

**RAJYA SABHA**

Thursday, the 31st August 1978/9  
Bhadra, 1900 (Saka)

The House met at eleven of the clock Mr. Chairman in the chair.

**REFERENCE TO ADMISSIBILITY OF  
MOTIONS GIVEN NOTICE OF AND  
OTHER MATTERS**

SHRI BHUPESH GUPTA (West Bengal):  
Sir, before you start, today is perhaps the last day. The two Resolutions ....

**श्री हरिशंकर भासड़ा (राजस्थान) :**  
सभापति महोदय, मेरा व्यवस्था का प्रश्न है..

MR. CHAIRMAN: Mr. Bhupesh Gupta, you can wait.

**श्री हरिशंकर भासड़ा :** सभापति महोदय, मैंने पहले कहा । वे तो बोल सकते हैं और बोलते रहते हैं । जब चाहेंगे तब बोलेंगे । कल हाऊस में लगभग सभी पक्षों की तरफ से यह तय हो गया था और स्वयं हमारे माननीय मंत्री महोदय ने भी इस बात को स्वीकार किया था कि जब तक सदस्य बोलते रहेंगे मैं यहाँ बैठा रहूँगा चाहे रात पूरी हो जाए और इस तरह की छुट उन्होंने स्वयं दी थी । मेरा नाम भी बोलने वालों में था और मैं पीने आठ बजे यहाँ बैठा हुआ था । अन्त में मुझे पता चला कि हमारी पार्टी के मुख्य सचेतक महोदय ने मेरे नाम के स्थान पर उपसभाध्यक्ष महोदय ने और बिना मेरी स्वीकृति लिए, बिना मेरे से पूछे दूसरे माननीय सदस्य को बोलने का अवसर दिया और मुझे अवसर नहीं दिया गया । मान्यवर, जहाँ तक संविधान में संशोधन का प्रश्न है यह एक बहुत ही गम्भीर सवाल है । जब सरकार जनमत संग्रह जैसी बात करने जा रही है तो इस सवाल में जैसे कि कल माननीय मंत्री महोदय ने बताया कि यह 44 वां संशोधन है और 44 सदस्यों ने भाग लिया है और मेरा कहना था कि यह 45वां बिल है इसमें 45 सदस्य भाग ले सकते हैं, तो इस बिल में 51 प्रतिशत लोगों को जनमत संग्रह करने की बात कह रहे हैं इसलिए इस हाउस में संविधान संशोधन के संबंध में सदस्यों को विचार व्यक्त करने के लिए अवसर दिया जाना चाहिए था । उपसभाध्यक्ष महोदय ने जो यह व्यवस्था दी है कि मेरा नाम छोड़ कर किसी दूसरे को अनुमति दे दी, इस संबंध में मैं आपकी

1134 RS—1.

व्यवस्था चाहता हूँ । यह उचित नहीं है जब मेरा नाम लिस्ट में था (*Interruptions*) उपसभाध्यक्ष महोदय की बात है, इस संबंध में मैं आपकी व्यवस्था चाहता हूँ ।

MR. CHAIRMAN: Let me make it clear. The hon. Member could not get an opportunity yesterday to speak—that is his grievance. It is the normal practice that parties will give the names and if by chance you were not given time, at the time of the Third Reading, we can consider. That is all right.

SHRI BHUPESH GUPTA: Sir, I will not take much time. But as you are well aware...

MR. CHAIRMAN: Let me take up the Short Notice Question.

SHRI BHUPESH GUPTA: \_\_\_\_\_ we gave notice of two Resolutions, one by me for the appointment of a Committee of the House, and the other by my hon. friend, Shri Dinesh Goswami. These two Resolutions are there. They are still under your consideration any way. We find in today's List of Business that nothing is included. I wish they were in today's list. We have not been informed as to what has happened to our Resolutions. Mine is a simple one, that the Rajya Sabha appoints a Committee, and the other one you have seen. What is the position? I do not want to go over the subject again. The only thing that I want to know from you is, what is the position with regard to these, whatever you may say.

MR. CHAIRMAN : I will tell. (*In. terrnptions'*) Wait for a minute. This is not an opportunity to speak.

SHRI DINESH GOSWAMI (Assam): I gave a notice of a motion from my party and Mr. Bhupesh Gupta has also given a notice of a resolution. We are waiting for your ruling.

We have no hesitation that your ruling would have been in our favour. I would have insisted for the ruling

today but we will have no time to discuss the subject in if you give the ruling in favour because we are all very keen to get the Constitution (Amendment) Bill passed, though from the other side it has been alleged that we want to blockade its passage and they are sincere about it. So, Sir, even if you give your ruling in our favour we will have no time to discuss it. Therefore, my request to you will be that you may kindly keep your ruling pending so that the option should be left to us to pursue the matter in the best way we think in the next session.

MR. CHAIRMAN: I reserve my ruling.

### SHORT NOTICE QUESTION AND ANSWER

#### Unloading and loading of imported cement at Ports

8. SHRI BUDDHA PRIYA MAURYA:f  
SHRIMATI MAIMOONA SULTAN:

SHRIMATI KUMUDBEN MANISHANKAR JOSHI: SHRIMATI

HAMIDA HABIBUL-

LAH: SHRI BISHAMBHAR NATH PANDE: Will the Minister of INDUSTRY be pleased to state:

(a) whether Government propose to import 1.5 million tonnes of cement from Korea, Romania and Poland during the current year;

(b) if so, what are names of the ports where the imported cement is proposed to be unloaded;

(c) whether Government propose to entrust the job of unloading and loading to private parties;

(d) whether there are offers from the public sector undertakings to do the job more economically and efficiently; and

(e) whether any tenders have been invited in this connection and if so,

what are the rates of the tenders accepted?

THE MINISTER OF INDUSTRY (SHRI GEORGE FERNANDES): (a) The total estimated quantity c.f cement to be imported during the current year (1978-79) from North Korea, South Korea, Poland and Romania is 18.17 lakh tonnes. Out of this, 4.66 lakh tonnes have been imported during the current year upto 31st July, 1978.

(b) Cement will be imported during the current year through the ports of Bombay, Calcutta/Haldia, Cochin, Goa, Kandla, Madras, Mangalore, Paradip and Visakhapatnam.

(c) to (e). Contracts for handling imported cement have been given to Public sector undertakings as well as private sector firms. During the current year, limited tenders were invited through the press from cement producers and public sector undertakings and contracts were awarded on the basis of lowest tenders. Public sector

undertakings were shown preference by offering them the contracts at the lowest tendered rates even in cases where the undertakings had tendered for higher rates. The approved tender rates presently in force for different ports are as follows:

Name of Port	Rs. per tonne
Bombay	38.50
Calcutta	85.50
Haldia	68.00
Cochin	57.00
Goa	36.00
Kandla	44.00
Madras	46.00
Mangalore	33.35
Paradip	38.00
Visakhapatnam	70.00

f The question was actually asked on the floor of the House by Shri Buddha Priya Maurya.

**श्री बुद्ध प्रिय मौर्य :** श्रीमान्, जनवरी, फरवरी और मार्च से लेकर 31 जुलाई तक जितनी भी सीमेंट की अनलोडिंग और लोडिंग हुई है, उसमें माननीय उद्योग मंत्री जी ने पब्लिक सेक्टर का नाम डाला है उनका इस अनलोडिंग, लोडिंग में कितना हिस्सा आया है ? श्रीमान्, सीमेंट का जहाजों से अनलोडिंग हुआ और बाद में वह टुक या रेलों पर चढ़ाया गया, मेरी जानकारी में यह आया है कि जनवरी फरवरी या मार्च में उसका रेट 72 रुपये टन से 85 रुपये टन तक था । श्रीमान्, मेरी जानकारी में यह भी आया है कि कोई भी टेंडर उद्योग मंत्रालय ने इस काम के लिए नहीं मांगा था और श्रीमान् मेरी जानकारी यह भी है कि पब्लिक सेक्टर, विशेष तौर से सीमेंट कारपोरेशन आफ इंडिया ने, अपनी सेवा प्रदान की थी कि इस कार्य को हम बिना किसी मुनाफे या नुकसान पर कर सकते हैं, कास्ट बेसिस पर, और श्रीमान्, इसके अलावा और भी पब्लिक सेक्टर की एजेंसीज हैं, जैसे एम0 टी0 सी0 है, फूड कारपोरेशन है, सेंट्रल चैयरहाउसिंग कारपोरेशन है, एम0 एम0 टी0 सी0 है जो विशेष कारणों से देश में एक तरह से बहुत ही सफल कारपोरेशंस माने जाते हैं । क्या मंत्रालय ने, जिस समय यह लोडिंग और अनलोडिंग का कार्य दिग्विजय सीमेंट कारपोरेशन या भारत डालमिया की यह काम सौंपा था और उन से ग्रैंड टेंडर के यह काम सौंपा था, पब्लिक सेक्टर से भी इसके बारे में जानकारी ली थी और क्या विशेष तौर से माननीय मंत्री जी श्री जार्ज फर्नेण्डीज के मंत्रालय की कोई मीटिंग दिसम्बर सन् 1977 में करनी पड़ी थी जिस में सीमेंट कारपोरेशन आफ इंडिया के एक डाइरेक्टर ने अपनी सेवाएं प्रदान करने का कहा था और प्रस्ताव रखा था कि सीमेंट कारपोरेशन आफ इंडिया इस कार्य को कर देगा ? क्या उस मीटिंग की कार्यवाही का यह अंग है, क्योंकि श्रीमान् आप को ध्यान होगा कि मैंने 10 करोड़ रुपये के भ्रष्टाचार का आरोप माननीय मंत्री पर लगाया है, उसका कुछ हिस्सा तो मैं आज ही, अगर समय दें, तो साबित कर सकता हूँ इसमें 3 करोड़ रुपये का गबन हुआ है जो सीमेंट कारपोरेशन आफ इंडिया का रेट था और जो आज का टेंडर आया है—अभी कोई टेंडर मांगा है, उन्होंने बताया है—कलकत्ता का टेंडर 85 रुपये फी टन और बम्बई जो कलकत्ता से ज्यादा कीमती है, ज्यादा खूबसूरत है, ज्यादा सुन्दर है, स्पष्ट की कीमत बम्बई में कम है बमुकामले कलकत्ता के, वहां पर टेंडर 38 रुपये का, आज के ही उन के उत्तर से; इसमें बहुत सा गोलमाल है । आज के ही इस उत्तर से उनके पता लगता है क्या कारण है कि बम्बई का टेंडर लोडिंग और अनलोडिंग का है 38 रुपये 50 पैसा फी टन, जैसा कि माननीय मंत्री जी ने बताया है, और कलकत्ता में सीमेंट की लोडिंग और अनलोडिंग का टेंडर है 85 रुपये फी टन । क्या कहीं ऐसा तो नहीं है कि अपन पुराने र्नाहों पर परदा डालने के लिए

उद्योग मंत्रालय जान बूझ कर ऊंचे टेंडर को स्वीकार कर रहा है ? क्या यह सही है कि जो टेंडर आए हैं उनका रेट केवल 38 रुपये फी टन के हिसाब से आया है लेकिन उस में कुछ नमक-मिर्च मिला कर—क्योंकि पहले जो बगैर टेंडर का काम दिया गया उसमें भारत सरकार का या भारत की जनता का या एक्सचेंजर का ज्यादा खर्चा हो गया—क्या उसको जस्टि-फाई करने के लिए ज्यादा ऊंचा टेंडर बढ़ाया गया है, जो उस समय में था ? और बाकी बातों को इस बजह से मैं नहीं कहना उचित समझूंगा क्योंकि उनके स्वयं एक पी0 ए0 इस में फंसे हुए हैं, उन के खिलाफ भी मेरे पास डाक्यूमेंटरी इविडेंस है, मेरे पास टेप-रिकार्डिंग है । उन के पी0 ए0 है, अभी राजनीति में नाबालिग हैं, शायद 24 साल की उम्र है, डायना-साइट केस में उन के साथ फंसे हुए थे । खैर, उस से बह बरी हो गए या बरी कर दिए गए या सरकार ने उनको माफ कर दिया क्योंकि उन के दल की सरकार है । (Interruptions) मैं आ रहा हूँ । आप खींच क्यों रहे हैं क्या पाप पर पर्दा डालना चाहते हैं ।

**श्री शिव नारायण :** सवाल पूछिये ।

**श्री बुद्ध प्रिय मौर्य :** मैं पूछना चाहता हूँ कि क्या यह सही है कि माननीय मंत्री जी के व्यक्तिगत ताल्लुकात नीलखा से है ? क्या यह सही है कि माननीय मंत्री जी प दिग्विजय सीमेंट कारपोरेशन को उंचे दामों पर कंट्रैक्ट दिया लोडिंग और अनलोडिंग का और यह नीलखा इस दिग्विजय सीमेंट कारपोरेशन के पब्लिक रिलेशन्स आफिसर है ? क्या यह सही है कि डालमिया सीमेंट से भी मंत्री जी के निजी सचिव के सोधे संबंध हैं ? क्या यह सही है कि पहले कोई टेंडर नहीं मांगे गये थे और पब्लिक सेक्टर ने अपनी सेवाएं देन को कहा था । उन को नहीं लिया गया और ज्यादा रेट पर लोडिंग अनलोडिंग करवायी गयी और क्या मंत्री जी बतायेंगे कि बम्बई और कलकत्ता के रेट्स में इतना बड़ा अन्तर क्यों है ? इसका कारण क्या है ?

**श्री जार्ज फर्नेण्डीज :** सभापति महोदय, माननीय सदस्य ने कुछ सवाल उठाये हैं और कुछ बातें यहाँ कही हैं जिन में न निफें मझ पर आरोप है बल्कि मेरे निजी सचिव पर, मेरे पर्सनल असिस्टेंट पर भी उन के आरोप हैं । सभापति महोदय, यह सीमेंट के लोडिंग अनलोडिंग के कंट्रैक्ट की सारी फाइलें मैं सदन में लाया हूँ अगर आप की आज्ञा हो तो मैं यह फाइलें आप के सुपुर्द करना चाहता हूँ ...

**श्री बुद्ध प्रिय मौर्य :** ले सीविए ।

**श्री जार्ज फर्नेण्डीज :** सभापति महोदय, मैं बह भी सुझाव देना चाहता हूँ कि इस सदन के

विरोधी दलों की एक समिति बनायी जाय और उस के द्वारा जांच की जाय और माननीय सदस्य ने कई आरोप लगाये और कई अन्य बातें कहीं, जिन का मैं खुलासा करूँगा, लेकिन आरोप की बात अगर सच निकले तो जो भी सजा वह समिति देना चाहे मुझे दे और अगर माननीय सदस्य उन में झूठे साबित हों तो उन को जो सजा लेनी हो वह तय कर लें ।

श्री बुद्ध प्रिय मौर्य : हमें स्वीकार है ।

श्री जार्ज फर्नेंडीज : तो यह सारी फाइलें सभापति महोदय मैं आप के सुपुर्द करना चाहूँगा ।

श्री बुद्ध प्रिय मौर्य : श्रीमन्, ले लीजिए फाइलें ।

SHRI V. B. RAJU; On a point of order, Sir. This is not a matter between the Minister and an hon'ble Member. The House needs to be convince<sup>^</sup> by a rational argument. It is not a question of challenges here, whether he is there or he is not there. Please convince the House.

SHRI GEORGE FERNANDES: I entirely agree with him.

MR. CHAIRMAN: Mr. George Fernandes, will explain correctly.

SHRI GEORGE FERNANDES: The hon'ble Member has made very grave charges. I have got here all files pertaining to the awarding of the contract for unloading of cement.

MR. CHAIRMAN: Why not give an interview and discuss the whole thing?

SHRI GEORGE FERNANDES: No, Sir. These are not matters where private interview are concerned. As the hon'ble Member has used the floor of the House to make charges I believe that this House has some responsibility. Those who are Members of this House are making charges with a full sense of responsibility. So, Sir, I as a representative of the Government consider it my duty, not only to vindicate my honour but also the honour of the Government, Therefore, I made this suggestion that I shall submit all files pertaining to

the awarding of the contracts to you K you agree to my proposal. And I am also suggesting that a Committee of the House consisting only of the Members of the Opposition be set up to investigate into the matter. This is as a preliminary in so far as the charges are concerned.

I now come to the various points that the hon'ble Member has made. I have also said that I shall accept any punishment that this Committee would give me<sup>o</sup> and it is for the hon'ble Member who levelled the charges to decide what he would like to do.

Sir,, we have imported cement. We are continuing to import cement and it will be necessary to import cement for a little more time because just now we do not have adequate capacity to produce cement that the country needs. More investments have been done. In the course of the next two years much more investment will be made and we should be self-sufficient in cement. But till such time as we are not self-sufficient we shall have to import cement. So we decided to import cement in October-November last year. We asked the S. T. C. to do some scouting because, firstly, there are not many countries that are making this thing available for export. Secondly, with the kind of construction activity that is taking place in the countries of the Middle East, the price of cement has zoomed in the world market. So the State Trading Corporation, in which the hon. Member has great faith—and he referred to it just now—was asked to scout in the world markets and find out where cement would be available. After a lot of scouting, the State Trading Corporation was finally able to locate a little over a million tonnes of cement. The operation was conducted in utmost secrecy for the reason that when you go into the world market for buying a commodity that is there is short supply in the world, there is bound to be a price escalation and people are likely to

make a fast buck. So the operation was conducted by the State Trading Corporation in utmost secrecy. Even while the operation was going on in terms of contracting for cement, we had also to make arrangements for unloading of that cement as and when the Cabinet approved the proposal and the cement started coming in. The Cabinet approval was sought. Then, Sir, an inter-ministerial committee, consisting of the Ministry of Industry and the Ministry of Commerce, headed by the Secretary, Industrial Development was set up to discuss and work out the whole logistics of unloading of cement. This committee had to interact with the Ministry of Shipping and Transport also because we had to decide which ports could take the cement in, because in the Bombay port, for example, 80 to 90 ships are lying in mid-stream. So we had to interact with the Ministry of Shipping and Transport to find out how exactly to organise the ships coming in and unloading of the cement.

Then, Sir, in the last several years, we have not imported cement. Cement was coming in paper bags. The dock unloading operation is a very problematic operation because unloading in the market is a very generally done with hooks. In the case of the paper bags of cement, there was no question of using hooks. Therefore, certain problems arose while discussing this in the inter-ministerial committee, which, as I said, was headed by the Secretary, Industrial Development. This inter-ministerial committee thereafter came to the conclusion that those parties that are, firstly, handling cement today in the country and, secondly, who have some experience of loading and unloading operations should be contracted and negotiations must be carried on with them to find out at which price the cement could be unloaded. Accordingly, Sir, a negotiating committee was set up. Four officers were involved in this negotiating committee. They are: the Joint Cement Con-

troller, the Finance Officer of the Cement Control Organisation—both from the Ministry of Industry—and two Group Executives from the State Trading Corporation, one dealing with Finance and the other dealing with Marketing. This negotiating committee of four negotiated with various parties who have experience of handling and marketing of cement. And, simultaneously, because a policy decision was taken that wherever a public sector undertaking was also able to handle this, we should make available the contract to the public sector undertaking, talks were also held with the public sector undertakings.

Taking into account all the factors, the contracts were entered into and the contracts varied from January to March, 1978. The contracts varied as follows: In Bombay, Rs. 72; in Calcutta Rs. 85.50; in Cochin, Rs. 75; in Goa, Rs. 50; in Haldia, Rs. 63.07, plus Rs. 36 for transport; in Madras, Rs. 75.60; in Mangalore, Rs. 40; and in Visakhapatnam, Rs. 79.50. Now, Sir, the hon. Member, was to say that the rates varied from Rs. 72 to Rs. 82—not Rs. 82; in fact, Rs. 85.50. Now, which are the parties that are involved? In Bombay, the contractors were Sri Digvijay Cement Company Ltd. and Messrs Dalmia Cement Bha-Srat Limited—Rs. 72; in Calcutta, the Associated Cement Company Limited, which is a private enterprise; and in West Bengal, the Essential Commodities Supplies Corporation, which is a public sector undertaking. Both charged Rs. 85.55 p. In Cochin, there was no private enterprise at all. It was the Kerala Small Industries Development and Employment Corporation which charged Rs. 75, that is Rs. 3 more than Bombay. In Goa, the Central Warehousing Corporation, which is a Government of India public sector undertaking, and the Associated Cement Company had the contract at Rs. 50. In Haldia Rs. 63.07 p. and Rs. 36, in all Rs. 99.07 p. was the contract which was taken by the Associated Cement Company, a pri-

vate sector undertaking, and the West Bengal Essential Commodities Supplies Corporation, a public sector undertaking of the Government of West Bengal; both at Rs. 99.07 p. In Madras, it was at Rs. 75.60 p, two companies, both in the private sector, the India Cement Limited, Madras and Dalmia Cement Bharat Limited. In Mangalore, the contract was taken at Rs. 40 by the Central Warehousing Corporation, a Government of India public sector undertaking, and the Associated Cement Company. And in Vishakhapatnam, the Andhara Cement Company, a private sector unit, and the Andhra Pradesh Industrial Infrastructure Corporation Limited, a public sector undertaking, both charged Rs. 79.50 p. So, Sir, where the contracts were given, there was no question of any company being favoured.

Now, why did the negotiating committee come to this conclusion? Firstly, Sir, cement was being imported for the first time in a number of years. There was no experience available in any of the companies, private or public, in handling the import of cement. Negotiations were held. A total understanding was arrived by the people who had the expertise. It were the State Trading Corporation people who had the expertise, and these contracts were entered into.

Now, Sir, regarding the point made by the hon. Member that there were other organisations which could have taken, the STC is not equipped to handle cement and market cement. The STC, in fact, imported cement. Cement was not imported by any other organisation, by my Ministry or by any private party. Cement was imported by the STC. Two directors of the STC and two senior officials of the Cement Controller's office were the ones who negotiated the contracts for unloading of the cement. Now, Sir, regarding the Food Corporation of India and the MMTC, neither the Food Corporation of India nor the MMTC are marketing concerns. They

do not import cement or distribute cement or unload cement.

Finally, Sir, the hon. Member made a very significant point that the Cement Corporation of India's director was present in one of these meetings. Firstly, I was not present in many of the meetings, and I do not know whether the Cement Corporation of India's director was present in any of the meetings. Sir, I would like to state with all the emphasis at my command that firstly the Cement Corporation of India is not equipped to handle import and marketing of cement. It is concerned with setting up of the cement plants, and secondly, Sir, the Cement Corporation of India made no offer whatsoever, contrary to what the hon. Member has said. No offer whatsoever. It is equipped to handle...

SHRI BUDDHA PRIYA MAURYA: It is part of the proceedings of the meeting.

SHRI GEORGE FERNANDES: Sir, the files are in your custody.

SHRI BUDDHA PRIYA MAURYA: Bring the minutes of the meeting of December, 1977.

SHRI GEORGE FERNANDES: I do not think that we can enter into that kind of an argument. I am putting the files at your disposal.

In fact, the Cement Controller had a discussion with the Chairman of the Cement Corporation of India, who very emphatically said that the Cement Corporation of India is not equipped to handle an operation of this nature.

