Member: China lobby.

Shri A. K. Sen: Well, I do not want to mention any lobby myself. But we have the perils to face. Because the perils have to be faced, we cannot keep within the limits prescribed by the fundamental rights in exercise of our duties to defend the Constitution itself and it is, therefore, in an emergency, our framers thought it necessary that the legislature and the government should be freed from the fetters of these constitutional limitations. But the rights of Parliament still remain and the voices of the people are still capable of being expressed on the floor of this House, and the Government has to account for every action that it takes even in an emergency.

With these words, I beg to move for leave to introduce a Bill further to amend the Constitution of India.

Mr. Speaker: The question is:

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

The Lok Sabha divided.

Division No. 25]

AYES

[12.44 hrs ~

Achal Singh, Shri
Akkamma Devi, Shrimati
Alagesan, Shri
Alva, Shri A. S.
Alva, Shri Joachim
Arunachalam, Shri
Azad, Shri Bhagwat Jha
Babunath Singh, Shri
Balakrishnan, Shri
Barkataki, Shrimati Renuka
Barman, Shri P. C.

Barupal, Shri P. L.
Basumatari, Shri
Baswant, Shri
Bears, Shri
Bhagavati, Shri
Bis, Shri J.B.S.
Brajeshwar Prasad, Shri
Brij Raj Singh Kotah, Shri
Chakravarti, Shri P. R.
Chanda, Shrimati Jyotana
Chandrasekhar, Shrimati

Chandrieki, Shri
Chatter Singh, Shri
Chaudhuri, Shrimati Kamala
Chavda, Shrimati
Chettiar, Shri Ramanathan
Chuni Lal, Shri
Das, Shri N. T.
Das, Shri Sudhansu
Dasappa, Shri
Deo Bhanj, Shri P. C.
Desai, Shri Morarji

Deshmukh, Dr. P. S.
 Deshmukh, Shri B. D.
 Dhuleshwar Meena, Shri
 Dwivedi, Shri M. L.
 Ering, Shri D.
 Firodia, Shri
 Gajraj Singh Rao, Shri
 Guba, Shri A. C.
 Gupta, Shri Shiv Charan
 Hansda, Shri Subodh
 Himatsingka, Shri
 Jadhav, Shri Tulshidas
 Jain, Shri A. P.
 Jamir, Shri S. G.
 Jamunadevi, Shrimati
 Jedhe, Shri
 Jyotishi, Shri J. P.
 Kabir, Shri Humayun
 Kadadi, Shri
 Kamble, Shri
 Kanungo, Shri
 Karuthiruman, Shri
 Kayal, Shri P. N.
 Keishing, Shri Rishang
 Khan, Dr. P. N.
 Khan, Shri Shahnawaz
 Khanna, Shri Mehr Chand
 Kotoki, Shri Liladhar
 Konjalgi, Shri H. V.
 Kripa Shankar, Shri
 Lalit Sen, Shri
 Laskar, Shri N. R.
 Lonikar, Shri
 Mahtab, Shri
 Mahishi, Shrimati Sarojini
 Maimoona Sultan, Shrimati
 Majithia, Shri
 Malaichami, Shri
 Malhotra, Shri Inder J.
 Mandal, Shri J.
 Mantri, Shri
 Marandi, Shri
 Maruthiah, Shri
 Mathur, Shri Harish Chandra
 Mehdi, Shri S. A. J
 Mehrotra, Shri Braj Bihari

Mergi, Shri Gopal Datt
 Menon, Shri P. G.
 Mishra, Shri Bibhuti
 Mishra, Shri Bibudhendra
 Misra, Shri Mahesh Dutta
 Mohsin, Shri
 Morarka, Shri
 More, Shri K. L.
 More, Shri S. S.
 Murlji Manohar, Shri
 Muthiah, Shri
 Naik, Shri D. J.
 Naskar, Shri P. S.
 Nehru, Shri Jawaharlal
 Nesamony, Shri
 Niranjana Lal, Shri
 Panna Lal, Shri
 Paramasivan, Shri
 Patel, Shri Chhotubhai
 Patel, Shri P. R.
 Patel, Shri Rajeshwar
 Patil, Shri D. S.
 Patil, Shri M. B.
 Patil, Shri S. B.
 Patnaik, Shri B. C.
 Pillai, Shri Nataraja
 Pratap Singh, Shri
 Raghunath Singh, Shri
 Raghuramaiah, Shri
 Raj Bahadur, Shri
 Raja, Shri C. R.
 Rajdeo Singh, Shri
 Raju, Dr. D. S.
 Raju, Shri D. B.
 Ram, Shri T.
 Ram Sewak, Shri
 Ram Swarup, Shri
 Ramaswamy, Shri V. K.
 Ramdhani Dass, Shri
 Rane, Shri
 Ranjit Singh, Shri
 Rao, Shri Krishnamoorthy
 Rao, Shri Muthyal
 Rao, Shri Thirumala
 Reddi, Dr. B. Gopala
 Reddi, Shri K. C.