Then, Sir, the hon. Member has also said that in Bombay we have offered the contracts to unload cement at Rs. 38.50 p. while in Calcutta it is Rs. 85.50 P. Sir, I would only like to submit that in Calcutta Rs. 85.50 was awarded in the last contract to a public sector undertaking owned by the West Bengal Government, and in Bombay, this time, the contract has been given to the Maharashtra Small

Scale Industries Development Corporation. Even here in the awarding of the current year's contract, there were private parties and there was the Maharashtra Small Scale Industries Development Corporation.

When I discovered that in the last contract, the private parties had made some money, they had earned sizeable profits—as I said, the contract was awarded because of lack of handling experience and certain *ad hoc* rates were fixed by the negotiating team—when I discovered that they had made substantial profits, I decided, Sir, firstly, that the current year's contracts shall not be given to a private party, and, secondly, Sir,— my noting is on this file—I said that we must immediately get hold of these private sector companies which had made large profits and try to see if we can recover a part of that money. This, Sir, is the size of the problem. Now, the hon. Member has made charges against my office staff, against my personal staff. I can only leave them to a committee of the House to investigate.

श्री बद्ध प्रिय मौर्य : सबसे पहले मैं आपसे निवेदन करूंगा कि मंत्री जी स्वयं कृपा कर रहे हैं कि यह लोडिंग, अनलोडिंग जितना भी हुआ है उसके सम्बन्ध में जितनी कमेटियों की बैठक हुई उनकी जो प्रोसीडिंग है और जो आर्डर हुए व तमाम सम्बन्धित फाइलें आपके संरक्षण में देने को तैयार हूँ। श्रीमन्, सबसे पहले मैं यह निवेदन करूंगा कि तमाम फाइलें और मीटिंगों की प्रोसीडिंग यहाँ आ जाएं तो जो मैं कह रहा हूँ उसमें एक शब्द भी गलत साबित हो जाए तो आप मुझे इस सदन से एक्सपैल कर सकते हैं।

(Interruptions)

श्री सीताराम केसरी : श्रीमन्, मेरा प्वाइंट आफ आर्डर है। प्वाइंट आफ आर्डर यह है कि इस सदन में जब मंत्री महोदय ने यह चुनौती दी है आपके सामने और इधर से भी जब चुनौती स्वीकार कर ली गई है तो मैं समझता हूँ कि नारी चीजें क्लीयर हो जाएं इसलिये आप इसकी एक कमिटी जैसा मंत्री महोदय कहते हैं, गीव्राति-गीव्रा बेटा दी जाए। क्योंकि मेरे पास भी बहुत से केस उनके खिलाफ मौजूद हैं।

MR. CHAIRMAN: Don't bring in the Chairman unnecessarily.

श्री सीताराम केसरी : इसलिये मैं कहता हूँ कि जब उन्होंने खुद कहा है, स्वीकार किया है तो मान लेना चाहिये।

MR. CHAIRMAN: Mr. Maurya.  
Second supplementary.

श्री बद्ध प्रिय मौर्य : श्रीमन्, मैं यह निवेदन कर रहा था कि सीमेंट की लोडिंग और अनलोडिंग में करोड़ों रुपया लगता है, खर्च होता है। अभी अभी मंत्री महोदय जी ने आंकड़े दिये हैं उनमें भी करोड़ों का अन्तर आता है। तब क्या यह उचित नहीं था मंत्री महोदय के लिये और उनके मंत्रालय के सम्बन्धित अधिकारियों के लिये कि सीमेंट के लोडिंग और अनलोडिंग के कार्यों में जिसमें करोड़ों रुपये का खर्च था, उसके लिये टेण्डर मांगे जाते। इसके लिये टेण्डर क्यों नहीं मांगे गये? पहला प्रश्न तो मेरा यह है। दूसरा प्रश्न यह है कि जब उन्होंने डालमिया कम्पनी से या प्राइवेट कम्पनियों से चर्चा की या उनके सम्बन्धित अधिकारियों ने बातचीत की और किसी फैसले पर आए तब फिर उन्होंने पब्लिक सेक्टर की कम्पनियों जिनका नाम मैंने पहले भी लिया जो कि लोडिंग और अनलोडिंग का कार्य इस देश में कर रही हैं और धरबों रुपये इसमें खर्च करती हैं तो क्या उनसे भी चर्चा की? अगर नहीं की तो क्यों नहीं की। सीमेंट कारपोरेशन आफ इंडिया जिसके जरिये से धरबों रुपये सीमेंट उद्योग पर खर्च हो रहे हैं और जो यहाँ सीमेंट पैदा करते हैं, जैसे डालमिया करती है वहाँ बड़े-बड़े विशेषज्ञ हैं और सीमेंट कारपोरेशन आफ इंडिया ने तो स्वयं अपनी सेवा आपित की है कि हम इस कार्य को कर सकते हैं तब सीमेंट कारपोरेशन को यह कार्य क्यों नहीं दिया गया? श्रीमन्, मैं यह भी जानना चाहता हूँ मंत्री महोदय से कि अब क्या उन्होंने कोई टेण्डर मांगे हैं या अभी भी सौदेबाजी पर छोड़ दिया है? क्योंकि इस कार्य के लिये जिसमें करोड़ों रुपया खर्च होगा उसके लिये टेण्डर मांगना ही उचित होगा। अगर उन्होंने टेण्डर मांगे हैं तो सबसे नीचे का टेण्डर कितने का है? यह बताने की कृपा करें।

SHRI GIAN CHAND TOTU: Sir, one small question.

MR. CHAIRMAN: No, no.

SHRI GEORGE FERNANDES: Sir, the hon. Member obviously has exhausted all his questions because, I have already answered the points that he has made just now.

SHRI BUDDHA PRIYA MAURYA: No, you have not answered.

SHRI GEORGE FERNANDES: I have already mentioned the current rates of contract. In so far as the current rates of contract are concerned ...

SHRI BUDDHA PRIYA MAURYA: I am talking of the tenders in January, February...

SHRI GEORGE FERNANDES; In so far as the current rates of contract are concerned, they were entered into consequent upon the calling of tenders. All cement handling from March this year has been done consequent upon calling of the tenders.

SHRI BUDDHA PRIYA MAURYA: No.

SHRI GEORGE FERNANDES: If I am misleading the House, there are ways and means of dealing with me. There can be a motion of privilege against me, apart from the enquiry that I am proposing.

SHRI BUDDHA PRIYA MAURYA: I will bring it.

I

SHRI GEORGE FERNANDES: In so far as the current handling is concerned, it was done after the calling of tenders. In so far as the current rates are concerned. ...

SHRI BUDDHA PRIYA MAURYA: Did you invite tenders? My question is: Did you invite tenders for unloading and loading the cement in the months of January, February and March?

SHRI GEORGE FERNANDES; In so far as January, February and March are concerned, I have already stated that the entire operation of importing of cement in the first place was done by the State Trading Corporation with a high sense of secrecy for the reason that...

SHRI BUDDHA PRIYA MAURYA: My question is very specific...

SHRI SITARAM KESRI; Why secrecy?

SHRI GEORGE FERNANDES: Sir, you must allow me to answer the question. I said insofar as the im-

port was concerned, it was done, with a high sense of secrecy by the State Trading Corporation in order that the prices abroad may not go up. Now, so far as the unloading part was concerned, when we were, negotiating abroad, I said earlier, simultaneously we negotiated with a number of companies, both of the private sector and of the public sector. The State Trading Corporation was not in a position, was not prepared, to handle this job. The MMTC and the Cement Corporation of India were not in a position, were not willing, to undertake this job. Negotiations were held by a negotiating committee consisting of four officers, two of the STC and two of the Cement Controller's Organisation. These people negotiated with the private sector and the public sector. A number of people, cement manufacturers and a number of cement distributors came forward with their offers...

SHRI BUDDHA PRIYA MAURYA: Sir, I seek your protection...

SHRI GEORGE FERNANDES: Let me finish my answer first.

A number of companies come forward. I give an illustration of Bombay. In Bombay when negotiations were held with a number of companies ...

SHRI SITARAM KESRI; Sir, there is a straight question; Did he invite tenders?

MR. CHAIRMAN: Sitaramji, let him reply to Mr. Maurya. If you want to put any question, we will see later. Why are you unnecessarily interrupting him?

SHRI GEORGE FERNANDES: In Bombay when these negotiations were held by the negotiating committee a number of companies came forward with their offers. Among them were the Digvijay and the Associated Cement Corporation—ACC. Now, what happened? These two companies made their offers. Of these, the Digvijay's offer was the lowest. They quoted Rs. 72 per tonne whereas the



ACC quoted Rs. 79 per tonne. The negotiating committee called the ACC I people, because the ACC had a wider organisation, to offer them Bombay's unloading contract. A part of the Bombay contract was offered to the ACC at Rs. 75 per tonne. But the ACC said, we shall not touch it unless we get Rs. 79 per tonne. Therefore, it was allotted to the lower bidder, which was for Rs. 72 by the Digvijay. Under these circumstances ultimately talks were held with various companies and only that company which came with the lowest was given the tender...

SHRI SITARAM KESRI: He is not talking about tenders.

SHRI GEORGE FERNANDES: I have mentioned that talks were held with the companies. No tenders were invited; I said it earlier. Now, the honourable Member was saying that crores of rupees were involved. The total cement that we imported up to March 1978—January, February and March, 1978—was 2,93,000 tonnes, say 3 lakh tonnes. An average unloading contract of Rs. 70 per tonne means Rs. 2,10,00,000 for unloading 3 lakh tonnes of cement. I presume that all the workers were paid a salary. I presume the company had to undergo a lot of expenses in order to undertake this operation. Sir, the impression that is sought to be created earlier is that crores of rupees were swindled by these companies. The entire contract entered into with all these companies was to the tune of around Rs. 2 crores.

Then the honourable Member's question was whether I had discussions with Dalmias and Digvijays and in the process whether I had discussion with others. I had discussions with no company whatsoever. Only one company came to me, the head of one company came to me, and that company is the ACC; the top man of the Associated Cement Corporation came and said, Bombay contract is going to Digvijays at Rs. 72, you must give me a part of that contract. I told

the ACC man that the Cement Controller has a negotiating committee and they are handling it. I also told him; "I have been told that you are offering Rs. 79/- whereas the other company has offered Rs. 72/-. I am sure if you will also bring down your rate to the lowest, you will get your contract".

SHRI GEORGE FERNANDES: I have already answered this question. Since the hon.

श्री बुद्ध प्रिय मौर्य : श्रीमान् मेरे प्रश्न का उत्तर नहीं मिला। मैं उत्तर चाहता हूँ।

MR. CHAIRMAN: Today we are short of time.

श्री बुद्ध प्रिय मौर्य : मैंने जो निवेदन किया उसका उत्तर नहीं मिला। मैं समय नहीं खराब करना चाहता। लेकिन मैं मंत्री जी से जानना चाहता हूँ कि दम्बई में जो रेट आप ने दिया है वह है 38 का और पहले दिया था 72 के हिसाब से। तो यह अंतर कैसे आ गया? मेरा निवेदन यह है कि पहले टेंडर मांगे गये या नहीं, मांगे गये? नहीं मांगे गये तो क्यों और अब टेंडर मांगे गये हैं? यदि मांगे गये हैं तो क्यों?

Member has summed up his question, I will also sum up my answer. In the first place when cement was unloaded from January onwards, the entire operations in terms of import were done by the STC at the highest level by observing certain amount of secrecy—not certain amount, but the highest degree of secrecy. At the national level the unloading contract was given by direct negotiations with a number of cement manufacturing concerns and those dealing in cement. In so far as the subsequent contract is concerned, it was through tender advertised in newspapers. Why? Because we discovered that it was possible to get the cement unloaded at a lower cost after the experience of the first three months.

SHRI BUDHA PRIYA MAURYA: Sir, on a point of order.

MR. CHAIRMAN: No point of order now.

SHRI BUDHA PRIYA MAURYA: You can hear me.

MR. CHAIRMAN: You have put your supplementary. How can there be a point of order now?

SHRI BUDHA PRIYA MAURYA: On the statement of the Minister.

उन्होंने बहुत ही गुप्त तरीके से इंपोर्ट किया था सीमेंट को इस बयान पर मेरा व्यवस्था का प्रश्न है। श्रीमान्, उन्होंने खुद बयान दिया था अगस्त और सितम्बर 1977 में कि वह सीमेंट इंपोर्ट करेंगे। तो गोपनीयता का प्रश्न कहां से आ गया। जब सरकार ने बयान दिया अगस्त में कि वह सीमेंट का इंपोर्ट करेगी तो उस में यह गोपनीयता का प्रश्न कहां से आ गया यह मिनिस्टर का बयान है। उन्होंने बयान दिया था कि वह सीमेंट इंपोर्ट करेंगे। तमाम दुनिया के सामने यह बात आ गयी थी।

श्रीमती कुमुदबेन मणिशंकर जोशी : माननीय मंत्री जी ने बहुत विस्तार से इस प्रश्न का जवाब दिया कि दुनिया के बाजार में सीमेंट खरीदने के लिये जब हम ने तय किया तो गोपनीयता आवश्यक थी और खरीदने के बारे में तो गोपनीयता आवश्यक थी लेकिन जब उसको वहां से यहां लाना था तो मंत्री महोदय ने खुद स्वीकार किया है कि प्रथम स्टेज में हम ने वहां प्राइवेट कंपनियों से बात की और उनको यह काम दिया। उसके साथ साथ उन्होंने ने यह भी जवाब दिया है कि इस बारे में जब उन को पता चला कि प्राइवेट कंपनियों ने बहुत ज्यादा मुनाफा उसमें कर लिया है तब महाराष्ट्र स्माल स्केल ट्रेडिंग कारपोरेशन को अवसर दिया। तो मैं यह पूछना चाहती हूँ कि यह तो गवर्नमेंट प्रायोरिटीज है ? (Interruptions) उस में जब डालमिया और दिग्विजय सीमेंट कारपोरेशन के साथ जब आप ने कंट्रैक्ट किया तो क्या उस समय महाराष्ट्र स्माल स्केल ट्रेडिंग कारपोरेशन को बुलाया था। उस के लिये उनका जवाब था कि नहीं बुलाया था। तो मैं जानना चाहती हूँ कि उनको उस समय क्यों नहीं बुलाया गया था ? और मेरा दूसरा प्रश्न है कि यहां तो उस सीमेंट की कीमत करीब 300 रुपये पड़ती है जिस में 85 रुपये तो ट्रान्जिपोर्ट का चार्ज था, तो मैं जानना चाहती हूँ कि विश्व की जिस कंपनी ने उस को लोड कर के यहां भेजा होगा उसके चार्ज क्या थे, बोच का रेट क्या था और लॉडिंग और अलॉडिंग का चार्ज क्या था ? इतना सब मिला कर मैरीटायल की कीमत क्या है वह मैं जानना चाहती हूँ ?

MR. CHAIRMAN: Yes, Mr. Minister.

SHRI KALYAN ROY: Only one small question, Sir.

MR. CHAIRMAN: Today, there are 10 Special Mentions and also the other business. Therefore, let us try to adjust ourselves.

SHRI KALYAN ROY: One small question would not matter much.

MR. CHAIRMAN: I know how much time you will take. Yes, Mr. Fernandes.

SHRI GEORGE FERNANDES: Sir, for the loading and unloading of cement for the current year, when sealed tenders were invited, two firms which quoted in Bombay were the Digvijay and ACC. Digvijay quoted Rs. 38.50 while the ACC quoted Rs. 39.90. Thereafter, Sir,...

SHRI BUDHA PRIYA MAURYA: You have given the Maharashtra Corporation also.

SHRI GEORGE FERNANDES: No. Digvijay and the ACC quoted. Thereafter, We have given the contract to the Maharashtra Small-Scale Industries Corporation. Now, the honourable Member's question is this: At what point of time the Maharashtra Small-Scale Industries Corporation came into the picture? I would require notice and I will find out and I will answer that question, because, Sir, when the advertisements were inserted in the newspapers, there were applicants. Now, whether the Maharashtra Corporation was an applicant or not is a fact not known to me at the moment and whether the Maharashtra Corporation came later is not known to me. I can only tell the honourable Minister that the two Companies that then offered, that then quoted, for the unloading of cement, were (1) Digvijay—Rs. 38.50, and (2) ACC—Rs. 39.90. But we gave the contract to a public sector undertaking in Maharashtra.

SHRI BUDDHA PRIYA MAURYA: Last time it was Rs- 72 in Bombay.

SHRI GEORGE FERNANDES: As far as the Maharashtra Corporation is concerned, the honourable Member's question I am in a position to answer. The Maharashtra Corporation, the State Corporation, Maharashtra, quoted a much higher price than what was quoted by ACC and by Digvijay. But they were called and they were told that they could have the entire contract if they accepted the lowest price which they accepted.

Now, Sir, with regard to the second of the honourable Member's questions, about the overall cost, etc., we are importing cement and in 1977-78, we have contracted to import cement at prices varying from \$49 to \$54.1 and the import prices for the current year that they have contracted in—there has been a spurt in the prices in the world market—is between \$52.50 and \$65 per tonne. The additional cost of importing is about Rs. 300 per tonne. That was the reason why we took a decision to slightly increase the FOR destination price of cement by Rs. 17 per tonne. During the current year, the total subsidy that would be coming from the cement pool to meet the additional cost involved in importing cement would be Rs. 72 crores.

SHRIMATI HAMIDA HABIBUL-LAH: I want to know why during January-March the matter was kept secret, Sir. But then this cement was loaded or unloaded by the private companies and there was a difference of about 3.00 crores of rupees. I would like to know why this work was being done by them and whether any tenders were called for during that time. My other question, Sir, is slightly different. With regard to this loading and unloading business that has been going on, I would like to ask the honourable Minister whether it is not possible to entrust this work to the army during peace time. With their special discipline, etc., would it not be possible for them to do this job much cheaper and much better?

SHRI GEORGE FERNANDES: Sir, I am not sure whether the army could be called upon to do the unloading operations in the dock. I am preferred to put the suggestion to the Defence Ministry for whatever it is worth. But I am not personally convinced that the army could be called to handle the unloading of cement. Then, Sir, so far as the import is concerned, the total quantity imported was not ten lakhs, but from January to March, the total quantity was only 3 lakh tonnes. It was not 10 lakh tonnes, but it was only 3 lakh tonnes. As I said earlier, there were no tenders in the first case. In the first case, there were no tenders. This was done by direct negotiations with both the public and private sector companies which had experience in handling this kind of a material.

SHRI SAWAISINGH SISODIA:

Sir, it is very important \_\_\_\_\_  
(Interruptions)

MR. CHAIRMAN: One hour is enough for Short Notice Question. Mr. Pande.

श्री रामानन्द यादव : मेरा क्वेश्चन था ।

श्री विश्वम्भर नाथ पांडे : माननीय सभापति महोदय, पहली बात तो मैं आप से इस बात की प्रार्थना करना चाहूंगा कि आप उद्योग मंत्री महोदय की बात को गम्भीरतापूर्वक लें जब उन्होंने एक बात यह कही कि सारे प्रश्न को लेकर वे सदन के सामने फाइल रखने को तैयार हैं, तब एक ऐसे महत्वपूर्ण प्रश्न पर जिसमें इतना मतभेद है, मैं समझना हूँ कि इस सदन की मर्यादा के अनुकूल होगा यदि सदन के सामने फाइल आ जाए और उद्योग मंत्री जो कह रहे हैं उस पर सदन अपनी एक राय कायम करके उन्हें दोषमुक्त कर सके । किमिनाल दोष लगाने की बात नहीं है लेकिन ऐसा उन्होंने आकर किया है तो उसको स्वीकार करना चाहिए ।

एक प्रश्न आता है जैसा उद्योग मंत्री ने कहा कि यहां के इतिहास में पहली बार सीमेंट

के आयात की बात की गयी है (Interruptions) जो उद्योग मंत्री ने कहा उसको मैं ले रहा हूँ। उद्योग मंत्री ने यह कहा कि पहली बार सीमेंट के आयात की बात की गयी है बाहर से। पहली बार चीज तो यह मुझे मालूम नहीं कि उनको विदित है या नहीं कि चीन ने इतना अधिक सीमेंट का उत्पादन कर लिया है कि वह बाहर भेजने को तैयार है। सीमेंट के अलावा और चीजें भी वह बाहर भेजने को तैयार है तो क्या उन्होंने चीन वालों से इस संबंध में बातचीत की है, पीपुल रिपब्लिक से बात की है।

दूसरी बात, इसमें क्या परेशानी उनको थी कि ऑपेन बलडे टेंडर मांगा जाता कि हमें इनने सीमेंट की आवश्यकता है, तब किसी को यह शक करने को न होता कि चुपचाप, सीक्रेटली क्यों आफर दी गयी।

तीसरी बात, यह कि हमारे देश के जितने सीमेंट के कारखाने हैं उनकी उत्पादन क्षमता क्या है और क्या बाहर से आयात करने के पूर्व सीमेंट कारखानों के मालिकों को बुलाकर उद्योग मंत्रालय में, उन्होंने इस बात को पूछा या जांच पड़ताल की कि आपकी उत्पादन क्षमता जितनी है उसके अनुसार आप उत्पादन नहीं रहे हैं। इसके अतिरिक्त चूंकि अगर यहाँ सीमेंट का उत्पादन कम होता है, वह इस निर्णय पर पहुंचे हैं तो क्या उनके सामने कोई योजना है जिसके अनुसार सीमेंट की कमी पूरी हो सके। क्या उन्होंने प्लानिंग कमीशन में कोई ऐसी बातचीत की है जिसके अनुसार सीमेंट के उत्पादन की बढ़ि हो सके और देश की आवश्यकता की पूर्ति हो सके।

जहाँ तक लोडिंग, अनलोडिंग का प्रश्न है, उसके बारे में उन्होंने बहुत लोगों को आफर दिया। जिन लोगों को आफर दिया व सीमेंट के कारखानों के मालिक हैं, उन लोगों को आफर दिया गया अत्रिकतर, तो क्या उन्होंने जैसे बम्बई में गोदी मजदूरों की यूनियन है या और इस तरह की यूनियनों को कोई आफर दिया ताकि लोग सीमेंट की अनलोडिंग में हिस्सा ले सकें।

ये इस तरह के प्रश्न हैं कि जिन पर कृपया आप रोशनी डालें और यह भी देख लें कि इस में पिछले 2 वर्षों से जो सीमेंट का उत्पादन हुआ है, वह सीमेंट क्या जमाखोरों और मनाफाखोरों के यहाँ तो नहीं चली गयी है। क्योंकि अब भी यह देखा जाता है कि अधिक मूल्य पर सीमेंट आसानी से प्राप्त हो जाता है, चार बाजारी में मिल जाता है। तो क्या बात है, क्यों ऑपेन मार्केट में सीमेंट नहीं आ पाता और उनके लिए क्या उपाय आप करेंगे जिससे कि सीमेंट जो छुटा हुआ है, जमाखोरों और मनाफाखोरों के पास, वह बाहर मार्केट में आ सके।

श्री जार्ज फर्नेन्डो : सभापति महोदय, मने यह नहीं कहा था कि पहली बार हिन्दुस्तान में सीमेंट आयात किया गया है। मैंने यह कहा कि फिनहाल पिछले कई वर्षों में सीमेंट का आयात नहीं हो रहा था और इसलिए कागजों के बैग में आया हुई सीमेंट की अन-लोडिंग का विषय अनुभव यहाँ पर किसी को नहीं था। चीन के साथ हमारी इस सन्दर्भ में कोई बातचीत नहीं हुई है और न कोई उनसे बात करने का हमारा इस समय इरादा है। हमारे सीमेंट कारखानों की क्षमता वगैरह का जो सवाल है, इन समय हिन्दुस्तान में कुल सीमेंट की उत्पन्न शक्ति दो करोड़ और अठारह लाख टन की है। हम यह आशा कर रहे हैं कि दो करोड़ टन सीमेंट का उत्पादन हम कर पायेंगे और अभी तक जिन रफतार से सीमेंट का उत्पादन कर पाए हैं, वह इस क्षमता का इससे पहले कमी नहीं हुआ था जो इस्तेमाल के आधार पर है; हमें आशा है कि जो रफतार इस समय चल रही है, इसमें बढ़ोतरी ला सकेंगे। माननीय सदस्य न प्रश्न पूछा कि क्या सीमेंट कारखानों के मालिकों से विशेष बातचीत करने के लिये प्रोत्साहित या प्रेरित किया गया है? यह सारे प्रयोग हम कर चुके हैं और अभी भी कर रहे हैं और कई क्षतों में उत्पादन बढ़ाने के लिये जो भी इन्सैटिव देने की जरूरत है वे भी हम दे रहे हैं। इसके अलावा सीमेंट के उत्पादन का करीब-करीब प्रति सप्ताह का मॉनिटरिंग करने का काम हमारे मंत्रालय में किया जा रहा है ताकि जहाँ कहीं कुछ कमी हमको दिखाई दे तो तत्काल उसका इलाज करने का काम हम कर सकें।

प्लानिंग कमीशन के साथ बातचीत करके उत्पादन वगैरह बढ़ाने का निर्णय लिया है। अध्यक्ष महोदय, आज हिन्दुस्तान में जहाँ दो करोड़ अठारह लाख का उत्पादन दिखाया गया है, उसको दुसरी करने की योजना को आज हम अमल में लाने में लगे हैं। अगले पांच वर्षों के भीतर हम यह आशा करते हैं कि हमारी सीमेंट उत्पादन शक्ति दुगुनी हो जाएगी ताकि हिन्दुस्तान को विदेश से सीमेंट आयात करने की जरूरत न पड़े और सीमेंट निर्यात करने की स्थिति में हमारा देश पहुंच सके। मुझे विश्वास है कि जो निर्णय लिये हैं और जिन्हें अमल में ला रहे हैं, उनके चलते हमको इस काम में कामयाबी मिलेगी।

जहाँ तक ग्लोबल टेंडर की बात आपने पूछी, अध्यक्ष महोदय, मैंने कहा कि सब से पहले जब हम सीमेंट लेने गये तो ग्लोबल टेंडर का सवाल नहीं उठाया चूंकि सीमेंट का जो मार्केट था वह इतना था कि उसको मद्देनजर रख कर स्टेट ट्रेडिंग कॉर्पोरेशन ने यह निर्णय किया वे जाकर बातचीत करके इस मामले को तय करेंगे। उसके बाद, महोदय, स्टेट ट्रेडिंग कॉर्पोरेशन ने ग्लोबल टेंडर की बात इस साल में सीमेंट आयात के मामले को लेकर जरूर की थी। लेकिन जो दाम हम लोगों के सामने आए, वे दाम बहुत अधिक थे जिसके चलते ग्लोबल टेंडर को एब्रंडन करना पड़ा और निजी तौर पर नार्थ कोरिया, साऊथ कोरिया, पोर्लैण्ड, रोमानिया और रूस से जिनके यहाँ सीमेंट है, इस पर बातचीत करके सीमेंट लेने का काम स्टेट ट्रेडिंग कॉर्पोरेशन ने किया है।

आखिरी सवाल जो एक माननीय सदस्य ने किया कि क्या बम्बई में ट्रेड यूनियनों को कहा गया है कि वे सीमेंट का अनलोडिंग करें? सभापति महोदय, हिन्दुस्तान का कोई भी ट्रेड यूनियन, बन्दरगाह वाले कोई भी ट्रेड यूनियन अभी तक माल जहाज से निकालन और जहाज में भरने के काम करने की स्थिति में नहीं है और मुझे नहीं लगता है कि किसी ट्रेड यूनियन को इसमें दिलचस्पी है। हम भी थोड़ा बहुत मजदूर आन्दोलन को जानते हैं, बम्बई डाक वर्कर्स मजदूर यूनियन को भी जानते हैं, मुझे नहीं लगता कि गोदी में काम करने वाले मजदूर कोई कान्ट्रैक्ट लेकर उस काम को कर सकते हैं। इसलिये हमने वह बात नहीं की है।

श्री सीताराम केसरी : फाइल टेबल पर रखिये।

श्री बुद्ध प्रिय मौर्य : सभापति महोदय, मेरा . . .

MR. CHAIRMAN: It is not to be recorded.

(Shri Budha Priya Maurya continued to speak)

12.00 NOON.

MR. CHAIRMAN: Order please.

श्री सीताराम केसरी : सभापति महोदय, मेरा आपसे निवेदन यह है कि मंत्री महोदय का यह तरीका है कि अपनी चोरी छिपाने के लिए कभी इस सभा में कभी उस सभा में ड्रामाटिक तरीकों से चाहते हैं अपना पार्ट अदा करना। मैं आपसे निवेदन करता हूँ कि जब उन्होंने फाइल टेबल पर रखने को कहा मैंने आग्रह किया फाइल टेबल पर रखें। कई मामलों में घपला इन्होंने किया है। एक चीज और बताता हूँ, इन्होंने जब 17 तारीख को सभापति जी . . .

श्री बी० सत्यनारायण रेड्डी : सभापति जी, मेरा पौइन्ट आफ आर्डर है . . .

(Interruptions)

MR. CHAIRMAN: Let me hear him first. Kindly resume your seat. Let him finish.

श्री सीताराम केसरी : मान्यवर, मेरा निवेदन है कि फर्नेन्डीज साहब\*\*\* बोल रहे हैं। 16 तारीख को . . .

श्री बी० सत्यनारायण रेड्डी : मेरा पौइन्ट आफ आर्डर सुनना चाहिए . . .

MR. CHAIRMAN: What is this? We have already taken one hour.

\*\*\*Expunged as ordered by the Chair.

श्री सीताराम केसरी : मेरा आपसे सिर्फ इतना निवेदन है कि . . .

SHRI DEVENDRA NATH DWIVEDR.-Sir, I am on a point of order.

श्री बी० सत्यनारायण रेड्डी : मेरा भी पौइन्ट आफ आर्डर है, उसके लिए आप को समय देना पड़ेगा।

SHRI DEVENDRA NATH DWIVEDI: Sir, I am on a point of order. I will just take two minutes.

MR. CHAIRMAN: You are also on a point of order. He is also on a point of order. Are you not prepared to wait for two minutes? Let me hear what Mr. Kesri wants to suggest. If you all raise points of order, we will have to sit for a longer time.

श्री सीताराम केसरी : मेरा आप से निवेदन है कि जार्ज फर्नेन्डीज साहब ने कुछ आरोप प्रत्यारोप पर इस सदन के सामने घोषणा की कि वह, कोई भी कमेटी आप बना दें, तो उस के द्वारा इन्कार कराने के लिए तैयार हैं। फिर उन्होंने आज यह कहा, प्रश्न के उत्तर में, कि वह फाइल को टेबल पर रखने के लिए तैयार हैं। मैं आपसे निवेदन करता हूँ, जैसा कि मैं मानता हूँ, बोलते हैं; अभी हाल में शार्प-एज . . .

MR. CHAIRMAN: Don't use that word. That will be removed.

श्री सीताराम केसरी : मैं आप के सामने कहता हूँ, मैं उन को कह रहा हूँ।

श्री बुद्ध प्रिय मौर्य : कहिए, सत्य कम बोलते हैं।

श्री सीताराम केसरी : मेरी बात सुनिए। मुझे कहने दीजिए . . . (Interruptions) आपने करायी नहीं जानकारी . . . (Interruptions) उन्होंने 17 अगस्त को . . .

श्री अनन्त प्रसाद शर्मा : उनको कहने नहीं देते हैं, सर। उनको बठाइए।

श्री सीताराम केसरी : 17 तारीख को उन्होंने इस सदन में एक जवाब में यह कहा कि शार्प-एज को अभी इन्होंने आर्डर नहीं किया है

और सभी बातें ये कंसिडर करेंगे। पर यह 16 तारीख को अपने प्रापण के पूर्व ही आलरेडी आर्डर कर चुके थे शॉर्न-एज के लिए। तो इसलिए मैं कहता हूँ बहुत सी चीजों में घपला कर रहे हैं, बहुत बड़ी बेईमानी कर रहे हैं। इस में बहुत बड़ी बेईमानी है। यह क्या कहते हैं—असह्यारों में छपवाते हैं। अपने किए को छिपाने के लिए वह चाहते हैं.....(Interruptions) इसलिए फाइल टेबल पर रखी जाए।

श्री श्री० सत्यनारायण रेड्डी : सभापति जी, मेरा आपसे निवेदन है—इस सदन के कुछ रूलस, कुछ रेगुलेशंस हैं कि नहीं? यहाँ जब कभी सदन में कोई समस्या उठ जाती है तो हर एक आदमी, आप की इजाजत हो या न हो, उठ कर अपनी कहने लग जाते हैं। इस सदन के रूलस और कुछ मध्याह्न का पालन होना चाहिए। मैं एक चीज और लाना चाहता हूँ आगकी नोटिस में और किसी एक ही चीज का, झूठी चीजों को, गलत चीजों को बार बार दोहराया जाता है, जिनमें कोई सत्यता नहीं है। इसलिये मेरा आपसे निवेदन है कि रूल-रेगुलेशंस का पालन हाँ आपका ऐसी व्यवस्था करना चाहिए और जो हाउस का समय है उस समय का ध्यर्थ नहीं करना चाहिए। हमने यहाँ पर बहुत से महत्वपूर्ण कामों को खत्म करना है, इसलिये हाउस का फिजूल की चीजों पर अपना समय बर्बाद नहीं करना चाहिए।

MR. CHAIRMAN: Yes, Mr. Dwivedi, please be brief, we have to take up the other work also.

SHRI DEVENDRA NATH DWIVEDI: Sir, I will not take more than two or three minutes.

Mr. Chairman, Sir, I am on a point of order. It has nothing to do with the merits of the case because I have not gone through the case. It deals with the Rules of procedure and the manner in which the business is being conducted in this House. Sir, this is the third time that hon. Mr. George Fernandes has come forward with a proposal, with a suggestion, that the House appoint a committee to go into the allegations that have been made against him by another hon. Member of this House, Mr. Maurya. Sir, only the other day...

(Interruptions)

MR. CHAIRMAN: Am I to suspend "to all the work now?"

SOME HON. MEMBERS: Yes.

MR. CHAIRMAN: No.

SHRI DEVENDRA NATH DWIVEDI: Sir, the point that I am trying to make is that only the other day this House heard with rapt attention a very impassioned plea by Mr. George Fernandes that no committee can be appointed to go into the allegations made against Morarjibhai by the former Home Minister and vice versa. He made a long speech and he said that there is no prima facie case, that there is absolutely no question of Parliament appointing a committee to go into that matter. Just 48 hours later Mr. Maurya made a certain charge and...

SHRI BUDDHA PRIYA MAURYA: Rs. 10 crores.

(Interruptions)

SHRI DEVENDRA NATH DWIVEDI: Let it be Rs. 10 crores or Rs. 100 crores, that is not the point.

Just 48 hours later when Mr. Maurya made a certain charge, he comes forward, indulging in a kind of Gimmickry of which he is the pastmaster, and says, let the House appoint—a committee. The following day again he comes forward and says, let the Rajya Sabha appoint a committee. Then somebody, probably it was I, who got up and said, let the matter be referred to the Privileges Committee. Then he said, all right, let the matter be referred to the Privileges Committee. And, today, in relation to another matter, again, the brave George Fernandes comes forward, in order to prove his honesty, and says, let the committee be appointed. But, how is the committee going to be appointed? It has something to do with the Rules of Procedure. If he wants a committee to be appointed— he is a Minister—and if he is an honourable man then there is only one course open, namely, let him ask the Leader of the House to get up and propose that this House appoint a 15-man committee to go into the matter. Let the House appoint a 15-man committee of those Members who

are the Members of the Privileges Committee—the manner in which we had done in the case of Shri Subra-manian Swamy—those ten Members plus another five Members. Let them constitute the committee. Now, somebody has to propose it under the Rules. Somebody has to get it passed. Sir, I think he is indulging in a kind of gimmickry and he is not actually interested in the appointment of a committee. He is just making a brave offer only and thereby he is misusing the forum of this House. (*Interruptions*). Sir, my point of order is that he is misusing the forum of this House for political propaganda and he is indulging in a kind of bravado. Therefore, Sir, my point of order is that if Mr. George Fernandes is interested in the appointment of a committee, you, Mr. Chairman, either ask the Leader of the House to propose, or allow us to suspend the rule. Sir, I move for the suspension of the rule and, with your permission, move a resolution and my resolution is as follows.-

"Whereas...

MR. CHAIRMAN: No, no.

SHRI DEVENDRA NATH DWIVEDI: Sir, I am just seeking your permission I am only seeking your permission. You have allowed Mr. Dinesh Goswami and Mr. Bhupesh Gupta to read the motion yesterday. So let me read the motion and you can disallow, Sir...

(*Interruptions*)

DR. BHAI MAHAVIR: Where is the point of order?

SHRI DEVENDRA NATH DWIVEDI: I sought your permission, Sir, for the suspension of the rule.

AN HON. MEMBER: Can a motion be read on a point of order?

SHRI DEVENDRA NATH DWIVEDI: I am on a point of order ----- (*Interruptions*). Sir, my motion is: Whereas Mr. George Fernandes, Minister of Industry...

(*Interruptions*)

SHRI SADASIV BAGAITKAR: He is standing on a point of order. Under what rule is he reading the motion. Has he sought Chairman's permission to read it?

SHRI DEVENDRA NATH DWIVEDI: I requested the Rajya Sabha to appoint a committee of the House to enquire into...

(*Interruptions*) MR.

CHAIRMAN: No, no.

SHRI BUDDHA PRIYA MAURYA: You may disallow, Sir, but...

SHRI BIPINPAL DAS: You can disallow but he has to read the motion.

SHRI DEVENDRA NATH DWIVEDI: ... to enquire into certain allegations made against him by one of the Members, Shri B. P. Maurya, and this House hereby resolves....

(*Interruptions*).

DR. BHAI MAHAVIR: We want your ruling, Sir, whether he can read it.

SHRI DEVENDRA NATH DWIVEDI: ... to appoint a committee of the House consisting of the following ten Members:

1. Mr. Ram Niwas Mirdha.
2. Mr. A. R. Antulay.
3. Mr. M. Anandam.
4. Mr. Bhupesh Gupta.
5. Mr. Bhishma Narain Singh.
6. Mr. Bipinpal Das.
7. Mr. p. Ramamurti.

8 Mr. G. Lakshmanan.

9 Mr. Bholu Paswan Shastri. 10. Mr.

Kamlapatj Tripathi.

The Committee should be given all facilities by the Government. The Committee is empowered to call for evidence both oral and documentary. Shri Ram Niwas Mirdha will be the Chairman of the Committee. The Committee shall present its report to

the House by the end of the year 1978. Sir, I move that you allow to suspend the rule and admit this motion so that we should here and now appoint a committee so that the bluff of Mr. George Fernandes may be called...

*(Interruptions).*

SHRI GEORGE FERNANDES; I have no objection, Sir.

SHRI ANANT PRASAD SHARMA: On a point of order...

*(Interruptions).*

SOME HON MEMBERS: Let it be passed  
No point of order

*(Interruptions).*

SHRI ANANT PRASAD SHARMA: Let me complete.... *(Interruptions)*. It is not the first day, Sir. This is another day that Mr George Fernandes has come out with a proposal. Now my friend has moved his proposal. I second it. Let it be passed by the Houses.

SHRI SUNDER SINGH BHAN-DARI; There is nothing before the House, Sir...

MR. CHAIRMAN: Let me make the position very clear. I have not allowed Mr. Dwivedi to move any motion or Resolution...

SHRI DEVENDRA NATH DWIVEDI; On a point of order, Sir...

MR. CHAIRMAN: Let me say....  
*(Interruptions).*

SHRI BIPINPAL DAS: Sir, on a point of order. With all respect to the Chair, I fail to understand how the Chair can disallow the Motion when the origin of the Motion is a Member of the Government, Mr. George Fernandes, Mr. George Fernandes has made a proposal. We have only concertised it. *(Interruptions)*. We have only concretised it. How can you disallow the Motion? I do not understand it.

*(Interruptions).*

SHRI SUNDER SINGH BHAN-DARI: There is no Motion. There is a procedure for that. Come out with I the procedure.

SHRI BIPINPAL DAS: Let him say.

*(Interruptions).*

SHRI GEORGE FERNANDES: Sir, as far as I am concerned, these files are in your hands. You can do whatever you want to do with them. *(Interruptions)*.

MR. CHAIRMAN: Should I proceed or not?

*(Interruptions).*

श्री श्री: सत्यनारायण रेड्डी : सभापति जी, इसके कुछ रूल्स और रेगुलेशन हैं। किसी भी मोशन को लेने के लिये उनका पालन करना लाजमी है। कोई भी मोशन बिना रूल्स और रेगुलेशन के हाउस के अन्दर पास नहीं किया जा सकता। प्वाइंट ऑफ़ आर्डर उठा कर *(Interruptions)* कोई बात कह दे तो उसे मोशन नहीं कहा जा सकता . . . . ;

*(Interruptions).*

MR. CHAIRMAN: if you are keeping quiet, I will proceed. It was the hon. Minister, Mr. George Fernandes, who made a proposal on his own.

SHRI ANANT PRASAD SHARMA: And we accept that.

MR. CHAIRMAN; Even now, if he is prepared to form a Committee, it is upto him. *(Interruptions)*. Please hear me. When I hear you, you are not prepared to hear me. He has made a suggestion that he is prepared to place all the files with the J Chairman. I am not prepared to accept this position. I do not want any flies to be with me and I do not want to be an arbitrator on it. Secondly, when files are placed on the Table of the House, they become public documents. Then, perhaps, it may be difficult for us to agree here. Therefore, if he is accepting it, let him suggest the names of the Members who should be the Members of the Committee.



n. regard to Mr. Dwivedi's point of order, let me make it very clear. If I have understood him correctly, he wanted to raise a point of order i pertaining to this subject. In the meantime, he started moving a Motion which I never allowed. He is a lawyer and he must know that he should not put me in difficulty unnecessarily. Mr. Fernandes has made an offer. You have a discussion. You form a Committee. Then, he will place those files before that Committee and then other things will follow. (*Interruptions*).

SHRI GEORGE FERNANDES: I have a suggestion that all the Leaders of tie Opposition Parties constitute themselves into a Committee. I shall appear before that Committee.

SHRI GIAN CHAND TOTU: Sir, you have to say whether you are accepting it. (*Interruptions*)

MR. CHAIRMAN: Papers to be laid On the Table.

(*Interruptions*).

(*Interruptions*)

#### **PAPERS LAID ON THE TABLE**

**I. (a) Report (1976-77) and Accounts of the Bihar State Forest Development Corporation Limited, Patna and related papers.**

**(b) Report (year ended the 30th June, 1JH7) and Accounts of the Kerala Forest Development Corporation Limited, Kottayain and related papers.**

**n. Report (1974-75) and Accounts of Ibe Tamil Nadu Forest Plantation Corporation Limited Tiruchirapalli and related papers.**

**HI. Ministry of Agriculture and Irrigation (Department of Food) Notification.**

THE MINISTER OF STATE IN THE  
MINISTRY OF LABOUR AND PAR-

34 RS—a

LIAMENTARY AFFAIRS (DR. RAM KRIPAL SINHA): Sir, on behalf of Shri Surjit Singh Barnala, I beg to lay on the Table:—

I. (i) A copy each of the following papers, under sub-section (1) of section 619A of the Companies Act, 1956:—

(a) Second Annual Report and Accounts of the Bihar State Forest Development Corporation Limited, Patna, for the year 1976-77, together with the Auditors' Report on the Accounts and the comments of the Comptroller and Auditor General of India thereon.

(b) Third Annual Report and Accounts of the Kerala Forest Development Corporation Limited, Kottayam, for the year ended the 30th June, 1977, together with the Auditors' Report on the Accounts and the comments of the Comptroller and Auditor General of India thereon.

(ii) Statements (in English and Hindi) giving reasons for the delay in laying and for not laying simultaneously the Hindi versions of the Report mentioned at (i) above. [*Placed in Library. See No. LT— 2738/78 for (i) and (ii)*].

II. (i) A copy (in Hindi) of the First Annual Report and Accounts of the Tamil Nadu Forest Plantation Corporation Limited, Tiruchirapalli, for the year 1974-75, together with the Auditors' Report on the Accounts and the comments of the Comptroller and Auditor General of India thereon.

(ii) A statement (in English and Hindi) giving reasons for not laying earlier the Hindi version of the above Report along with the English version. [*Placed in Library. See No. LT-2753/78 for (i) and (ii)*]

III. A copy (in English and Hindi) of the Ministry of Agriculture and Irrigation (Department of Food). Notification Nos. G.S.R. 413(E)/ Ess. Com./Sugar to G.S.R. 416(E)/ !. Ess. Com./Sugar, dated the 16th

August, 1978, under sub-section (6) of section 3 of the Essential Commodities Act, 1955.

[Placed in Library. See No. LT—2739/78]

**Report (May, 1976) of the Law Commission of India on Married Women's Property Act, 1874.**

THE MINISTER OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI SHANTI BHUSHAN): Sir, I beg to lay on the Table a copy (in Hindi) of the Sixty-Sixth Report (May, 1976) of the Law Commission of India on Married Women's Property Act, 1974.

[Placed in Library. See No. LT-2741/78.]

**Report (February, 1978) of the Committee on Consumer Price Index Numbers**

DR. RAM KRIPAL SINGH: Sir, I beg to lay on the Table a copy (in English and Hindi) of the Report (February, 1978) of the Committee on Consumer Price Index Numbers. [Placed in Library. See No. LT—2743/78].

**I The Coinage (Weight and Remedy of Coins of Rupees Fifty and Ten and Paise Ten and Five Coined for Food and Shelter for all) Rules, 1978.**

**II. Notification of the Ministry of Finance (Department of Economic Affairs)**

**III. Notifications of the Ministry of Finance (Department of Revenue), and related papers.**

**IV. The Report (1978) of the Comptroller and Auditor General of India—1978.**

THE MINISTER OF STATE IN THE MINISTRY OF FINANCE (SHRI SATISH AGARWAL): Sir, I beg to lay on the Table:—

I. A copy (in English and Hindi) of the Ministry of Finance (Department of Economic Affairs), Notification P.O. No. 2178, dated the 29th July, 1978, publishing the Coinage (Weight and Remedy of Coins of

Rupees Fifty and Ten and Paise Ten and Five Coined for Food and Shelter for All) Rules, 1978 under subsection (3) of section 21 of the Indian Coinage Act, 1906.