NOES

Alvares, Shri
 Aney, Dr. M. S.
 Anthony, Shri Frank J
 Bagri, Shri
 Banerjee, Shri S. M.
 Barrow, Shri
 Barua, Shri Hem
 Barua, Shri R.
 Basant Kunwari, Shrimati
 Berwa, Shri Onkarlal
 Bhanu Prakash Singh, Shri
 Bheel, Shri P. H.
 Brij Raj Singh, Shri
 Chakravartty, Shrimati Renu

Chatterjee, Shri H. P.
 Chatterjee, Shri N. C.
 Daji, Shri
 Dharamalingam, Shri
 Dwivedy, Shri Surendranath
 Gulshan, Shri
 Gupta, Shri Kashi Ram
 Gupta, Shri Priya
 Jha, Shri Yogendra
 Kandappan, Shri S.
 Kapur Singh, Shri
 Kohar, Shri
 Kripalani, Shri J. B.
 Lahri Singh, Shri

Sadhu Ram, Shri
 Saha, Dr. S. K.
 Sahu, Shri Rameshwar
 Sarma, Shri A. T.
 Sen, Shri A. K.
 Shah, Shri Manubhai
 Shakuntala Devi, Shrimati
 Shankaraiya, Shri
 Sharma, Shri A. P.
 Sharma, Shri D. C.
 Shahstri, Shri Lal Bahadur
 Sheo Narain, Shri
 Shinde, Shri
 Siddananjappa, Shri
 Singh, Shri R. P.
 Sinha, Shri B. P.
 Sinha, Shri Satya Narayan
 Sinha, Shrimati Ramudulari
 Sinha, Shrimati Tarkeshwari
 Sinhasan Singh, Shri
 Sivapraghessan, Shri Ku.
 Sonavane, Shri
 Soy, Shri H. C.
 Srinivasan, Dr. P.
 Subbaraman, Shri
 Subramaniam, Shri C.
 Subramanyam, Shri T.
 Surendra Pal Singh, Shri
 Swamy, Shri M. P.
 Tiwary, Shri K. N.
 Tombi, Shri
 Tula Ram, Shri
 Tyagi, Shri
 Upadhyaya, Shri Shiva Dutt
 Valvi, Shri
 Varma, Shri Ravindra
 Veerab asappa, Shri
 Veerappa, Shri
 Venkatasubbaiah, Shri P.
 Verma, Shri Balgovind
 Vidyalankar, Shri A. N.
 Vijaya Ananda, Maharajkumar
 Virbhadra Singh, Shri
 Wadiwa, Shri
 Wasnik, Shri Balkrishna
 Yadava, Shri Ram Sewak
 Yadava, Shri B. P.

Manoharan, Shri
 Mehta, Shri Jashvant
 Mukherjee, Shri H. N.
 Nair, Shri N. Sreekanth
 Nair, Shri Vasudevan
 Nambiar, Shri
 Nath Pai, Shri
 Pottakkatt, Shri
 Raghavan, Shri A. V.
 Ram Singh, Shri
 Rameshwaranand, Shri
 Ranga, Shri
 Reddy, Shri Narasimha
 Sezhian, Shri

Shashank Manjari, Shrimati	Solanki, Shri	Vimla Devi, Shrimati
Shastri, Shri Prakash Vir	Swamy, Shri M. V.	Vishram Prasad, Shri
Singha, Shri Y. N.	Swamy, Shri Sivamurthi	Yashpal Singh
Singhvi, Dr. L. M.		

Shri Ram Sewak Yadav: rose— 12.45 hrs.

Mr. Speaker: Did he try his machine? ARMED FORCES (SPECIAL POWERS) CONTINUANCE BILL—
 Contd.

श्री रामसेवक यादव : (धारवांकी) :
 गलती से आइज पर हाथ पड़ गया ।

Mr. Speaker: The House will take up further consideration of the following motion moved by Shrimati Lakshmi Menon on the 22nd April, 1964, namely:—

Shri Muhammad Ismail (Manjeri): The machine did not work; the light has not turned up. I am for 'Noes'.

"That the Bill to continue the Armed Forces (Special Powers) Regulations, 1958, for a further period, be taken into consideration."

Shri Kisan Veer (Satara): I tried the machine, but my vote has been wrongly recorded. I am for 'Ayes'.

Shri Ranga might continue his speech.

Mr. Speaker: The statements of these hon. Members have been recorded. The result of the Division is:

Shri Ranga (Chittoor): Mr. Speaker, Sir, in continuation of what I said the other day I would like to sound a note of warning in regard to what is happening in the border areas. There has been either continuous or intermittent reports of weapons coming from our enemies across the border to be utilised by their agents on our side. There is also a possibility

Ayes 172; Noes 52.

The motion was adopted.

Shri Surendramath Dwivedy (Kendrapara): We cannot be a party to it; so, as a protest, we walk out . . . (Interruption).

श्री रामेश्वरानन्द (करनाल) : रंगा साह, बाहर

Mr. Speaker: I have given them that opportunity. If they want to stage a walk-out, they might go out silently . . . (Interruption).

Mr. Speaker: Order, order; he is speaking now.

श्री रामसेवक यादव : **

Mr. Speaker: Nothing need be recorded. The press should also note that they do not take note of this.

Shri Ranga: Also, we have heard reports of quite a number of aliens having come within our borders, mixing with our people and carrying on their nefarious activities. Not enough care has been taken to weed out these people or to capture the weapons that are coming into our territory and in that way minimise the danger.

Shri Surendranath Dwivedy, Shri Ram Sewak Yadav and some other hon. Members then left the House.

Shri A. K. Sen: Sir, I introduce the Bill.

If we are to tackle this problem with the help of the Army, we will

**Not recorded.