II. A copy (in English and Hindi) of the Ministry of Finance (Department of Economic Affairs) Notification S.O. No. 2179, dated the 29th July, 1978. [Placed in Library. See No. LT-2729/78 for I and II]

III. (a) A copy each (in English and Hindi) of the following Notifications of the Ministry of Finance (Department of Revenue), together with the Explanatory Memoranda thereon:—

(i) Notification Nos. 157/78-CE and 158/78-CE dated the 23rd August, 1978. [Placed in Library. See No. LT-2684/78.]

(ii) Notification No. 166/Cus-toms, dated the 24th August, 1978.

[Placed in Library. See No. LT-2690A/78.]

(b) A copy (in English and Hindi) of the Ministry of Finance (Department of Revenue), Notification G.S.R. No. 430(E), dated the 26th August, 1978, together with an Explanatory Memorandum thereon. [Placed in Library. See No. LT—2749/78]

IV. A copy (in English and Hindi), of the Report of the Comptroller and Auditor General of India—1978 Union Government (Commercial)—Part I—Introduction, under clause (1) of article 151 of the Constitution.

[Placed in Library. See No. LT—2750/78]

**Report 1976-77) and Accounts of the Jute Corporation of India Limited Calcutta and related papers.**

THE MINISTER OF STATE IN THE MINISTRY OF INDUSTRY (KUMARI ABHA MAITI): Sir, I beg to lay on the Table:—

I. A copy each of the following papers under sub-section (1) of section 619A of the Companies Act, 1956:—

(i) Sixth Annual Report and Accounts of the Jute Corporation of India Limited, Calcutta for the year 1976-77 together with the Auditors' Report on the Accounts and the comments of the Comptroller and Auditor General of India thereon.

(ii) Review by Government on the working of the Corporation.

II. Statement giving reasons for the delay in laying the documents mentioned at I above.

[Placed in Library. See No. LT—2745/78].

**I The Accounts (1974-75) of the Delhi Transport Corporation and the Audit Report thereon and related papers.**

**II Report and Accounts (1976-77) of the Central Road Transport Corporation Limited, Calcutta and related papers.**

**III Accounts (1976-77) of the Mormugao Port Trust and the Audit Report thereon.**

**IV The Merchant Shipping- (Examination of Engineers in the Merchant Navy) Amendment Rules. 1978.**

DR. RAM KRIPAL SINHA: Sir, on behalf of Shri Chand Ram, I also beg to lay on the Table:—

I. A copy (in English and Hindi) of the Annual Accounts of the Delhi Transport Corporation for the year 1974-75 and the Audit Report thereon under sub-section (4) of section 33 of the Road Transport Corporation Act, 1950 together with a statement giving reasons for the delay in laying the document. [Placed in Library. See No. LT—2724/78].

II. 1. A copy each (in English and Hindi) of the following papers,

under sub-section (1) of section 619A of the Companies Act, 1956:—

(i) Thirteenth Annual Report and Accounts of the Central Road Transport Corporation Limited, Calcutta, for the year 1976-77, together with the Auditor's Report on the Accounts and the comments of the Comptroller and Auditor General of India thereon.

(ii) Review by Government on the working of the Corporation.

2. A statement (in English and Hindi) giving reasons for the delay in laying the papers mentioned at II (1) above. [Placed in Library. See No. LT-2726/78 for 1 and 2]

III. A copy (in English and Hindi) of the Annual Accounts of the Mormugao Port Trust for the year 1976-77 and the Audit Report thereon. under sub-section (2) of section 103 of the Major Port Trusts Act, 1963. [Placed in Library. See No. LT—1633/78]

IV. A copy (in English and Hindi) of the Ministry of Shipping and Transport, Notification G.S.R. No. 1038, dated the 19th August, 1978, publishing the Merchant Shipping (Examination of Engineers in the Merchant Navy) Amendment Rules, 1978, under sub-section (3) of section 458 of the Merchant Shipping Act, 1958. [Placed in Library. See No. LT—2725/78]

**I Report (August 6, 1978) of the Shah Commission of Inquiry and related papers.**

**H Report (1st July 1974 to 30th June, 1975) of the Commissioner for Linguistic Minorities in India.**

THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI DHANIK LAL MANDAL): Sir, I beg to lay on the Table:

I. (a) copy of the Third and Final Report (August 6, 1978) of the Shah Commission of Inquiry set up to enquire into the misuse of authority, excesses and mal-practices committed during the Emergency, together with Memorandum of action taken thereon.

(b) Explanatory Memorandum, (in English and Hindi) giving reasons for not laying simultaneously the Hindi version of the documents mentioned at I above. [Placed in Library. See No. LT—2720/78 for (a) and (b).]

II A copy (in English and Hindi) of the Seventeenth Report of the Commissioner for Linguistic Minorities in India for the period from 1st July, 1974 to 30th June, 1975, under clause (2) of article 350B of the Constitution, together with a statement giving reasons for the delay in laying the above. [Placed in Library. See No. LT—2727/78]

The Railways (Warehousing and Wharfage) Amendment Rules, 1978

DR. RAM KRIPAL SINHA: Sir, on behalf of Shri Sheo Narain, I also beg to lay on the Table a copy (in English and Hindi) of the Ministry of Railways (Railway Board), Notification S.O. No. 2356, dated the 19th August, 1978, publishing the Railways (Warehousing and Wharfage) Amendment i Rules, 1978. [Placed in Library. See No. LT—2728/78]

Prevention of Food Adulteration (Fourth amendment) Rules, 1978

स्वास्थ्य और परिवार कल्याण मंत्रालय में राज्य मंत्रों (श्री जगदम्बी प्रसाद यादव) : श्रीमन्, मैं आपकी अनुमति से खाद्य अपमिश्रण निवारण अधिनियम, 1954 की धारा 23 की उपधारा (2) के अधीन खाद्य अपमिश्रण निवारण (चौथा संशोधन) नियम, 1978 को प्रकाशित करने वाली स्वास्थ्य और परिवार कल्याण मंत्रालय की अधिसूचना सा० का० नि० सं० 393 (ई) दिनांक 4 अगस्त, 1978 की एक प्रति (अंग्रेजी तथा हिन्दी में) सभा पटल पर रखता हूँ। [Placed in Library. See No. LT-2748/78]

### REPORT OF THE PUBLIC ACCOUNTS COMMITTEE (1978-79)

SHRIMATI LEELA DAMODARYA MENON (Kerala): Sir, I beg to lay on the Table a copy each of the following Reports of the Public Accounts Committee:

(i) Eighty-Ninth Report on Action taken by Government on the recommendations contained in the Sixth Report (Sixth Lok Sabha) on 'Other Direct Taxes' relating to the Ministry of Finance (Department of Revenue).

(ii) Ninety-First Report on paragraph 9 of the Report of the Comptroller and Auditor General of India for the year 1974-75, Union Government (Railways) relating to 'Collaboration Agreement for Manufacture of Diesel Engines for Shunters.

### SHORT NOTICE QUESTION AND ANSWER—contd.

MR. CHAIRMAN: There are 10 special mentions. Even if I give two minutes to each Member, it will take twenty minutes.

Now you just wanted to know what is the reaction of Mr. George Fernan-des. So, that is over. Now you just see the time.

श्री बुद्ध प्रिय मौर्य : श्रीमन्, मेरा पार्सट ग्राफ आर्डर है . . . . .

MR. CHAIRMAN: Again it will start.

(Interruptions).

श्री बुद्ध प्रिय मौर्य : श्रीमन्, मेरा व्यवस्था का प्रश्न है Interruptions। मैं एक या सवा मिनट से ज्यादा जूँ तो आप मेरा कान पकड़ लीजिये। मेरा व्यवस्था का प्रश्न यह है कि आरोप-प्रत्यारोप लग चुके हैं। मैंने माननीय मंत्री पर 10 करोड़ रुपयों का आरोप लगाया था। 10 करोड़ रुपयों का गबन हुआ है। 3 करोड़ रुपयों का इसी लॉटिंग और अनलॉडिंग में है। अकेले बम्बई में लाखों का गबन है। मंत्री महोदय ने कहा कि अब उन्होंने जो दिया है वह 38 रुपयों की टन लॉडिंग और अनलॉडिंग

DR. BHAI MAHAVIR: Is this the point of order?

SHRI N. P. CHENGALRAYA NAIDU: What is the point of order? *(Interruptions)*.

MR. CHAIRMAN: Don't take clown. *(Hon. Members continued speaking)*

MR. CHAIRMAN: Now the subject matter was over. I have gone over to the second subject and papers have been laid. Now you can't go back to the same subject. *(Interruptions)* Yes, Mr. Goswami

SHRI DINESH GOSWAMI: Sir, I am on a point of order. When this House transacts a business, it must be done under the rules. Here I am pained to see that we are behaving in a manner where we have almost given up the rules, given go-by to the procedures without suspending them. Now, Sir, you say that Mr. Fernandes agrees to the formation of a Committee.

SHRI PILOO MODY: That matter is over. Papers have been laid on the Table.

SHRI DINESH GOSWAMI: Please hear me. If Mr. Fernandes agrees to the formation of a Committee. I must congratulate him that very fairly he has conceded to the demand for the formation of a Committee and has set one of the best traditions of the parliamentary democracy. But merely because Mr Fernandes got up and said that he agrees to the formation of a Committee and because you have gone over to the next subject, the matter does not end there. Under the rules a motion should be moved by someone. Therefore, ask Mr. Fernandes to move a motion. It will be in the highest tradition of parliamentary democracy and you will be setting an example for

I all of us to follow, if he himself puts up a proposal for the formation of a Committee. If you feel that he should not move, you direct someone else. Let somebody else be permitted to move; otherwise, what is the use of your ruling? Your ruling must be translated into practice. When Mr. Fernandes has accepted if you please permit someone so that we could translate your ruling into practice. Ycu may form a Committee yourself or permit someone else to do so. My point is that a formal proposal must be put to the House. His proposal is that the leaders of the opposition should form a Committee. Now you should put the proposal before the House. The House must give its opinion. I may have a difference of opinion over the proposal of Mr. Fernandes. You cannot compel me to agree to it. Therefore, you must put it to the House, it must be brought before the House. The House must agree to the proposal which Mr Fernandes has put forward. Otherwise, I do not know how the proposal of Mr. Fernandes will be translated into practice. Therefore, you put the proposal before the House. I do not know what are the rules that we are following.

MR. CHAIRMAN: I am not asking anybody. I cannot force anybody that he should do this or that. He himself suggested and he proposed it. If that proposal is acceptable to you, we can work it out. *(Interruptions)*.

SHRI PRANAB MUKHERJEE: Let it come in the form of a Motion.

SHRI ANANT PRASAD SHARMA: His proposal should be formalised.

SHRI BHUPESH GUPTA: Sir, you understand the position.....

SHRI BIPINPAL DAS: We agree to the proposal.

SHRI BHUPESH GUPTA: We have been following you. We have not said anything on the subject. Only one submission I want to make.

SHRI BIPINPAL DAS: Sir, you have to put it to the House and we have to express our views. We agree to this proposal and entrust you to name the Chairman of the Committee,

SHRI BHUPESH GUPTA: I don't ! entrust anybody. Sir, we are not saying anything. But the things have , taken a turn where certain rules come j in. It is good of Mr. George Fernan-des to have shown that greatness. But it cannot be done like that informally. Mr. George Fernandes or I cannot nominate a Committee of the House. You, Sir, are generally averse to constituting a committee. We have found that out. So we will not trouble you any more.- The only thing is, if you think so, you have to waive the rules on a formal motion and a committee has to be formed. That is No. 1. If you don't do it, another thing is, you must say; All right Mr. George Fernandes wanted it to be looked by a committee, there is a committee like the Privileges Committee which could look into it. That is all. But you must go by some rules. It is very good if you like to go informally, we are ready for it. When you say our j motion ... *(Interruptions)* am not saying this. I Don't go into an endless controversy. I am not in this at all. I am only pointing out. If \ you have a better suggestion, give it: j I will accept it. The only thing is ,it is not that Mr. George Fernandes will i go to the Lobby and act in the name of the House. It is not possible. Extra-parliamentary method is not possible. Either you take it on your own, or let the House pass a Resolution by waiving the rules. In our case you have not waived the rules. I for one would not trouble you any more about appointing committees. You are in great trouble. Therefore, Sir, the only thing you can say is, as matters stand, there is a committee where some of the things like that are sometimes referred to for examination. You can say that George Fernandes, instead of placing the burden on you, let the Privileges Committee look into it. The matter will end there.

AN HON. MEMBER: For that also a Motion is necessary.

SHRI GEORGE FERNANDES: I am willing to appear before the Privileges Committee of this House.

SHRI BHUPESH GUPTA: Don't take more time. We are keen on passing the Constitution (Amendment) Bill.

MR. CHAIRMAN: Mr. Fernandes, as a representative of the Government, would you like to make a porposal? That is the only thing.

SHRI GEORGE FERNANDES: I am willing to appear before the Privileges Committee of this House to discuss this question.

MR. CHAIRMAN: That is all right. Shri Hashmi....he is not there. Shri Jagannath Rao Joshi.

DR. BHAI MAHAVIR: Sir, are you permitting Special Mentions? I have to make a little submission, if you permit. It is not a controversial thing-It is a very simple thing.

MR. CHAIRMAN: No no, I have got a list. How can you come?

DR. BHAI MAHAVIR; It relates to the recording of .....

MR. CHAIRMAN: Dr. Bhai Mahavir. it may relate to anything. I have got a list of Special Mentions which have been approved.

DR. BHAI MAHAVIR: I am not standing in the way. I want to make a small submission for half a minute, if you permit.

MR. CHAIRMAN: Why unnecessarily come in between when I have got a long list? I must finish up the list. How can you come? *(Interruptions)* I have not permitted, I am going according to the list. Shri Jagannath Rao Joshi.

DR. BHAI MAHAVIR: I want to know the basis of what subjects are to be permitted and what subjects are not to be permitted.

MR. CHAIRMAN: That is according to the decision of the Chairman.

DR. BHAI MAHAVIR: I have submitted a dozen times; You have never permitted me. Is it the privilege of certain Members?

MR. CHAIRMAN: Are you prepared to . . .  
(Interruptions)

DR. BHAI MAHAVIR: I have to make a small submission. Here any Member can stand up and you will permit him for half an hour.

MR. CHAIRMAN: What can I do? I have a list to be finished.

DR. BHAI MAHAVIR: But you have to finish other things also. Mr. Dwivedi can stand up and take ten minutes on a point of order.

MR. CHAIRMAN: That subject is over.

DR. BHAI MAHAVIR: I protest against this.

#### REFERENCE TO THE IRREGULARITIES COMMITTED IN THE ELECTION FOR OFFICE-BEARERS OF THE DELHI UNIVERSITY STUDENTS' UNION

श्री जगन्नाथ राव जौशी (दिल्ली) : सभापति महोदय, दिल्ली विश्वविद्यालय छात्र संघ के चुनाव को ले कर जो गड़बड़ियां हुई हैं उनकी धोर में सरकार का ध्यान आकृष्ट करना चाहता हूँ। चुनाव को ले कर जो घटनाएँ हुई हैं वे सारी बातें अखबारों में आ गई हैं। एक बात तो स्पष्ट है कि कुछ विद्यार्थियों ने अन्दर घुस कर जब मत-गणना चालू थी उस समय मत-पत्रों को फाड़ा और वहाँ जो बेलट-बाक्स थे उनको ले कर भागे जिसकी वजह से चुनाव अधिकारी मिस्टर डी० के० सिंह ने क्रुद्ध हो कर चुनाव रद्द घोषित कर दिया और दोबारा चुनाव कराने की बात की। इस बात को ले कर फिर वहाँ कुछ गड़बड़ी हुई है। इसमें सभापति महोदय कुछ साफ बातें नजर आती हैं। विश्वविद्यालय के कुलपति, चुनाव अधिकारी और कुछ छात्र

संगठनों के बीच में बिल्कुल एक साजिश थी क्योंकि वास्तव में आज तक जो मिलतिला चलता है कि नये चुनाव होने के उपरांत जब नये चुन कर आते हैं तब पुराने पदाधिकारी अपना स्थान नये पदाधिकारियों को सौंपते हैं लेकिन नये चुनाव होने के पहले मिस्टर डी० के० सिंह ने पुराने जो चुने हुए अधिकारी थे उनको बर्खास्त कर दिया। इतना ही नहीं जब चुनाव के पहला दौर समाप्त हो गया और उपाध्यक्ष के चुनाव में, सेक्रेटरी के चुनाव में, जनरल सेक्रेटरी के चुनाव में जनता विद्यार्थी मोर्चा आगे जा रहा था और वे अध्यक्ष . . . (Interruptions) अध्यक्ष के चुनाव में राष्ट्रीय छात्र संगठन, विद्यार्थी जनता मोर्चा उन बीच में संघर्षकारी था। वे सब चाहते थे कि मत-गणना पूरी हो जाए किन्तु जब राष्ट्रीय छात्र संगठन या जो दूसरे खड़े हैं जिस समय देखा कि उनका कहीं टिकाना नहीं रहा तो उन्होंने गड़बड़ी करना शुरू किया। वास्तव में इस तरह की कल्पना शुरू से थी। इतना होने के बाद भी समय रहते पुलिस वालों को नहीं बुलाया गया और जब यह जान-बूझ कर सारे मत-पत्र फाड़ कर पेटिया भगाने की बात हो गई उस समय क्रुद्ध हो कर विशेष चुनाव अधिकारी डी० के० सिंह ने चुनाव रद्द किया तो उन्हें नहीं करना चाहिए था। यह काम पेटने का था। उन्होंने जब चुनाव रद्द कर दिया तब जा कर जो विद्यार्थी चुनाव चाहते थे जनता छात्र संगठन राष्ट्रीय छात्र संगठन वाले जनता युवा वाले चाहते थे कि मत-गणना हो, जारी रहे उस समय जब रद्द घोषित किया गया तो विद्यार्थी जब पूछने गए तब पुलिस वालों को बुलाया गया। पुलिस वालों ने अनुशासनबद्ध विद्यार्थियों को मारा पीटा। यहाँ तक पिछले सेक्रेटरी श्री रजत शर्मा पूरी तरह घायल हो कर आज सस्पताल में पड़े हैं और जिन विद्यार्थियों ने खुले रूप से मत-पत्र फाड़ दिए थे, घुमते थे वह आज भी बैसे ही घूम रहे हैं। इसमें यह एक साजिश दिखाई देती है। इसलिए सभापति महोदय, मैं मांग करता हूँ कि सरकार इस तरह ध्यान दे और जैसे कि विश्वविद्यालय के उपकुलपति में विद्यार्थियों का विश्वास नहीं रहा लगातार उनके बारे में मांग भी करते आ रहे हैं उनको वहाँ से हटाया जाए। मैं इस सदन में मांग करता हूँ कि विश्वविद्यालय के उपकुलपति, चुनाव अधिकारी डी० के० सिंह को उनके पदों से हटाया जाए ताकि निष्पक्ष और खुले रूप से जांच हो सके। जो दोषी पाए जाएं उन सब को पूरी तरह से कठिन से कठिन कार्यवाही उनके खिलाफ हो। इन बातों को ले कर इन दोनों को विश्वविद्यालय के उपकुलपति चुनाव अधिकारी डी० के० सिंह जी की इसमें साजिश है। मैं मांग करता हूँ कि उनको हटायें और दण्डित करें। जो भी व्यक्ति गलत काम करने वाले पाए जाएं उनको कठिन से कठिन दंड दिया जाए।

SHRIMATI AMBIKA SONI (Punjab): Mr. Chairman, Sir, I stand up to make a mention of the recently held elections at the Delhi University in the I last few days. Sir, there were sporadic incidents of violence and rowdiness, unruliness. But, unfortunately, as has become an almost consistent affair, the police and the authorities concern, etc. refused to take note

On the 29th of August, Sir, one of the Presidential candidates, Mr. Hari Shanker, two of his supporters and a cousin were beaten up badly so much so that they had to be admitted in the Hindu Rao Hospital. They were beaten up at Tilaknagar. But neither the Tilaknagar police station nor the Hindu Rao Police station bothered to take down even the elementary F.I.R. or complaint. Sir, there has been so much of campaigning with so many posters and so much money has been spent. But there are specific rules regarding the students' union elections. And one rule is that "one of the members of the teaching staff has any business to interfere, campaign or canvass for any candidate. Sir, I would like to place before you a slip which is in the name of one Mr. Ram Nath Vij, a Janata Member of the Metropolitan Council of Delhi—an RSS man—openly campaigning for the candidature of this candidate. Sir, this alone is sufficient to disqualify the entire panel of candidates. But no action was taken. Sir, I would like to place on the Table of the House a ballot paper which was very well circulated and distributed. When the students believing in democratic practices agitated, they did not bother to take any action. (Interruptions)

DR. V. P. DUTT (nominated) : Sir, when the hon. Member was asking for the dismissal... (Interruptions). He had no business at all to say all that, but he said it. (Interruptions) Now, when another Member wants... (Interruptions) Sir, when the hon. Member was asking for the dismissal of the Vice-Chancellor, those people did

not even get up and question the propriety of it. Now the hon. Member is speaking... (Interruptions)

SHRIMATI AMBIKA SONI: I can place the documents on the Table of the House. You can verify. These documents have been brought by the students of the Delhi University. (Interruptions)

SHRI JAGDISH PRASAD MA-THUR (Uttar Pradesh) : He was never beaten. (Interruptions) It is all lie.

DR. V. P. DUTT: What they have succeeded in doing in UP., now they want to do in Delhi so that there is no education left in the country. (Interruptions).

SHRIMATI AMBIKA SONI, Sir. I am only saying about the rules of the Delhi University Students' Union. Nobody should be allowed to enter into the Place where counting of votes is going on unless he has a pass to enter. Sir, it is common knowledge that Shri V. K. Malhotra, Shri Ram Nath Vij and students of the Akhil Bharatiya Vidyarthi Parishad were coming in and going out of the counting hall on one pretext or the other when the counting was going on. It is true that till recently, for one reason or the other, only the Akhil Bharatiya Vidyarthi Parishad candidates have been winning the elections of the Delhi University. But this year they decided not to contest directly but enter through the backdoor and group behind the Janata Vidyarthi Mocha. When they realised that in the first count their candidate, whom they expected to win, was coming second, they, along with the anti-social elements, destroyed the ballot papers, broke open the ballot boxes and created rowdiness in the atmosphere and the candidate, Shri Hari Shankar, who was winning, was beaten, but the police refused to take any action. I want to make a suggestion. It is a very important matter. The Prime Minister,



when he went to the Delhi University, made the appeal that politics should not enter there, if the Prime Ministers appeal is not binding on others, at least we expect it to be binding on the members of his party. Sir, the Statesman today has given a very impartial version of the entire proceedings.

I have two or three suggestions to make. I want to know: why should there be a re-poll when it has been proved beyond doubt that Shri Hari Shankar was winning in the election. Why should there be a total re-poll? The second thing is that the Delhi University has ordered an inquiry into it. It is all very good. Hold an inquiry. But I have a suggestion to make. The person who heads the inquiry should not be from any political party, should have nothing to do with the Delhi Administration, should have nothing to do with the Delhi University. He should be an outsider. (Interruptions) Sir, another suggestion I have to make is... (Interruptions) | The students interested in academic life will suffer. To avoid that, I have a suggestion that in future let there be decentralised counting of votes. Let every college have its own counting and send a chit to the central authority. This will not involve tension and unruly elements. Sir, please do not allow the students again to become victims because the Police does not take part or because the interested political personalities flout the rules of the Delhi University Students' Union elections. This should not be allowed, and this matter should be looked into.

#### REFERENCE TO THE CONSTRUCTION OF KARAKORAM HIGHWAY

MR. CHAIRMAN : Mr. Mathur.

श्री जगदीश प्रसाद माथुर (उत्तर प्रदेश)  
में सदन का ध्यान...

MR. CHAIRMAN: The subject is Pakistan.

श्री कल्प नाथ राय (उत्तर प्रदेश) :  
यूनिवर्सिटी में जो इलेक्शन हुआ है यह निन्दा का  
विषय है। इन्होंने जान बूझ कर इस चुनाव में  
असफल होने हुए देखा। एसा... (Interruptions)  
इस बात की होनी चाहिये।

श्री जगदीश प्रसाद माथुर : बिल्ट पेपर  
चुरा कर के मेडम को दिये गये हैं।

श्री श्याम लाल यादव (उत्तर प्रदेश)  
लाखों रुपये ...

MR. CHAIRMAN: Not to be recorded.

SHRI SUNDER SINGH BHANDARI  
(Uttar Pradesh); Why is he speaking now?

SHRI SHYAM LAL YADAV (continued  
to speak)

SHRI SUNDER SINGH BHANDARI:  
Whatever he has said should be removed  
from the record. It is for the Chair. You  
cannot speak without permission.

MR. CHAIRMAN: It is not being recorded.  
Nobody should speak. Let Mr. Mathur speak  
now. You kindly start.

SHRIMATI AMBIKA SONI (Punjab) :  
They pollute the entire atmosphere.

MR. CHAIRMAN: That is all right.

श्री जगदीश प्रसाद माथुर : इस बात का  
सबूत है कि मेडम के पास उन लोगों ने बिल्ट  
पेपर चुरा कर के दिये हैं।

में इस सदन का ध्यान उस सड़क की ओर  
दिवाना चाहता हूँ जो अभी चीन और पाकिस्तान  
ने मिल कर बारकन्द और स्कार्ट के बीच में  
बनाई है। इनका समाचार इन्टरनेट के माध्यम  
से...

SHRI SHIVA CHANDRA JHA (Bihar) : A  
point of order.

MR. CHAIRMAN: Where is the point of  
order? There is no point of order.

श्री शिव चन्द्र झा : इस काल अटेंशन के दिने मैंने कल खाना नाम दिया था। लेकिन आपने रिजैक्ट कर दिया और आज खाने वही काल अटेंशन फिर लिया है।

MR. CHAIRMAN: There is no point of order.

श्री शिव चन्द्र झा : इस विषय पर...

MR. CHAIRMAN: You are also there on the list today. What am I to do? You are giving daily at least two or three notices. Please hear me. You are the one Hon. Member who is not failing to give at least two or three notices daily. Today also I have given you an opportunity, and I will call you.

SHRI SHIVA CHANDRA JHA : I gave notices on different subjects.

MR. CHAIRMAN: You will have varieties.

SHRI B. SATYANARAYAN RED-DY (Andhra Pradesh) : I gave a notice only once, but you rejected it. He gives so many notices every day.

श्री जगदीश प्रसाद माथुर : इन्टेलिजेंस के माध्यम से अभी गत सप्ताह समाचार मिला है कि यह सड़क चीन की मदद से बनाई जा रही है और इसका खर्चा मुख्यतः चीन स्वयं बर्दाश्त करेगा। इसी के साथ-साथ सिक्किम से लेकर और यारकंद तक एक एयरलाइन्स की भी संविज्ञ शुरू की जायेगी और एक हवाई अड्डा यारकंद के पास बनाया जावेगा। इसका खर्चा भी चीन देगा। मैं ध्यान दिलाना चाहता हूँ कि यह बड़ा शौक है जो 1959 में चीन ने भारत के कश्मीर के हिस्से में से छीना था। उस वक्त दूसरे सदन में हमारे प्रधान मंत्री पं० जवाहर लाल नेहरू ने कहा था कि—नोट्स अर अल्ट्रा ग्राफ ग्राम रोज—यही वह इलाका है। उसी इलाके को चीन ने दबाया और 1963 के अन्दर चीन और पाकिस्तान का समझौता हुआ जिस में 750 वर्गमील हिस्सा पाकिस्तान को मिला। उस समय की हमारी गलती आज हमको भुगतनी पड़ रही है। मैं सरकार का ध्यान आकर्षित करना चाहता हूँ कि अभी कुछ अरसा पहले एक और सड़क कराकोरम पर बनायी गयी थी और आज एक और सड़क बनायी गयी है जिस से हमारी सीमाओं पर खतरा पैदा हो गया है। क्या हम इस सड़क के बनाने के संबंध में—सड़क अभी बननी प्रारम्भ

हुई है—किसी प्रकार चीन सरकार का ध्यान आकर्षित करके, ऐतराज करके, इनको बनने देने से रोक सकते हैं? यदि रोक जाय तो हमारी सीमाओं की सुरक्षा के संबंध में कुछ सहायता मिलेगी।

श्री नागेश्वर प्रसाद शाही (उत्तर प्रदेश) : इसी विषय पर मुझे भी कहना है लेकिन उस का अपनी सरकार की मौजूदा विदेश नीति के संदर्भ में कहना है, कि इस समय कहा जा रहा है कि चीन हम से दोस्ती करना चाहता है। अभी स्वैच्छन धावर के दमियान में हमारे पांडे जी ने कहा था कि क्यों चीन से सीमेंट नहीं मंगवाते हो? हमारे प्रधान मंत्री जी और हमारे विदेश मंत्री जी ने कहा कि चीन दोस्ती का हाथ बढ़ा रहा है। श्रीमन्, मेरी समझ में बात यह साफ आती है कि यह चीन और अमरीका की साविज्ञ है। इस समय जब उनका अगड़ा रुस से चल रहा है तो वह हिन्दुस्तान से यह जाहिर करना चाहता है कि हिन्दुस्तान से वह दोस्ती चाहते हैं। अस्तवित्त में चीन हिन्दुस्तान से दोस्ती नहीं चाहता है, चीन केवल समय के अनुसार रुस के खिलाफ एक मोर्चा बनाना चाहता है, उस मोर्चे में अमरीका शामिल है, उस मोर्चे में वह हिन्दुस्तान को भी शामिल करना चाहता है। एक तरफ से हिन्दुस्तान से दोस्ती की बात करना है और दूसरी तरफ हमारी पूर्वी उत्तरी सीमा के विद्रोही लोगों को डेड कर के अपने यहां से भेजता है विद्रोह कराने के लिए। और यह दूसरा और तीसरा उदाहरण है, एक सड़क अभी बन चुकी है और दूसरी सड़क जैसा हमारे लायक दोस्त ने कहा सिक्किम और यारकंद के बीच 50 करोड़ रुपये की लागत से बन रही है। मारा खर्च चीन दे रहा है। इसका इस्तेमाल चीन और पाकिस्तान मिल कर हिन्दुस्तान के खिलाफ फौजी तैयारी में करेंगे। यह सड़क 19,000 फुट की ऊंचाई पर बन रही है और इस सड़क पर भारी तोप पाइपों, टैंक और टुक चनेंगे, इस का विशेष इंतजाम किया जा रहा है। श्रीमन्, जैसा मेरे लायक दोस्त ने कहा, वही उस के पास ही से स्कार्ट से लेकर यारकंद तक हवाई सेवा के लिए भी, हवाई फौज के इस्तेमाल के लिए, स्कार्ट में एक हवाई अड्डा भी बनाया जा रहा है। उसका भी सारा खर्चा चीन दे रहा है। पाकिस्तान ने सारी हवाई फौज की तैयारी कर रखी है और धाम कर रहा है और खर्चा चीन दे रहा है। क्या इस से जाहिर नहीं है कि यह रुस के खिलाफ मोर्चाबंदी हो रही है? चीन यह मोर्चाबंदी कर रहा है और अपनी साविज्ञ में हिन्दुस्तान को भी फंसाना चाहता है? अभी यह जब जाहिर है कि हमारे मित्र सुब्हाष्यम स्वामी के अमरीका से मोटे संबंध हैं और चीन ने उन्हें धामित्त किया है अपने यहां (Interruptions) उन्हीं को नहीं उनकी पत्नी को भी धामित्त किया है, अपने खर्च पर धामित्त किया है, चीन के खर्च पर धामित्त किया है। श्रीमन्,

में यह कहना चाहता हूँ कि चीन हमारे यहाँ देश में ऐसे लोगों को पैदा कर रहा है जो हिन्दुस्तान के खिलाफ, हिन्दुस्तान के इंटरेस्ट के खिलाफ चीन की बकालत करे। 1962 की लड़ाई में हम ने देखा था कि जिस समय चीन ने हमारे देश पर हमला किया उस समय भी हमारे देश में लोग मजबूत थे कि जो चीन की बकालत कर रहे थे और यह कह रहे थे कि हिन्दुस्तान ने चीन पर हमला किया है। चीन ने हमारे ऊपर हमला किया था लेकिन हमारे देश में ऐसे लोग मजबूत थे कि जो दलील दे रहे थे कि हमारे देश ने ही चीन पर हमला किया है। आज यह साजिश फिर चल रही है। उस समय हिन्दी चीनी भाई-भाई का नारा लगा कर हमारे देश की पीठ में छुरा भोंका गया था। आज फिर वही नारा शुरू होने जा रहा है। मैं साफ कहना चाहता हूँ कि यह साजिश हम लोग फिर कामयाब नहीं होने देंगे। चीन की दमाबाजी की दोस्ती कलने नहीं पायेगी। इस लिये मैं सरकार का ध्यान इस तरफ आकृष्ट करता हूँ कि सरकार चीन के साथ बात चीत करने में सावधान रहे हमारे विदेश मंत्रों जो चीन जाने वाले हैं, वह अपनी बात चीत में इस बात की सफाई करें कि क्या वजह है कि पाकिस्तान की फौजों तैयारियाँ, उस के इन्स्टालेशन, उस के फौजी हवाई अड्डे चीन के खर्च से बनाये जा रहे हैं। किस के खिलाफ यह तयारी हो रही है। आक्पाइड काश्मीर में अगर तैयारियाँ होती हैं तो वे किस के खिलाफ होती हैं। इस मुल्क के लोग अब इतने गुमराह होने वाले नहीं हैं। इस लिये श्रीमन्, मैं निवेदन करता हूँ कि हमारे मंत्री जो, जो यहाँ बैठे हुए हैं वह सरकार का विशेष ध्यान इस तरफ आकृष्ट करें और सदन को और देश को संतुष्ट किया जाय इस मामले पर।

श्री रामेश्वर सिंह (उत्तर प्रदेश): इस पर प्रश्न करने के लिए हमें समय दिया जाय।

MR. CHAIRMAN: Supplementaries are not allowed on Special Mentions.

#### REFERENCE TO PAKISTANI INFILTRATION IN THE POONCH AND RAJOURI SECTORS

श्री शिव चन्द्र शा (बिहार): मैं आप के जरिये इस सदन का ध्यान एक बहुत गंभीर विषय की ओर ले जाना चाहता हूँ। और वह यह है कि पाकिस्तानी फौजों ने एकचुअल लाइन आफ कंट्रोल, पुंछ और राजौरी एरिया जम्मू और काश्मीर का जो है उस में बराबर फायरिंग करना जारी रखा है। दूसरी दफा फायरिंग चालू हुई है उस की खबर करीब करीब सभी अखबारों में आ गयी है। मैं सिर्फ टाइम्स आफ इंडिया में जो निकला है उस को पढ़ कर आप को मुनाता हूँ।

"Pakistani troops again resorted to unprovoked firing across in the line of actual control in the Rajouri sector early this week, according to information available here.

They used machineguns and rifles in the firing on more than one occasion the same day. No casualties on the Indian side have been reported. The Indian side did not return the fire.

There had been more than one incident of firing by Pakistanis last week also."

चण्डीगढ़ ट्रिब्यून और दूसरे अखबारों में भी यह खबर आयी है। इस घटना के बाद बराबर पाकिस्तानी फौजों सीमा पर फायरिंग करती जा रही है। और हिन्दुस्तानी फौजें उस का कोई जवाब नहीं दे रही हैं। इस को कुछ ब्रैकडाउन्ड के साथ समझना जरूरी होगा। आप जानते हैं कि अमरीका पाकिस्तान की मदद कर रहा है। फ्रांस ने जो न्यूक्लियर प्रोसेसिंग प्लांट की बात को खत्म किया तो अमरीका आगे बढ़ गया और इंडियन एक्सप्रेस में और सभी दूसरे अखबारों में खबर है।

"Pakistan acquires several units of French missiles"

तो न्यूक्लियर प्लांट की बात तो खत्म हो गयी लेकिन बड़े बड़े मिसाइल फ्रांस पाकिस्तान को सप्लाई कर रहा है और अमरीका भी सप्लाई कर रहा है। और अमरीका किस नियत से यह सब सप्लाई कर रहा है। वह नीयत साफ है। वह हथियार बेचता है पाकिस्तान को ताकि वह निशाना लगायेंगे हिन्दुस्तान पर। आज के हिन्दुस्तान टाइम्स में कहा है कि दिल्ली हिटिंग रेंज में आ गया है। मैं सिर्फ दो तीन लाइनें पढ़ कर आपको मुनाता चाहता हूँ।

The United States is trying to supply Corsair A7 aircraft on the ground that Pakistan is demanding them to offset India's ground superiority. It is pointed out that Corsair is not a deep strike aircraft, but a ground support fighter and is so used by the United States Navy and Air Force.

उसके आगे उनके एक्सपर्ट्स कहते हैं :

According to these reports that Pakistan has preferred A7 to A10 showed that the target which is in mind is India.

[श्री जिव चन्द्र झा]

बिलकुल साफ है। अध्यक्ष महोदय, हिन्दु-स्तान को निभाना लगाकर वह इन्धियार फ्रांस और अमरीका से मंगा रहा है और गोलीबारी का जो काम शुरू हुआ है सीमा पर उसको फिर इतिहास के संदर्भ में समझ लें। हिटलर ने जब राइनलैंड पर मार्च किया था, आपकी वह संदर्भ याद होगा, यूरोप में लोगों ने कहा था कि हिटलर ने राइनलैंड पर जो मार्च किया है वह नुकसान आयेगा। लेकिन फ्रांस और इंग्लैंड ने कहा कि राइनलैंड उसकी अपनी जमीन है, लेकिन वह नाचें, पोलैंड, चेकोस्लोवाकिया होता हुआ यूरोप में पहुँच गया।

इसलिए जो कार्रवाई हुआ है और बराबर होता है, यह अध्यक्ष महोदय, इसके पीछे बड़ा लक्ष्य छिपा हुआ है। इसीलिए मैं आपसे निवेदन करना चाहता हूँ कि संबंधित सुरक्षा मंत्रों को यहाँ पर ध्यान दें कि क्या सीमा पर हो रहा है और भारत सरकार क्या कर रही है।

DR. V. P. DUTT (Nominated): Mr. Chairman, I should also like to draw the attention of the Government to this very ominous news that is coming on the large-scale weaponry including modern, sophisticated and lethal weapons being made over to Pakistan. The UNI has reported how Pakistan is now being equipped with 550 air-to-air missiles, deadly Cro-tale surface-to-air missiles and Ma-tra missiles by France. There is also the news that in compensation for the cancellation of the nuclear agreement between France and Pakistan, the United States is going to make over military equipment to Pakistan. There is also another piece of news that whatever France is not supplying in the field of nuclear technology to Pakistan, may be supplied by China. I do not know whether they are supplying. I would like to know whether there is any truth in the news about China if supplying nuclear technology on the one hand and France supplying modern, sophisticated air-to-air and ground-to-air missiles on the other, and the deep penetration aircraft being made over to Pakistan either by France or by the United States through some other agency. What are their implications for our country? I think the Government should take Parlia-

ment into confidence and make a statement here as to what is happening in this area, as to the coun-terveiling steps being taken by the Government and as to their implication and meaning for our country. I do not think this is a matter which should be taken lightly in the context of our experience for the last twenty years. It is also not a matter for party partisanship. It is a matter which cuts across parties. It is a national question as to what is happening exactly in this area. What are the counterveiling steps we are taking I would request you to direct the Government to make a statement before the Parliament so that not only we can feel assured, but also the country will know what is happening.

DR. M. M. S. SIDDFFU (Uttar Pradesh): Sir, I am not repeating what has been said by some other hon. Members on the question of military hardware being supplied to Pakistan by France and the States.

Sir, whenever there has been political instability or 1. P.M. there has been some turmoil in Pakistan and whenever Pakistan armed itself and got nearly equal strength with us in military hardware, our experience has been the most unfortunate one and the experiences were only wars with Pakistan. Today, the military hardware that is coming into Pakistan from France, from America and from China, and the road to which the other honourable Member, Mr. Ma-thur, referred are all ominous signs of something which might happen. The Government should, therefore, take this House into confidence and I support the views expressed by the honourable Members that the Government should come forward and assure the House that necessary steps have been taken. A few days back we were told that Deep Penetration Aircraft which are necessary would be procured. But the ques-

tion is how soon you are going to do it. So, the main question is whether all the military hardware that we need would be made available to the country and whether the country would be taken into confidence. Therefore, Sir, I support the views of the other honourable Members already expressed in this regard that the Government should take the House into confidence and assure the nation that the defence of the country would not be jeopardised.

**REFERENCE TO MISMANAGEMENT  
AND MALPRACTICES IN THE IN-  
DUSTRIAL CREDIT AND INVESTMENT  
CORPORATION OF INDIA**

SHRI SAWAISINGH SISODIA (Madhya Pradesh): Sir, much dissatisfaction and disappointment have been expressed in this House regarding the mismanagement, malpractices and favouritism in the various financial institutions established by the Government of India for the promotion of industrial development in the country.

Sir, in this special mention, I would like to draw the attention of the Government to the serious condition that is there in one financial institution, to the working of the Industrial Credit and Investment Corporation of India which is known as the ICICI. The latest reports indicate that the financial position of the Corporation is fast becoming precarious. Many outstanding and doubtful debts are placed under the carpet and are shown as bad loans. This has become a matter of concern. The ICICI could not disburse a part of the 80 million pound "World Bank loan sanctioned in 1976 and the West German grant of 1 million Marks. Now, proposals are coming in from the industrial houses and other companies in which the past and the present Directors have vested interests and they are receiving a

favourable treatment while the mini-clients are suffering. Projects with which the senior executive have associated themselves received special and favourable treatment and the ICICI has not taken into confidence or taken the advice of the independent Advisory Committee which has been formed for the purpose. Noncompliance with the practice of taking advice from this Committee is something serious. The management of the ICICI is favouring the big business houses and the multinationals and much of the business is diverted by way of undue favour shown to help the big business houses and various other companies. It is giving a step-motherly treatment to the small and medium-sized industries. Sir, under the new political leadership of the Union Finance Ministry, this ICICI management has acquired a new and an undue and wrong sense of confidence because they can do anything and they can lead a comfortable life, whatever may be the lapses, financial or otherwise, and whatever may be the commissions and omissions. Immediately, Sir, a thorough probe is essential and the guilty persons should be punished so that its money is not wasted and the junior clients could get financial assistance from the ICICI for which purpose this institution has been established.

**REFERENCE TO THE DEMAND FOR  
AN INQUIRY INTO THE DIS-  
TRIBUTION OF WHITE PRINTING  
PAPER BY THE ADMINISTRATION**

SHRI YOGENDRA MAKWANA (Gujarat): Sir, there was a discussion in this House on the 24th August 1978 in which many Members like Mr. Shiva Chandra Jha, Shri mati Kumudbeen Joshi, Shri Khurshed Alam Khan and some others participated. Several allegations were made about the distribution of

[Shri Yogendra Makwana] white printing paper by the Delhi Administration. There is a No-Day-Yet-Motion admitted by you on the subject. On that day we presented certain documents in the House and we said that certain letters were written by Mr. Gourie Shankar, the Secretary of the Laghu Udyog Sangh. It was said by Mr. George Fernandes that no such letters were written to him. Here is a copy of the letter dated 4th August, 1978 in which Mr. Gourie Shankar had specifically stated that he belongs to the Socialist Party, and Mr. George Fernandes also belongs to the Socialist Party. I would like to quote from his letter and this is what he has written;

Mr. Gourie Shanker has stated that he contested election to the Delhi Corporation also on the ticket of the Janata Party. He has further stated in this letter that:-

“इस कागज के वितरण में भ्रष्टाचार सोदे-बाजी और कानूनों का उल्लंघन, निजी रिश्तेदारों को लाभ पहुंचाना, सत्ता का दुरुपयोग आदि अनेक प्रकार की गलतियों चल रही हैं। समाजवादी होने के नाते मैं अपना यह कर्तव्य समझता हूँ कि आपको इन बातों की, तथ्यों की, सत्य की जानकारी दे दूँ। यही है कि आप शीघ्र ही मुंबई/आंध्र प्रदेश में समय दे कर अनुगृहीत करें।”

“दोस्तों तो मुझे पूर्ण आशा है कि आपकी मेहनत न्याय अवश्य मिलेगी क्योंकि आप समाजवादी हैं, लेकिन अगर निराशा हुई तो समाजवादी होने के नाते मुझे अपने कर्तव्य का पालन करते हुए राष्ट्र के हित में भ्रष्ट लोगों का पर्दाफाश करना ही पड़ेगा।”

Further he has stated:

“अन्य जगह भी मुलाकात दैते, आपको दिखा दिया जाएगा।”

Sir, he wanted a personal interview with the honourable Minister to show all those correspondence and the documents. Now here is an affidavit filed by one Mr. Mukundbhai Parekh who is a trade-unionist and who belongs to the same party of

Mr. George Fernandes. Mr. Fernandes repeatedly denied in this House on 24th August that no such letter was written to him. However, a copy of the letter is here with me, and the party has now written a letter to you. You have, therefore, come into the picture. Mr. Gourie Shanker has also written a letter to you enclosing the entire correspondence. And here is Mr. Kedar Nath Sahni who wanted to hush up the entire issue. I quote here from the Times of India dated 29th August. "Mr. Kedar Nath Sahni, the Chief Executive Councillor, has written a letter to Mr. B. D. Jatti, Chairman of the Rajya Sabha repeating the charges levelled by Congress-I Members in Rajya Sabha ...." It was not Congress-I alone, it was also done by Mr. Jha, Mr. Jha also saw the documents. All this is a fishy matter which has been expressed by all the Members. Grave concern was expressed by all the Members of the House. The entire correspondence is now sent to you. Therefore, I request you and through you, The Government, that this issue should be taken up and some committee should be appointed to go into it to find out the facts and to punish those who are responsible for this. With these words I thank you.

#### REFERENCE TO KISAN RALLY AGAINST ALLOTMENT OF GRAZING LAND

SHRI N. P. CHENGALRAYA NAI-DU (Andhra Pradesh): Sir, I wish to bring to your notice the following matter of public importance.

Yesterday about 5000 farmers assembled near the Boat Club. They wanted to present a memorandum to the Speaker of the Lok Sabha. They had a meeting and in the meeting they clearly said that "they are not against assigning land to the Harijans." They only said they

wanted their right to be protected and the grazing land through-out the j ' -country should not be alienated to anybody. That is their only grievance. This is their only grievance. They are not against giving land to the Harijans or anybody else. They wanted that even the Harijans can graze their cattle on the same land. There is no restriction on that. When they wanted to present a memorandum to the Speaker of the Lok Sa-bha, they were not allowed to go to Lok Sabha. The Government could have allowed them. There were so many police people. It is reported in the newspapers that there were 2000 policemen. Moreover, the farmers were not armed, they were peaceful farmers. When they wanted to represent to the Lok Sabha Speaker, they should not have been stopped. They courted arrest peacefully. About 2000 farmers have been arrested. This is to bring to the notice of the Government that they are not against giving land to the Harijans. But they are against assigning grazing land to them. The Government should not take away the grazing land. It is mentioned in the Act that the grazing land, the community land and the land allotted for worship should not be assigned to anybody. If they want to take over any of these lands, they must take the permission of the Village Panchayat. But the Government has not obtained the permission of the Village Panchayat. In the Kanjha-wala case also, in 1974, the then Government was responsible for this sin. They assigned the land to the j Harijans without obtaining the consent of the Panchayat. (*Interruptions*)

SHRI LAKSHMANA MAHAPATRO (Orissa): All the disturbance that is going on in the country in relation to Harijans is because of the landlords.

SHRI N. P. CHENGALRAYA NAI-DU: They are not against giving land to Harijans. Please don't forget

that. There are Members here who insult the farmers or who speak against the farmers. What we produce, they eat.

SHRI BHURAO DEVAJI KHOB-RAGADE (Maharashtra): Farmers do not produce. The labourers produce.

SHRI N. P. CHENGALRAYA NAI-DU: Sir, if the Government is not going to look into the request of the farmers and treat them properly, then I am only giving a warning to the Government that the agriculturists will produce only what they want for themselves and will not produce more. If they do not produce more, what will happen to this country and what will happen to these hon. Members who accuse the farmers? They will eat grass and not food.

SHRI NARASINGHA PRASAD NANDA (Orissa): Sir, Dr. V. P. Dutt mentioned about massive arms supply to Pakistan by France. It is not merely a bilateral issue between France and Pakistan.

MR. CHAIRMAN: He has already spoken on this.

SHRI NARASINGHA PRASAD NANDA: I would submit only one line. It has to be viewed in the context of imperialist design. The Government of India should be aware of it. They should take appropriate steps to see that friendly relations are maintained by those countries towards us also as we are showing friendly attitude towards those countries.

#### REFERENCE TO THE PLIGHT OF HARIJANS IN MARATHWADA AND KANJHAWALA

SHRI BHURAO DEVAJI KHOB-RAGADE (Maharashtra): Mr. Chairman, Sir, with your kind permission, I would like to draw your at-

[Shri Bhaurao Devaji Khobragade]

attention and the Government's attention to the plight of Scheduled Castes in this country and particularly in these two places, Marathwada and Kanjhawala. My friend who spoke just now gone out. As you are aware, there was an agitation in Marathwada and the Scheduled Castes persons were killed mercilessly and their hutments were burnt down.

Now, Sir, the Students' Action Committee in Marathwada has proclaimed that they would start an agitation from 1st September in case their demands are not accepted by the Government. In that case, the Scheduled Caste people will be made to suffer again. So, for that purpose, I would appeal that the Government should afford due protection to the Scheduled Caste people so that the life and property of the Scheduled Caste people in Marathwada is protected.

Apart from that, Sir, in Morkheri village in Haryana State, three persons were mercilessly killed and I had given a Calling Attention notice but it was not admitted. This subject has already been discussed in Lok Sabha and we expected that this House would also get an opportunity to discuss this matter. But we did not get. This is a very serious matter. In Kanjhawala also, the same thing is happening. Just now, our friend, Mr. Naidu, referred to it. He said that the landlords are not opposed to the allotment of land to the Scheduled Caste persons. Then, what is it that he is opposed to? We know that for agriculture, cattle is required, and for cattle, grazing land is required. But, how much grazing land do you require? In Uttar Pradesh, I was informed that 8 per cent of the cultivable land was reserved for grazing purposes and only 3 per cent has been utilised for grazing purpose and 5 per cent of the whole cultivable land has been lying waste. Do the landlords want that this cultivable land should lie waste

and that it should not be given to the Scheduled Caste people? It only indicates their mentality that they do not want the Scheduled Caste landless persons to get any land and that they should not be independent. Therefore, Sir, through you, I appeal to the Government that the life and property of the Scheduled Caste persons should be protected, particularly in Marathwada where the Students' Action Committee has decided to start an agitation from 1st September. Effective steps must be taken by the Maharashtra Government. I hope the Central Government will write to the Maharashtra Government accordingly.

#### REFERENCE TO THE REPORTED THREAT OF STRIKE BY TEACHERS IN UTTAR PRADESH FROM 14TH NOVEMBER, 1978

श्री कल्प नाथ राय (उत्तर प्रदेश) : मैं आपके माध्यम से सरकार का ध्यान आकर्षित करना चाहता हूँ कि पिछले साल इसी हाउस में आपके ध्यानाकर्षण प्रस्ताव के माध्यम से बहस हुई थी। तीन लाख इंटरमीडिएट कॉलेज के अध्यापकों ने हड़ताल की थी। उनकी कुछ मांगें थी। यह हड़ताल 43 दिन तक चली और उस समय प्रदेश की सरकार कहती थी कि यह राज्यों का विषय नहीं है। केन्द्र सरकार कहती है कि राज्य सरकार का विषय है। उत्तर प्रदेश की सरकार ने आज तक 43 दिनों की तनख्वाह तीन लाख अध्यापकों को नहीं दी। उत्तर प्रदेश सरकार ने कहा कि सरकार इस हड़ताल को इंसिथियल सर्विसिज के अन्तर्गत अवैध घोषित करती है। हाई कोर्ट ने राज्य सरकार के इस अध्यादेश को रद्द घोषित कर दिया। राज्य सरकार ने सुप्रीम कोर्ट में अपील दाखिल की वहाँ भी राज्य सरकार का अध्यादेश रद्द कर दिया गया है। इसके बावजूद भी अध्यापकों ने अपनी हड़ताल जनमत के दबाव में आ कर खत्म की लेकिन 43 दिनों की तनख्वाह उत्तर प्रदेश के अध्यापकों को आज तक उत्तर प्रदेश की सरकार ने नहीं दी है। इसके अलावा उन अध्यापकों को जो ब्लैक लिस्ट थे जो हड़ताल तोड़ने के लिए रखे गए थे जिन्होंने एक दिन भी नौकरी में काम नहीं किया, एक दिन भी सर्विस जोइन नहीं किया मगर उन सभी को तनख्वाह दी। यहाँ तक उत्तर प्रदेश सरकार ने यह घोषणा की है कि जो ब्लैक लिस्ट थे उनकी नयी नियुक्तियाँ करेंगे। सभापति महोदय, परसों हाई कोर्ट, इलाहाबाद ने आर्डिनंस को रद्द किया है। मैं सरकार से कहना चाहता हूँ कि उत्तर प्रदेश के



प्राइमरी स्कूलों, हाई स्कूलों तथा इंटरमीडिएट के 6 लाख अध्यापक पुनः हड़ताल करेंगे और उन्होंने हड़ताल करने की धमकी दी है। यदि राज्य सरकार ने उनको 43 दिनों की तनक्वाह नहीं दी तो मैं आपके माध्यम से शिक्षा मंत्री जी से, केन्द्र सरकार से कहना चाहता हूँ कि वे 14 नवम्बर को पूरे उत्तर प्रदेश के अन्दर प्राइमरी, इंटरमीडिएट शिक्षक हड़ताल करने जा रहे हैं। जिसका परिणाम...

श्री जी० सी० भट्टाचार्य (उत्तर प्रदेश) : डिग्री कालेज के अध्यापक भी शामिल होने जा रहे हैं।

श्री कल्प नाथ राय : डिग्री कालेज के अध्यापक उस हड़ताल में शामिल होने जा रहे हैं। 6 लाख अध्यापक अगर हड़ताल करेंगे तो करोड़ों बच्चों की शिक्षा अन्धकार में फँस जायेगी और पूरे देश की जनता का, अभिभावकों का बहुत बड़ा नुकसान होगा। इसलिए मैं केन्द्रीय सरकार से अपील करता हूँ कि वह उत्तर प्रदेश के अध्यापकों की समस्याओं को मुलह के माध्यम से हल करे और तीन लाख अध्यापकों को तनक्वाह देने की तुरंत व्यवस्था करे। क्योंकि शिक्षा इस समय कान्क्रेट लिस्ट में है। मैं आपके माध्यम से सरकार से अपील करता हूँ कि उत्तर प्रदेश को पुनः हड़ताल के संघर्ष में मत जाने दें और अध्यापकों की तनक्वाह को तुरंत राज्य सरकार पेंमेंट करे। धन्यवाद।

श्री जी० सी० भट्टाचार्य : सभापति जी, श्री कल्प नाथ राय जी ने जो कहा है उसका मैं पूरा समर्थन करता हूँ... (Interruptions)

#### REFERENCE TO THE ALLEGED PREVENTION OF MUSLIM MINORITIES FROM PURCHASING HOUSES IN VARANASI

श्री श्याम लाल यादव (उत्तर प्रदेश) : हमारे वाराणसी शहर में मुसलमान अल्पसंख्यकों को मकान खरीदने से रोका जा रहा है। मकान जो अल्पसंख्यक मुस्लिम खरीदते हैं उनको उनसे बेदखल करने की साजिश वहाँ की सरकार और जनता पार्टी के कार्यकर्ता कर रहे हैं। मैं इसकी तरफ सरकार का ध्यान दिलाना चाहता हूँ कि इसको रोका जाय वरना गंयानक स्थिति उत्पन्न हो जाएगी। धन्यवाद।

1134 RS—3.

#### I REFERENCE TO THE REPORTED STRIKE BY EIGHTY THOUSAND SCHOOL TEACHERS IN ORISSA

SHRI LAKSHMANA MAHAPAT-RO (Orissa): Mr. Chairman, Sir, I will just take one minute only.

Sir, the Orissa Assembly has commenced its session from the 28th. Eighty thousand teachers in Orissa are on a strike and many are on a dharna also. It is still a Central subject. Let the Central Government intervene and ask the Chief Minister to start negotiations with 80,000 teachers of non-governmental schools.

SHRI SUNDER SINGH BHANDARI (Uttar Pradesh): Both the things cannot go together. You want more powers to be given to the States and you also ask the Centre to intervene.

MR. CHAIRMAN: May I know the views of the hon. Members whether we should meet at 2 p. M. or earlier! than 2 P.M.?

SOME HON. MEMBER'S: Sir, we should meet at 2 P.M. only.

MR. CHAIRMAN: All right. The House rises now and reassembles at 2 P.M.

The House then adjourned for lunch at twenty-two minutes past one of the clock.

The House reassembled after lunch at four minutes past two of the clock.

The Vice-Chairman Nizam-ud-Din. In the Chair

#### THE CONSTITUTION FORTY-FIFTH ' AMENDMENT BILL, 1978—Contd.

THE MINISTER OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI SHANTI BHUSHAN): Mr. Vice-Chairman, Sir, as I said yesterday, I am very grateful to the hon. Members for the very general support which they have given to the provisions of the Bill. I would like, very briefly, to deal with some of the points

[Shri Shanti Bhushan] which have been made and if I am not able to deal with all the important points which have been made by the hon. Members or to deal with each of them specifically, it is not that there is no force or merit in those points which needs consideration but because I have a limited time at my disposal as the hon. Members would appreciate and, therefore, I will try to deal with the points as briefly as possible.

Now, Sir, if I might first take the points which have been made, particularly by Shri Bhupesh Gupta, for whom I have a lot of esteem, and not merely that, Sir, but he has made a valiant effort on my behalf, if I may say so, in regard to the clause relating to referendum to convince those who were not convinced by what I had said in my opening speech, and I have no doubt that with his eloquent style, he must have been able to convince everybody so that when we come to the stage of voting on this clause, perhaps, even on this referendum, there would be unanimity. But Sir, —

SHRI BHUPESH GUPTA (West Bengal): Some I have done.

SHRI SHANTI BHUSHAN: In fact, I must confess that I have, for myself, decided that if ever I were to be hauled up before a court and I need the assistance of a lawyer to argue my case, I propose to engage Shri Bhupesh Gupta provided he gets himself enrolled by that time.

SHRI BHUPESH GUPTA: Next time, you appear against Mr. Raj Narain. You may choose me.

SHRI SHANTI BHUSHAN: At the moment, I have to defend myself from him. He has brought a privilege motion against me.

SHRI BHUPESH GUPTA: Did you charge him fees?

SHRI SHANTI BHUSHAN: I do not charge fees in political cases.

SHRI BHUPESH GUPTA: That is the fee, he is paying you; privilege motion.

SHRI SHANTI BHUSHAN: But since he has tried to lighten my burden I must deal with the important point made by him first. Sir, this is in regard to preventive detention. His complaint was that, when the Constitution was being amended, why not do away with the article in the Constitution which permits preventive detention although it purports to give certain safeguards in the matter of preventive detention. Sir, I am not sure whether Mr. Bhupesh Gupta, while voicing those sentiments, has taken into account the realities of the situation which are there in the coun-

try. I know he had certain other things in his mind, but possibly, he lost sight of certain things to which I would like to call his attention. Sir, we saw yesterday the anguish and the anger that was voiced in this House in regard to a very dastardly crime. I do not think there is any single person in the country who does not hang his head in shame in regard to that dastardly crime and who does not share all those feelings of anguish and anger. Sir, I was pained to read one hypothesis in the newspapers today. I do not know whether there is any substance in that. But in regard to this crime, there is some hypothesis which has been suggested which connects the commission of this dastardly crime, the like of which this country, I do not think, has seen before, with some kind of smuggling activities and the activities of some smugglers. I do not think anybody could be so heartless as to put those beautiful children, these innocent and handsome children and those accomplished children, to such a brutal death unless those persons did not have any heart in them. To me, it seems, they are some kind of professional killers. When "this hypothesis is flashed in the newspapers that there is some smuggling etc., connected with it, the minds of all of us go to those

smugglers who have held this country to ransom by such activities which can only be compared with Mafia operations. Now, the question arises: How are such criminals to be dealt with? Are not some special powers, needed to deal with such people who are prepared to hold the entire society to ransom? Or, are the normal laws, are the ordinary laws, the normal legal processes, as we know it in this country and also as we know in what shape it is today in this country, quite sufficient to deal with every kind of nefarious activity which can hold the normal civilised life of the country to ransom? Today, Sir, the position is this. MISA has been repealed, lock, stock and barrel. The only law enacted by this Parliament which is on the statute book, which provides for preventive detention, is the one under which a large number of smugglers are still in detention. If today the amendment of Shri Bhupesh Gupta or rather the proposal made by him was to be accepted, I want to tell him that if preventive detention was to be banned today by a constitutional amendment, the immediate result of that amendment would be that all the smugglers who are in preventive detention will have to be set at large, let loose on society. I do not think Shri Bhupesh Gupta, even in his wildest dreams, would like that to happen, and particularly in the light of what happened only a few days before, which is so fresh in the minds of all of us. Entire population of this country is agitated, small children are agitated, girls are agitated. Then we need to ponder that the Constitution must not permit any victimization, whether political or of any other character. Nothing

should be done which would jeopardise the security of a single citizen unless for good reasons. But at the same time a golden mean has to be found that while no abuse of the powers may take place, the State which represents or which is deemed to re-

present the conscience of the nation, is not lacking in powers to deal with lawless elements with the full might of the people behind it. And, Sir, that has been the attempt of this Constitutional amendment, however humble it might have been. The attempt has been to see that while in certain special situations to deal with criminals of the mafia kind, etc., some special powers may be needed, at the same time the misuse of those powers for other purposes should not be possible. And this can only be done by strengthening the safeguards against preventive detention. This is not the time to ban preventive detention entirely and to wipe it off from the Constitution. I know India has had a very glorious past. I am sure it is going to have a very glorious future and I am sure that a time will come, and that this time will come in our life times and not later, perhaps sooner, when it would be possible to ban preventive detentions completely, when the society is such, when the normal processes have been so strengthened to deal with this evil. I recognise that preventive detention is an evil, but I do not think that a stage has come when we can completely ban it at this time. At the moment, we can only strengthen the safeguards against it so that misuse may not be possible. Apart from that, in case of the right to life and liberty an attempt has been not to make it suspendable even during emergency, the consequence of which would be that a habeas corpus would always be permissible in the courts. The result of this would be that if it is shown that a detention is mala fide for extraneous considerations, not for legitimate considerations, the courts will have the power to set aside that detention. But I am not satisfied with mere habeas corpus because after a habeas corpus is for limited purpose. It is only to a certain extent that the courts can go into the matter. They cannot go into the reasons on the basis of which

the detention order has been made against a person. That is why we

[Shri Shanti Bhushan]

have tried to strengthen the other important safeguard. After all, if I call attention to the fact that when a person who is suspected of having committed a crime is arrested and detained in jail, what exactly is that kind of detention is the question. Is it punitive detention? It cannot be punitive detention because a person has not been adjudged guilty. At this stage, it can only be recorded as a preventive detention because the idea is to prevent him from committing a crime in future. The idea of that detention is to prevent him from doing certain things which might not be desirable, in the interest of the society. But why has not there been a voice against that kind of preventive detention? The reason is not far to seek. The reason is because so far as that detention is concerned, pending trial and pending investigation, the final voice as to whether the person shall remain in detention or shall be at liberty, is not with the executive, it is with the judiciary. It is for the judiciary either to release him on bail or not to release him and they are to justify his detention. Therefore, there is an independent authority, the court, who wield that power and there is no possibility of the power being abused. Of course, a mistake might be made. Every single citizen who is a part of society sometimes, to some extent, has to be prepared to suffer in the overall interest of society. To that extent, even if a mistake is made by the Court, so long as it is an honest mistake, the society does not raise its voice because to that extent it is justified, but there must not be any deliberate victimisation. And that is why there has not been any voice against detention of that kind. It is that principle which we have tried to import even in the concept of preventive detention. Earlier Art. 22 authorised, or rather gave powers to the Parliament to authorise the preventive detention of a person to an unlimited extent. Although Art. 22 laid down the period of 3 months normally with-

out reference to the Advisory Board, at the same time clause (7) was there which empowered Parliament by an enactment to extend that period of three months to any unlimited period—and it had been done. Therefore, this safeguard of an Advisory Board was not available. What we have tried to do is, apart from the fact of reducing this period normally of three months to two months, we have done away with the power of the Parliament to extend that period of detention beyond two months without reference to an Advisory Board. And we have done something more important also. Its importance might not be realised in cold print, but in reality it is a more important safeguard. Earlier the Advisory Boards were constituted by the Government. The Government had the widest discretion to choose the personnel of the Advisory Board. Obviously, that confidence in the functioning of an Advisory Board of that kind constituted by the Government would not be there as there would be in the case of an Advisory Board constituted by the independent judiciary. Therefore, we have introduced a provision which would require that the Chief Justice of the appropriate High Court would select the personnel of the Advisory Board. Of the three members, the Chairman will have to be a sitting Judge to be selected by the Chief Justice; the other two members could also be either sitting Judges or retired Judges who are well versed in the traditions of an independent judiciary and who can be expected to discharge their functions with an even eye, objectively and so on. All the three are to be selected by the Chief Justice of the appropriate High Court. If a panel of three such persons, to be selected by the Chief Justice of the appropriate High Court, which has not merely those limited powers which a Habeas Corpus Bench has but which\* has unlimited powers to "view the grounds of detention and go into the material on the basis of which the detention

of a person has been ordered, comes to the conclusion that there is good material to justify the detention of a person whose being at large would be harmful to the society, then I expect and believe that the society will have confidence in this preventive detention. It might be an evil of course but it will be regarded as not an unmitigated evil but as a necessary evil which in the larger interests of the society has to be tolerated at least for some time. Sir, with these words...

SHRI G. C. BHATTACHARYA (Uttar Pradesh): What about your assurance against the detention of social and political workers?

SHRI SHANTI BHUSHAN: All right, my friend, who is a distinguished lawyer and a very close friend of mine from Allahabad, has raised a point which perhaps does not require an answer. So long as the power of preventive detention is exercised *bonafide*—I repeat bonafide of course during the period of emergency, all the safeguards had vanished; there was no habeas corpus; no Advisory Board; no communication of grounds of detention so it was possible to detain a person mala fide and yet there was no relief available during the normal period when the habeas corpus would be available, when the Advisory Board consisting of independent persons, to be selected by the Chief Justice of the appropriate High Court would be available, it would not be possible for any authority to detain a person on political grounds or a political person. Art. 22 itself provides in what circumstances it could be done and the preventive detention law lays down what kind of satisfaction is needed. So, therefore, that power can never be exercised for political purposes, so long as there are adequate safeguards and there are remedies available with the result that there is an institutional arrangement to answer that question.

SHRI G. C. BHATTACHARYA:

What we want to be clear about is whether you are contemplating any law which will enable detention of political workers. Safeguards come later on.

SHRI SHANTI BHUSHAN: Not at all. I can assure my hon. friend that it would be the farthest thing from anybody's imagination to contemplate a law for the detention to contemplate a law for the detention of political workers or political opponents because there could not be a grosser misuse of any power of preventive detention and I don't think any law would be able to justify it at all.

Coming to article 31C a lot has been said because an amendment has been proposed by this Bill to this article. Sir, the sentiments which have been expressed by many hon'ble Members in this House seem to indicate that there is a belief in some minds that Fundamental Rights on the one side and Directive Principles on the other side are in conflict with each other. The objectives of the two are absolutely not contradictory. Shri Ramamurti is not here. I am happy that he has tried to defend the proposal made in this regard. As to what is the difference, with all humility, I would like to submit it for the consideration of the hon'ble Members that there is no intrinsic clash between the Directive Principles and the Fundamental Rights. The purpose of the two Chapters of the Constitution is entirely different. While the Directive Principles spell out the goals of the Constitution, objectives to be achieved, in which direction the State has to go, where has it to set its eyes and in what way, it has to move to achieve it. In so far as Fundamental rights are concerned, they indicate the path, or the method of achieving these directive principles. For instance, if I may be pardoned for giving a very rather crude example, if a person's destination is in a particular direction he has to be

[Shri Shanti Bhushan] told that he has to reach there and he is also told that he has to go by a car but that he must drive cautiously so that he may not trample upon somebody, so that he may not kill somebody on the way if he drove the car very rashly. But if somebody says, "Lok here, this clashes with your fundamental right," namely, telling him that he must drive the car cautiously and carefully so that he does not trample upon somebody but reaches his objective this is implementing the Directive Principle. But the Directive Principle tells him that he must reach such and such a place. The fundamental right comes in the way which tells him that he must drive the car cautiously. But that is not the question because you must achieve the directive principle in a particular manner so that you do not trample upon the people's right. If you bring forward a provision and say that, "All right, so long as you are trying to achieve your objective, well, you must drive your car cautiously when you are going to such and such a place. Now you are going to Parliament House. In that case because going to the Parliament, is very important, then the injunction of driving a car cautiously does not come at all and you can run down any number of people on the way because it is very important that you should be able to reach Parliament. Sir, I am trying to point out that there is no clash between the two. I will just give one or two examples.

Perhaps, hon'ble Shri Bhupesh Gupta and the other hon'ble Members would agree with me as to what would happen if article 31(C), as had been amended by Forty-second Amendment, had been allowed to remain, what curious results it would have.

There are these Directive Principles. Some of them are, for instance, article 47, to "raise the standard of living of the people and also prohibition". I would forget prohibition for

the time being lest I should offend the sentiments of Shri Bhupesh Gupta and come in the way of his fundamental right. It is a very valuable Directive Principle that the State must take steps to raise the standards of living of the people. And if article 31(C) remains in the form in which it was brought about by the Forty-second Amendment, then any legislation which is enacting for the purpose of implementing this Directive Principle, namely, trying to raise the standards of living of the people, then articles 14 and 19 do not come in the way. Therefore, that legislation, in whatever form it is enacted by the ruling party, which is supported by the majority in both the Houses, cannot be questioned on the ground that it interferes with any of the basic freedoms which are guaranteed under article 19. Now some government says that because the standards of living of the people have to be raised and if the workers are allowed to go on a strike, production suffers. When production suffers, the prices rise and people do not get their necessities. Then how can their standards of living be raised if the fullest production is not ensured? Therefore, give them less wages, prevent them from going on strike. Prevent them even from speaking out, resisting against all these things, freedom of speech must be curtailed. If that is the legislation, people will have to work from 6 o'clock in the morning to 12 o'clock in the night every day without murmur and they will not be able to complain. He would have to be content with so much of wages. He will not have the right to strike or the right even to criticise because it is necessary to raise the standards of living.

He must be content with so much of wages, he will not have the right to strike or the right even to criticise, because it is necessary to raise the standards of living of the people, we are trying to implement the Directive Principles. Therefore, article 19 is out of the way, article 14 is out of

the way. I would like to put a question to hon. Shri Bhupesh Gupta: would he support that and would he say that it is good; because this legislation can be justified as a legislation which tries to implement this Directive Principle of raising the standards of the people, therefore, it is right that the fundamental right... SHRI YOGENDRA SHARMA (Bihar): How can there be any raising of the standards of the people by reducing the rights of the workers?

SHRI SHANTI BHUSHAN: Please ponder over it, because I have seen even in the law courts that while one is arguing one's case one does not realise that is arguing against oneself. I am not merely telling you a story. It happened in the Supreme Court. A very distinguished lawyer argued very vehemently and afterwards he realised that he had gone on arguing against his interests. That does happen. So I just want to register this warning, that this is the kind of thing that will happen. Every law can be justified as being for the purpose of implementing one Directive Principle or the other. They are laudable goals. But those goals could be achieved in more than one way. Those goals could be achieved either by trampling upon the rights of workmen, by depriving them of their right to forming associations and trade unions, by depriving them of the right to speak out against those injustices which are being caused, or in a manner which is consistent with the rights of a trade union, the right of the freedom of speech also, and the question is, the philosophy behind the Constitution which was framed by the Constitution-makers was that it is not merely the end which is important, the means are also important. Therefore, while you must strive to achieve the goals of having an egalitarian society, and so on, a welfare society, you do it in a manner that you do not oppress the working people. you do not oppress the masses, you do not deprive them of the things which are so valuable for them. Of course if the hon. Members feel

that all these basic freedoms are useless, they have no value, the working class does not cherish these basic freedoms which are guaranteed by article 19 and they would like them to be trampled upon just because somebody could say that this legislation is for the purpose of implementing a Directive Principle, that is a different thing.

Now, there is article 40, another Directive Principle, regarding organising the village panchayats. Now organising the village panchayats is a very laudable objective. That can be done in two ways. One way of doing it is: All right. All sections of the society, whether owing allegiance to one party or the other, will have an equal say in choosing the panchayats. Everyone will have the right to vote so far as the village panchayats are concerned. Another way of organising the village panchayats is to say: No, the Communist Party is bad. Therefore, so far as they are concerned, they would neither be entitled to put up their candidates nor be entitled to vote. Well, the village panchayats would not be constituted. Now, of course, if

article 31C in its present form is there, then the members of the Communist Party would not be entitled to challenge such a law which provides for the constitution of the village panchayats by depriving the members of the Communist Party the right to vote and the right to candidature for even if article 31C is there, article 14 has been given a go-by. Then the law cannot be challenged on the ground that it is discriminatory. Then, the Parliament, the ruling party has the right to discriminate and constitute the village panchayats. Would you like it in the village panchayats or in all these institutions?

Similarly, with regard to property also, so far as the re-distribution of property is concerned, the reallocation of property is concerned, for the purpose of reducing concentration of wealth and so on, it is a very important Directive Principle. It can be

[Shri Shanti Bhushan] done in two ways. One is: All right. If a ceiling is fixed, that ceiling is to be applied to everybody irrespective of political affiliations. Another way would be all right. Let there be a ceiling only in the case of the persons who owe allegiance to the Opposition parties. So far as those owing allegiance to the ruling party are concerned, they will be freed from the law of ceiling. Such a law cannot be challenged if article 31C is there, because article 14 cannot be brought into play for testing the validity of this law. Therefore, all these things can be done. I would not like to suggest that somebody tried to make this form of article 31C deliberately for that purpose. I would not like to suggest that. But it should have been realised of course it is very easy to sort or excite the feelings of the people and create a class between the Directive Principles and the Fundamental Rights because obviously when we speak of the Directive Principles, we touch a very important chord of sympathy in the hearts of the poor people; quite right—and it should not be forgotten that by touching their heart, that chord of sympathy, if we try to do something which is undesirable and against the interests of those very people. Then we are trying to misuse the constitutional provisions.

[MR. CHAIRMAN *in the Chair*]

SHRI V. B. RAJU (Andhra Pradesh) : You have retained Articles 39 (b) and (c) in 31C according to your amendment. But what about Articles 38, 38 (a), 41, 42, 43 and 43A? They all actually relate almost to the same objective.

SHRI SHANTI BHUSHAN: I understand it. Let me answer it. Article 31C had been amended earlier, rather it had been brought about for the purposes of those two Directive Principles, important Directive Principles, at a time when the Fundamental Right to property was there. We do not yet know what the ultimate fate of the proposal to delete the

Fundamental Right to property would be. Well, Article 19 (1) (f) is also a Fundamental Right, and Articles 31 and 31C are also spoken of. They are limited laws which are only for the purpose of implementing those two Directive Principles because those two Directive Principles can be implemented only by certain kinds of laws. So far as those laws are concerned, well, we did realise that it would not be right, particularly so long as the right to property is also a Fundamental Right to put any kind of an impediment of the Fundamental Rights in their way. But Shri Raju is very right, if I may say so with great respect, that a State may come when one may have to think that particularly when the Fundamental Right to property has been deleted both from Article 19 and Article 31, whether there is any need of a provision like Article 31C which says that when you are trying to implement any Directive Principle no Fundamental Right would be allowed to come in the way, because then only two things remain. After Articles 19 (1) (f) and 31 go, then it will be either Article 12 or the other clauses of Article 19 which I would say are innocuous. These are not for the purpose of the rich people and the vested interests and so on. Equality is not in the interest of the vested interests. Equality is for the people who are poor. The right to equality is a very valuable right for the poor people, for the deprived people. Similarly are the freedoms, the freedom of speech, the freedom to assemble, the freedom to form trade unions and the freedom to move from one place to another. The freedom of movement, of course, is a sacred right. If that Fundamental Right is done away with for the purpose of the Directive Principles, then the sacred right of the Hon Members to stage a walk-out would also disappear because that is a part of the freedom. Sir.

Sir, regarding Article 74, that the President being bound by the advice of the Council of Ministers, two point?



were made. I would very briefly deal with them. One was made by Mr. Sankar Ghose. He said that this limited right which is being given to the President, namely, to send back a decision of the Council of Ministers for consideration once because an advice given after reconsideration is binding, would make the President come in the arena of politics. Sir, I submit that it has always been recognised that the President is a very important functionary, and the manner in which the electoral college elects him also ensures that he would be a very responsible functionary. And he is the Head of the State. He must have this because after all nobody is infallible, even the Council of Ministers, I am prepared to admit, can make a mistake. There can be an oversight. They may not take into consideration certain other aspects of the matter. Therefore, when one such reconsideration is given, if it occurs to the President that there are some valid reasons which have been overlooked, and if these reasons are put before the Council of Ministers, perhaps the Council of Ministers may come to a different conclusion. This has always been recognised a part of the functions of the President all along from 1950. Even when this controversy was raised whether the President was bound by the advice of the Council of Ministers or not in 1950 by Dr. Rajendra Prasad, the Constitutional experts had examined the position and came to the conclusion that he was a moral and Constitutional Head bound by the advice of the Council of Ministers. But this function was clearly recognised that he could caution, that he could advise. He could caution the Council of Ministers; he could advise the Council of Ministers. Thereafter the ultimate decision will be a matter of the Council of Ministers. But this much was always there. Even in the British parliamentary democracy, this function of the Crown is also recognised. And that is why when by the Forty-second Amendment, a change was made in the Constitution, it was not such a role also in jeopardy. It is not clear. Perhaps it

might be possible to interpret that even after the Forty-second Amendment, it was possible for the President to ask for reconsideration, but in any case, it is not clear. Therefore, if it was sought to be taken away, then that right which always was with the President, is sought to be restored; but if that right was still there that it is sought to be made explicitly clear because there can be no doubt that this is a very important role, a very valuable role—the President is not in the dim of day-to-day politics—and, therefore, he must have the right to advise and caution. The ultimate decision must, of course rest with those who are responsible to the Lok Sabha, namely, the Council of Ministers.

Then, Sir, Mr. Dinesh Goswami raised a few more points. He asked, was it that there were no functions in which the President had an independent voice? He somehow had the impression—I have great respect for him and also for his advocacy—that so far as the determination of the age of a judge is concerned, the President has the power, because the Constitution says that "the President shall determine". Of course, all articles of the Constitution refer to the President—"the President shall do this, the President shall do that" and so on. But wherever the power is given to the President, except in an exceptional situation, all those functions are supposed to be exercised in accordance with the decision of the Council of Ministers. It is for the Government, which is responsible to the Lok Sabha, to decide, not for another functionary who is not responsible to the Lok Sabha. But there are two situations undoubtedly, to which he has called attention, and he has raised a doubt as to whether in those situations also, the President has no power. For instance, he mentioned choosing of the Prime Minister. Now, article 74 and article 75 are there. Article 74 is the normal provision, and article 75 is an

[Shri Shanti Bhushan] exceptional and special provision. So far as the function of choosing the Prime Minister is concerned, that is conferred on the President by article 75. It is quite clear that so far as choosing of the Prime Minister is concerned, that is a function which the President has to exercise on his own individual judgment, not on the advice of an outgoing Council of Ministers. That is quite clear. That is not governed by article 74; that is governed by article 75. Similarly, he raised the other point: suppose the Lok Sabha is dissolved and fresh elections are taking place. Our Constitution does not contemplate that there shall be any Government without a Council of Ministers. The Council of Ministers remains there. Well, whether we call it a care-taker Government or not is immaterial; but it is there. He raised the point; suppose the party whose Council of Ministers was functioning during the time that the elections were taking place, happens to lose at the General Elections and yet that Council of Ministers chooses to give an advice to the President to dissolve the newly constituted Lok Sabha again and to order fresh elections again: would such an advice be still binding on the basis of article 74? I would like to assure the hon. Member that no such position would arise because all the constitutional provisions have to be read in harmony. There is the constitutional provision saying that the Council of Ministers is responsible to the Lok Sabha. I do not think he expressly stipulated this situation, but this situation was stipulated in the Lok Sabha also, in the other House, when the matter was being discussed, that is, when the Government, namely, the Council of Ministers has been defeated on a no-confidence motion and after that no-confidence motion has been passed against the Government, yet the Council of Ministers, instead of resigning, try to advise the President, for something and so on and so forth: then in that case, would that advice be still binding? I submit, Sir.

that the article which says that the Council of Ministers is responsible to the Lok Sabha ensures that it is only so long as the Council of Ministers is functioning in accordance with the constitutional provisions, till then only the advice of the Council of Ministers is binding on the President. So, a defeated Council of Ministers, whether defeated in General Elections or defeated on a no-confidence motion, has no constitutional power thereafter to advise the President, and the President will have the power, just as to install a new Government, to dismiss that Government also if it does not resign by itself.

SHRI DINESH GOSWAMI :  
(Assam): Mr. Law Minister, so far as the age of a judge is concerned, is it not a fact that the Supreme Court in Jyoti Prakash Mitter's case held that in determining the age of a judge of a High Court, the President acts quasi-judicially, in his own individual discretion, and the advice of the Cabinet does not come in? The second point is whether you have left an option to the President to determine whether the Prime Minister is acting within the Constitution or not. I think you are giving over-riding powers to the President again. Therefore, the whole argument is contradictory.

SHRI SHANTI BHUSHAN: I have understood your point. I am not doing that. What I am saying is that once the Council of Ministers has been defeated either in a General Election or has been defeated in a No Confidence Motion, then, thereafter its function, its role, of advising the President comes to an end. In that situation the President is fully-entitled, under article 75, to dismiss that Council of Ministers. That is what I am saying.

So far as the question of quasi-judicial is concerned, so many functions of the Government are quasi-judicial. Quasi-judicial means that

you give a hearing, you give a hearing to the person affected before you come to a decision. It does not mean that the President performs that function in his individual discretion. In fact, in Shamsher Singh's case the Supreme Court has gone into the question very elaborately. All the seven Judges came to the unanimous conclusion that the defeated Council of Ministers, etc. are only exceptions. Chief Justice Subba Rao tried to create this theory, this doctrine, namely, there are two kinds of functions. For some functions he has to act on the advice of the Council of Ministers, in others he has to act in his individual discretion. In some cases, some view to that effect was expressed. When Chief Justice Subba Rao was there. But that doctrine has never been supported by jurists. Mr. Setalvad did not support it. Alladi Krishnaswamy did not support it. Others did not support it. with the result that it is now agreed on all hands that the President is only a constitutional head. He is bound by the advice of the Council of Ministers.. (*Interruptions*)

SHRI V. B. RAJU; I raised a point: How did you import the word Cabinet.

SHRI SHANTI BHUSHAN: I must not forget to deal with it. Sir, a point has been raised that if in the other articles of the Constitution the expression 'Council of Ministers' has been used, why was it necessary to innovate and use the expression 'Cabinet', so far as article 74 was concerned. I will immediately explain to you why it was so. In fact, article 72 says: "With the aid and advice of the Council of Ministers. ." All orders are made in the name of the President and are supposed to be made with the aid and advice of the Council of Ministers. How the Council of Ministers should advise the President is laid down in the Rules of Business which are framed under the appropriate article. In the Rules of Business, some distinctions have been made between one function and other

functions. In the case of less important functions, a single individual Minister is entitled to take the final decision and the decision constitutes the advice to the President on the basis of which the order of the President comes to be made. On the other hand, there are functions which are allotted by the Rules of Business to the Cabinet which come within the Cabinet purview of advice. If we use the expression "Council of Ministers", then in that case even the question of declaration of emergency would have been allotted to individual Ministers, let us say, the Home Minister. He would be competent to take a decision as to whether an emergency should be declared or not. It would be merely a question of altering the Rules of Business which are alterable. The Constitution provides that no Rules of Business can give this function to individual Minister, and so on. It must be done by the Cabinet. The concept of 'Cabinet' is well-known, namely, that Ministers of the Cabinet rank constitute the Cabinet. Therefore, the requirements of article 352 are that so far as such important matters are concerned as the question of declaration of emergency, there should be a collective decision and then they should send a written advice to the President. Sir,....

SHRI B. N. BANERJEE (Nominated) : When you have used the language meaning that it should be the Union Cabinet, that is to say, the Council of Ministers, Prime Minister and other Ministers, appointed under article 75, you specifically say that only the Ministers of Cabinet rank will be entitled to discharge these functions, not others ..... (*Interruptions*)

SHRI SHANTI BHUSHAN: That is well recognised. So far as Cabinet decisions are concerned, only Ministers of Cabinet rank participate in them, even otherwise

Then, right to property. Certain doubts have been raised in regard to

[Shri Shanti Bhushan]

fundamental right of property. I am surprised that even distinguished lawyers should raise this doubt and then it occurs to me that perhaps the reason for their raising doubt is not that they are really doubtful but because they want me to say so expressly on the floor of the House. The doubt they have expressed is that even though the fundamental right article 31 is deleted and 19(1) (f) is also deleted, yet 300A is introduced as a right, namely, that no person shall be deprived of his property save by the authority of law. What they are apprehensive about or at least what they say they are apprehensive about is whether this concept of market value of compensation might not come back by the back door which has been done away with by various amendments, particularly the last amendment substituting the word "amount" for the word "compensation". When article 31 had a clause saying that no property shall be acquired except for public purpose and on payment of compensation, there was a requirement. If you acquire a property, then you have to comply with two conditions, namely, it shall be for a public purpose and secondly there should be compensation paid. Since there was fundamental right to compensation, in that context the scope for interpretation was possible. But so far as 300A is concerned, advisedly this language has been used. In fact an amendment was proposed in the other House that it shall be either by due process of law or it should not be done except by procedure established by law in conformity with the language used in article 21. But this was not accepted. If that language is used, then all kinds of concepts could have come in by the back door. "Save by authority of law" simply means that there must be an enactment to justify that deprivation. Not that enactment must contain a provision for compensation—either market value or otherwise. It is left to the judgement of the legislature. The legislature in its wisdom, seeing as to what the situation is, may pro-

vide for compensation or may not provide for compensation or may provide for market value or may not provide for market value so that when the fundamental right to property has been taken away, obviously it is not possible to say that any requirement of compensation can at all be read in article 300A.

Some reference was made to small agricultural holdings....

SHRI DINESH GOSWAMI: I raised this question because my apprehension ....

SHRI SHANTI BHUSHAN: May I suggest that we can discuss this when we take up clause by clause consideration as otherwise I may take too much of time?

There was a reference to small agricultural holdings and an apprehension was expressed....

SHRI TRILOKI SINGH (Uttar Pradesh) : The Land Acquisition Act is there....

SHRI SHANTI BHUSHAN: Land Acquisition Act is not a perpetual law. It is not a Constitutional law. It is amendable. You can amend it any time. You can have other laws for certain situations. The Land Acquisition Act was there already when you enacted article 14. The principle which has been laid down is that if you have two laws operating in the same field and the two laws give you a choice either to acquire under this or that—it is not a compulsory law to take away certain types of property—there is no question of land acquisition. That law provides for acquisition under those circumstances and then the decision of the Supreme Court will not come in. You have the discretion either to acquire under this or under that. It can be done at your sweet will. If the Parliament does not allow that sweet will to the Government, but says that this shall be acquired under this Act alone, then in

that case there is no question of article 14 coming in because otherwise that argument could have been raised even when you had 31 in a way. Article 14 was still there. Obviously when the fundamental right is being taken away, it does not enhance the right of any person, it can only reduce the right of certain people.

Regarding small agricultural holding, an apprehension was expressed as to what will happen to a small holder or a small farmer. You have probably omitted to notice that article 31A is being retained. And, Sir, so far as the agricultural holdings within the ceiling limits as imposed from time to time are concerned, it guarantees them the right and their rights have been preserved and the agriculturist cannot be deprived of his holdings so long as they are within the ceiling limits, without payment of the market value compensation and that particular right has not been touched, because the small peasants do constitute the bulk of the people of this country and, as an honourable Member said, Sir, if they do not produce, then, in that case, the entire country will perish. I agree with it and, therefore, I agree that they have to be preserved and this is the preservation of their rights and this preservation has been maintained.

PROF. N. G. RANGA (Andhra Pradesh) :  
Under what article?

SHRI SHANTI BHUSHAN: 31A. That right is given in 31A which is being maintained and which is not being deleted.

Then, Sir, some honourable Members referred to the right to work and also referred to the election manifesto of the Janata Party and said that it has been said in that that while the right to property would be deleted, the right to work would be affirmed. I am very happy and I feel gratified. Sir, to note that the Janata Party manifesto has evinced so much interest and

I take it as a sign of everyone converting himself to the views of the Janata Party and I am happy to note that the honourable Members are getting themselves converted to our views. "Interruptions". But I have no doubt that the Janata Party philosophy would definitely convert even people like Mr. Bhupesh Gupta if he has not already been converted. Very soon he will be converted.

SHRI HARISINH BHAGUBAVA MAIUDA (Gujarat): Provided the Janata Party exists.

SHRI SHANTI BHUSHAN: Sir, here I would like to make it clear as to why it has not been possible to include or incorporate the Fundamental Right to work at this stage. True, we said that it would be brought and that the Fundamental Right to property should go. I think it would be a mistaken notion to read that election manifesto to mean that the two things must happen simultaneously. In fact, they cannot happen simultaneously. Whenever certain things are said in the manifesto, there is always a suitable time for doing them and they cannot be done immediately and it is not a *mantram* and it is not just by incantation that you can do it by saying, 'All right. Article 19 in respect of the Fundamental Right to property should go and it shall be obligatory on the part of the State to give meaningful employment to everybody by way of a Fundamental Right to work and straightway, the next thing, the State should do it.' There are meaningful employment and meaningful jobs avail for everybody and they have merely to go to a court of law and the court of law will say, "All right. You will be a typist, you will be an engineer and you will be an architect," and so on. It is not like that. Certain conditions have to be created, because, otherwise, it would be like passing a decree. If somebody is satisfied in getting a decree passed for Rs. 30 crores against a pauper like myself, for instance, then, in that case, you would be very happy to have that

[Shri Shanti Bhushan]

decree. But the important thing is that a court decree against a pauper would be unenforceable and the same would be the position then. So, the question is at what stage the Fundamental Right to property should go and the other right should be there, because the Fundamental Right is an enforceable right and you can go to a court of law and have it enforced it straightway; no defence, and the State would not have to say, "Well, there is this difficulty or that difficulty". It is at this stage that you have to do it if you have to basically solve the unemployment problem. Of course, there would be some people who would be unemployed. Then in that case, the Fundamental Right has to be there and, connected with that right, the right to unemployment relief. Otherwise, if you write down the Fundamental Right today into the Constitution, it will be a dead-letter and it will be an unenforceable right. That is why it has been kept and it was kept in the Directive Principles. But efforts are being made and I can assure the honourable Members that serious attention has been paid to this problem by the Planning Commission. I have myself gone into it and I had obtained a note from the Planning Commission and I had made a speech also....

SHRI BHUPESH GUPTA: Mr. Shanti Bhushan, the Planning Commission, in the Draft Sixth Plan Report, envisages an increase in the middle-class educated unemployment and whatever figures they have given show that unemployment will only rise.

SHRI SHANTI BHUSHAN: What I am saying is that certain strategies and certain policy orientations and certain things have been decided upon. But, obviously, you cannot just come to this conclusion. If you want to effectively solve the problem of unemployment, then, first of all, you have to scientifically study it, and then identify the problem, identify the magnitude of the problem also and identify as what would be the only possible way of solving it. Otherwise, if you just start |

running without knowing as to what is to be done and how it should be done, then, in that case, no results are possible because these things cannot be solved just by slogans. A scientific approach is necessary and I am very happy to say that the Planning Commission has applied a scientific approach and they have been able to identify as to what has happened, what has gone wrong in the past, why it has not been possible to solve this problem of unemployment, what reorientation is necessary, what new approaches are necessary and so on and so, this is not the occasion.

SHRI BHUPESH GUPTA: Sixteen months after the Janata rule, unemployment has increased by 12 per cent

... (interruptions)

SHRI SHANTI BHUSHAN: Sir, I am reminded here of a case in which a factory-owner was going to instal a new factory, and he said that he was going to have production of 200,000 tonnes after four years. So a person after one year said: You said that in four years you would have a production of 200,000 tonnes, so in one year it should be 50,000 tonnes; where is the production? The machinery was being set up. So he wanted even when the factory had not been installed, at least 1/4th production should be there. He was not prepared to wait till the completion of the factory.... (*Interruptions*) Are they threatening to stop the factory being constructed? They do not want to solve the unemployment problem? So long as the unemployment problem is there, you would thrive? No, no, we can't permit this. The unemployment problem shall be solved.

Then, Sir, in regard to the office of profit, it was said that a good thing had been done by the forty second amendment, leaving it to the convenience of hon. Members or potential Members, so that they would know what exactly is an office of profit. Only those offices of profit which are specifically mentioned for the purpose of disqualification would alone be disqualified, not

other offices. On the other hand, the earlier condition which was sought to be restored was that every office of profit disqualifies, unless Parliament has provided that a particular office of profit does not disqualify. Now, what is the difference between the two positions. A very important difference. The idea is that it is necessary for honest politics, where politics cannot be polluted and cannot be diverted for other ends, namely, that a person, if he is a Member of Parliament, must not hold an office of profit, that is, an office under the Government. Why? Because independent functioning must be ensured. Obviously, there has to be some offices like those of poor Ministers and certain officers also. Therefore, certain offices of profit are exempted. But the exemption has to be given by the Parliament consciously, that: all right, this is the office which is essential, therefore it must not disqualify. On the other hand, if you have a provision like the one which was brought up by the forty-second amendment, then the position, in brief, would be that an office of profit could be created till the time the Parliament might apply its mind and specify those offices, it would be possible for the Government to keep on creating offices of profit and say that this cannot disqualify. There is thus vital difference between these two positions. The laws must come first and giving of office of profit must come later.... (Interruptions)

SHRI V. B. RAJU: It is not very relevant here. The question is of definition. ... (Interruptions)

SHRI SHANTI BHUSHAN: Perhaps the hon. Member has not understood me. It is a wellknown concept; it does not require any definition. The word "office" is wellknown. The word "profit" is wellknown. The word "Government" is also well known. If the Government makes appointment of a person to an office which office securing profit, that is office of profit. It is very clear. If they appoint me to an

office and that office gives me some remuneration one way or the other, then in that case I know that I am being appointed to an office of profit. After all, the profit is well-known. What is profit? Any pecuniary benefit is profit. (Interruptions) The parliament will disqualify after a long time. Till the parliament goes to make the enactment and as soon as the parliament disqualifies all these offices the Government will create other offices. Therefore, the spirit of this provision can be evaded if this kind of innocuous or innocent-looking amendment was allowed to remain.

Then, Sir, I would skip certain things. I will take the time of the hon. Members on administrative tribunals. I appreciate that there have been delays in the High Courts, etc. Therefore, this concept of administrative tribunals appealed to them. But may I just ask them, with great humility, whether they do not have the experience of similar delays even in administrative tribunals. I can assure them that there have been administrative tribunals and administrative tribunals. (Interruptions) There is no such magic in administrative tribunals that cases would not accumulate there. It all depends on who is the person, with what speed he functions, how many Judges are there, how many Benches are there and what work is there. Whether you appoint the same two Judges as a Bench of the High Court to deal with labour matters or you appoint the same two Judges as a Labour Appellate Tribunal, it would not make the slightest difference. It all depends on whether you have the requisite number of Judges with the requisite speed and capacity who do not allow the backlog to accumulate. If you allow the backlog, it can accumulate and has accumulated in various tribunals. I know of some administrative tribunals clogged up with work and cases not coming up for years together. So, the solution is not administrative tribunals because merely by calling

[Shri Shanti Bhushan] somebody an administrative tribunal, he does not get the capacity of working very fast. It is a question of taking a pragmatic look at things. And the handicap of a tribunal is that the Government can appoint any person to these administrative tribunals. Any person can be appointed in a partisan way and the Government can create any number of administrative tribunals. Would you like your rights to be placed before every administrative tribunal? Supposing for income-tax matters, not this old Income-Tax Tribunal which also functions under the supervision of the High Court, etc., a new Income-Tax Tribunal was created today and supposing we appoint two politicians there to dispose of income-tax matters. They would immediately assess Shri Bhupesh Gupta's income as Rs. 2 crore and impose a tax of Rs. 1.5 crores on him and say: Yes, this decision is final. So, Shri Bhupesh Gupta goes and Shri Bhupesh Gupta is not there in the Rajya Sabha only because an administrative tribunal appointed by us, in its wisdom, chooses to say: All right, yes yes it is the best judgement; after all it is the best judgment. He makes such eloquent speeches. He must be a very able man and must be earning Rs. 2 crores. Therefore, let us assess him at Rs. 2 crores. It becomes final. Would Shri Bhupesh Gupta like to have such a tribunal?

SHRI YOGENDRA SHARMA: Mr. Shanti Bhushan, your efforts will not succeed.

SHRI SHANTI BHUSHAN: I know you would not like them to succeed.

SHRI L. R. NAIK (Karnataka) : The hon. Minister, in reply to my question, has said that a Judge can dispose of not more than 600 to 700 cases in a year. At that time, I had also said that there were writ petitions to the tune of 15000 in respect of Land Reforms Act in Karnataka and if he appointed one Judge, he would take about 22 to 25 years to dispose of those cases. Will you permit that sort of thing?

SHRI SHANTI BHUSHAN: I have understood your point. Let me dispose of his objection in two sentences. In Karnataka, what happened was that certain administrative tribunals were created in regard to land reform matters. I would not like to say in what way those administrative tribunals were created and how they functioned. I was only saying that there should not be various tribunals to deal with Shri Bhupesh Gupta packed with politicians and so on who will decide not on facts but on the basis of other considerations. There in Karnataka, the orders were being given without any reasons, etc. They were sometimes in favour of this person and sometimes in favour of that person. The High Court said that if the legal rights of the people were being decided, then it must be made known as to why those cases had been decided in A's favour and why those cases had been decided in B's favour. So, they quashed all those orders. You must give a reasoned order. Again they decided them without giving reasons. Such cases do not take much time to be decided in the High Courts, and it may be even 10,000 cases can be decided in one day because all that the Judge has to ask the Counsel is, "All right, are all these 10,000 writs cases in which no reasons have been given?" When he says, "Yes, the reasons have not been given", the Judge says, "All right. Orders quashed." Even in Karnataka, it has been realised\_\_\_\_\_

SHRI L. R. NAIK: In Karnataka, the High Court is very rigid in disposing of cases and orders of the tribunals at the level of Taluks. We have seen that action has been blocked by the rigidity applied by the High Court in the matter of distribution of 4 or five lakh acres of surplus land to the Scheduled Castes and Scheduled Tribes. What have you to say about it?

SHRI SHANTI BHUSHAN: Even in Karnataka, I am happy to say that now this infirmity has been realised



and the right of appeal or revision to some impartial agency has now been conceded there. So, that difficulty is over even in Karnataka.

Sir, so far as the emergency provisions are concerned, there are just two or three small points which have been referred to. One was the armed rebellion. I would not like to take much time of the House. Some hon. Members said, what is the difference between the internal disturbance and the armed rebellion? Now, the difference is very obvious, because for so many days I have seen internal disturbance in this House but I have yet to see an armed rebellion in the House. So, the difference is very clear to see, namely, who can deny that there have been plenty of days ----

SHEI BHUPESH GUPTA: You will see that when Mr. Ramamurti comes with a lathi, you will term it an armed rebellion.

SHRI SHANTI BHUSHAN: Sir, Shri Bhupesh Babu can be so ingenious as to call that an armed rebellion. Firstly, there is no rebellion. Then, Sir, there are no arms. And this concept of armed rebellion is so well-known that by trying to define it you would, of course, make it absolutely un-understandable. One has clearly to recognise an armed rebellion. But, Sir, it is said that if the danger to the security of the country is from outside, then emergency may be justified. But if the danger is from inside, although the danger may be of the same magnitude, of the same character, and for instance, suppose some foreign power cleverly and in such a manner that you cannot show it—and it is not visible—supplies arms and does something and, therefore, creates any armed rebellion inside the country and you are unable to show it objectively that the inspiration and the help is from outside, then you can say, well, it is not an external aggression which has posed a threat to the security of the country because unless it can be shown, you cannot -1134 RS^1

say that it is necessarily from external aggression. But the whole question whether these powers are needed or not depends upon the objective situation, and it is not by definition or by words that the misuse can be prevented. The misuse can be prevented by safeguards. The words do not prevent the misuse. You use any words. Then if the Government has to misuse, it will say that it is from external aggression. Mr. Bhupesh Gupta's aggression may be said to be from external aggression. Therefore, so far as the misuse is concerned, no words, even 'external aggression', that word, is not going to save the situation. It is an institutional safeguard. And that is why the attempt has been to strengthen the institutional safeguards. Firstly, the Cabinet advice...

SHRI BHUPESH GUPTA: You go to the next point.

SHRI SHANTI BHUSHAN: He is convinced. I am grateful to him, Sir, that he has accepted this.

Sir, I need not take much time of the House on article 356. It is well-known. The safeguards have been strengthened.

SHRI B. SATYANARAYAN REDDY (Andhra Pradesh): I would like to know whether you consider the agitation by the Nagas in Naga-land as an armed rebellion or an internal disturbance.

SHRI SHANTI BHUSHAN: Perhaps, the hon. Member has not realised that armed rebellion alone is not enough. Armed rebellion must pose a threat to the security of India or to the security of any part of India. Even if there is armed rebellion but it does not pose a threat to the security of the country, then, in that case, the consitions for emergency are not created.

Just ons void about the definitions of 'socialist' and 'secular'.

SHRI BHUPESH GUPTA: Don't bother.

SHRI SHANTI BHUSHAN: Sir, he is convinced. He does not want me to speak on it.

SHRI BHUPESH GUPTA: What about referendum?

SHRI SHANTI BHUSHAN : Now, Sir, about referendum, even though I had thought that Shri Bhupesh Gupta had made a very convincing argument so far as referendum was concerned, but since Shri Bhupesh Gupta himself is desirous that I must add some more strength to all that he has argued, I would just take a few minutes.

SHRI BHUPESH GUPTA: I did not ask that. I do not know whether you will add the strength or take away the strength.

SHRI SHANTI BHUSHAN: Well, let me make an attempt and we will see what happens.

Sir, a very pertinent question has been asked by Shri Antulay and I wish that I had the time to deal with the points raised by him at length. (*Interruptions*). That is why I say that I do not have the time. Now, in any case, he has asked whether in the Kesvanand Bharati case the Supreme Court had the jurisdiction to give that judgment because it was an article 32 petition, and he felt that article 32 is only for enforcement of fundamental rights, and asked further how does the Supreme Court get the jurisdiction to determine upon the constitutional validity of a constitutional amendment. Now, Sir, the answer is very simple. If article 368 gives a power to Parliament, uses certain language to the effect that Parliament can amend the Constitution, the question arises supposing something which purports to be an amendment of the Constitution is enacted, but it is not really an amendment of the Constitution, what happens? May I give an example? Supposing, a two-thirds majority of the

two Houses purport to enact a Bill which says "Shri Antulay is a small girl", what happens? (*Interruptions*). Would Shri Antulay say, well, they have done it under article 368, they have done it by a two-thirds majority and therefore nobody can question it and therefore Shri Antulay is a small girl. But the question that the Supreme Court will pose will be, whether calling Shri Antulay a small girl amounts to an amendment of the Constitution? Does it mean to say that Shri Antulay is a small girl because it has been done by a two-thirds majority of the two Houses and so it must be an amendment of the Constitution?

SHRI A. R. ANTULAY (Maharashtra) : If Parliament under article 368 says that Shri Shanti Bhushan is an old girl, will the Minister-----

SHRI SHANTI BHUSHAN: I will not challenge it.

SHRI A. R. ANTULAY: Still the Supreme Court cannot go into it. That is not my doubt. As you said, that is my reading of the Constitution and that is my conviction.

(*Interruptions*)

SHRI BHUPESH GUPTA: I am quite sure if the Supreme Court says that Shri Antulay is a small girl, he will welcome that.

SHRI SHANTI BHUSHAN: Sir, article 368 gives the power of amending the Constitution to Parliament. The concept of amendment is so very clear to hon. Members. So many times it is said when a particular amendment to a particular clause is moved, well, this is not an amendment to this clause, therefore this is beyond the scope of the Bill, etc. That is what exactly the Supreme Court did.

Then, Sir, Shri Seervai, who was the greatest exponent of the theory that there can be no judicial review of a constitutional amendment, has also got converted after Mrs. Gandhi's case. He has written in the second edition of his book that the two-

thirds majority of the Parliament could not be given absolute powers. The question is how a constitutional principle etc. is created in a certain 'context, in a certain situation? Today, Sir, the whole country is asking whether the two-thirds majority of the two Houses must have absolute powers, even the power of clamping a law to say that for the next 26 years there shall not be any election to either House of Parliament and only the casual vacancies will be filled in? The question is whether democracy can be allowed to be scuttled even by this process and that is why this referendum clause is sought to be introduced. The idea is not that the referendum will be used again and again. The very existence of this requirement of referendum itself will be a guarantee that nobody will ever propose an amendment...

SHRI A. R. ANTULAY: Misconceived.

SHRI SHANTI BHUSHAN:... which will impair the democratic character of the Constitution. So, it is merely a safeguard. And, Sir, those who think that the Supreme Court should not have the judicial review, I hope, would also welcome this referendum because after this referendum is there, one institution can certainly say that we can check the other institution but no institution can say that they can act as a check on the sovereign people of the country. Thereafter it will not be possible for the Supreme Court to say that even if a certain amendment had been ratified by the people of the country in a referendum, the Supreme Court will have the authority.

With these words, Sir, I would not like to take more time of the House and would commend the Bill to the House.

SHRI A. R. ANTULAY: Mr. Law Minister, that is precisely what the

framers of the Constitution thought— you may go through the debates— and yet the Supreme Court sat in judgment and whatever the hon. Law Minister is saying today, is certainly not going to be taken note of by the Supreme Court. He knows it as good as I do. The only thing is, he is sitting on that side and this is his job.

SHRI B. SATYANARAYAN REDDY: I want a clarification, Sir. He has not clarified about lowering of age from 21 years to 18 years and also about the right of recall.

SHRI DINESH GOSWAMI: I had a question regarding referendum. I want to know whether I should put it now or at the time of Clause-by-Clause consideration.

MR. CHAIRMAN: You may ask at the time of Clause-by-Clause consideration.

SHRI U. R. KRISHNAN (Tamil Nadu): Sir, he has not replied to the point about the right to recall. This is a general question and he has not replied to it.

MR. CHAIRMAN : The question is:

"That the Bill further to amend the Constitution of India, as passed by the Lok Sabha, be taken into consideration."

*The House divided.*

MR. CHAIRMAN:           Ayes—177  
                                      Noes—Nil.

AYES—177

Adivarekar, Shrimati Sushila Shank T

Advani, Shri Lai K.

Amarjit Kaur, Shrimati

Amla, Shri Tirath Ram

Anandam, Shri M.

Anjiah, Shri T.

Antulay, Shri A. R.

Arif, Shri Mohammed Usman

Asthana, Shri K. B.

Bagaitkar, Shri Sadasiv  
 Balram Das, Shri  
 Banerjee, Shri B. N.  
 Banerjee, Shri Jaharlal  
 Barman, Shri Prasenjit  
 Basavaraj, Shri H. R.  
 Bhabhda, Shri Harishankar  
 Bhagat, Shri Ganapat Hiralal  
 Bhandari, Shri Sunder Singh  
 Bhattacharjee, Prof. Sourendra  
 Bhattacharya, Shri G. C.  
 Bholra Prasad, Shri  
 Bose, Shrimati Pratima  
 Chakraborty, Shri Amarprosad  
 Chandrasekhar, Shrimati Maragatham  
 Chatterjee, Shri Pranab  
 Chattopadhyaya, Prof. D. P.  
 Chaurasia, Shri Shivdayal Singh  
 Das, Shri Bipinpal  
 Deb Burman, Shri Bir Chandra  
 Desai, Shri R. M.  
 Deshmukh, Shri Bapuraoji Marotraoji  
 Dinesh Chandra, Shri Swami  
 Dinesh Singh, Shri  
 Dutt, Dr. V. P.  
 Dwivedi, Shri Devendra Nath  
 Gadgil, Shri Vithal  
 Goswami, Shri Dinesh  
 Goswami, Shri Sriman Prafulla  
 Gupta, Shri Bhupesh  
 Gupta, Shri Gurudev  
 Gupta, Shri Ram Lakhana Prasad  
 Hegde, Shri Ramakrishna  
 Imam, Shrimati Aziza  
 Jagbir Singh, Shri  
 Jain, Shri Dharamchand  
 Jamuna Devi, Shrimati  
 Jha, Shri Kamalnath  
 Jha, Shri Shiva Chandra  
 Joshi, Shri Jagannathrao  
 Joshi, Shri Jagdish  
 Joshi, Shri Krishna Nnand  
 Joshi, Shrimati Kumudben Manishan-  
 ker

Kadershah, Shri M.  
 Kakati, Shri Robin  
 Kalaniya, Shri Ibrahim  
 Kamble, Prof. N. M.  
 Kameshwar Singh, Shri  
 Kesri, Shri Sitaram  
 Khan, Shri Ghayoor Ali  
 Khan, Shri Khurshed Alam  
 Khan, Shri Maqsood Ali  
 Khan, Prof. Rasheeduddin  
 Khan, Shrimati Ushi  
 Khobragade, Shri Bhaurao Devaji  
 Krishna, Shri M. R.  
 Krishnan, Shri E. R.  
 Krishnan, Shri U. R.  
 Kumaran, Shri S.  
 Kunjachen, Shri P. K.  
 Kureel, Shri Piare Lall wrf Piare La-  
 Talib  
 Lakhana Singh, Shri  
 Lakshamanan, Shri G.  
 Lal Sawia, Shri  
 Lokesh Chandra, Dr.  
 Lotha, Shri Khyomo  
 Madhavan, Shri K. K.  
 Mahanti, Shri Bhairab Chandra  
 Mahapatro, Shri Lakshmana  
 Mahida, Shri Harisinh Bhagubava  
 Majhi, Shri Dhaneshwar  
 Makwana, Shri Yogendra  
 Mallick, Shri Harekrushna  
 Manher, Shri Bhagatram  
 Maran, Shri Murasoli  
 Mathur, Shri Jagdish Prasad  
 Maurya, Shri Buddha Priya  
 Mehrotra, Shri Prakash  
 Mehta, Shri Om  
 Menon, Shrimati Leela Damodara  
 Menon, Shri Viswanatha  
 Mishra, Shri Kalraj  
 Mishra, Shri Mahendra Mohan  
 Mody, Shri Piloo  
 Mohanty, Shri Surendra

Mohinder Kaur, Shrimati  
 Mcdal, Shri Ahmad Hossain  
 Moopnar, Shri G. K.  
 Morarka, Shri R. R.  
 Mukherjee, Shrimati Kanak  
 Mukherjee, Shri Pranab  
 Mulla, Shri Suresh Narain  
 Muthu, Dr. (Shrimati) Sathiavani  
 Naidu, Shri N. P. Chengalraya  
 Naik, Shri L. R.  
 Nanda, Shri Narasingha Prasad  
 Narendra Singh, Shri  
 Nigam, Shri Ladli Mohan  
 Nizam-ud-din, Shri Syed  
 Oza, Shri Ghanshyambhai  
 Pande, Shri Bishambhar Nath  
 Parbhu Singh, Shri  
 Parikh, Prof. Ramlal  
 Patel, Shri Manubhai  
 Pathak, Shri Ananda  
 Patil, Shri Deorao  
 Pattanayak, Shri Bhabani Charan  
 Poddar, Shri R. K.  
 Pradhan, Shri Patitpaban  
 Prasad, Shri K. L. N.  
 Prem Manohar, Shri  
 Rai, Shri Krlp Nath  
 Raj an, Shri Pattiam  
 Sajender Kaur, Shrimati  
 Raju, Shri V. B.  
 Ramamurii, Shri P.  
 Ranga, Prof. N. G.  
 Rao, Shri V. C. Kesava  
 Ray, Shri Rabi  
 Razack, Shrimati Noorjehan  
 Reddy, Shri B. Satyanarayan  
 \*eddy, Shri K. V. Raghunatha  
 Reddy, Shri Mulka Govinda  
 ileddy, Shri R. Narasimha  
 itoshan Lai, Shri  
 !toy, Shri Kalyan  
 3ahu, Shri Santosh Kumar  
 Samad, Shri Golandaz Mohammed -  
 husain A.

Saring, Shri Leonard Soloman Sarup  
 Singh, Dr. Satchidananda, Shri  
 Schamnad, Shri Hamid Ali Sezhiyan,  
 Shri Era Shahedullah, Shri Syed  
 Shahi, Shri Nageshwar Prasad Shanti  
 Bhushan, Shri 'Sharma, Shri Ajit  
 Kumar Sharma, Shri Anant Prasad  
 Sharma, Shri Kishan Lai Sharma, Shri  
 Yogendra Shastri, Shri Bhola Paswan  
 Sheikh, Shri Abdul Rehman Siddhu,  
 Dr. M. M. S. Singh, Shri Bhishma  
 Narain  
 Singh, Shri J. K. P. N.  
 Singh, Shri Ng. Tompok  
 Singh, Shri Shiva Nandan  
 Sinha, Shri Indradeep  
 Sinha, Dr. Ramkripal  
 Sisodia, Shri Sawaisingh  
 Soni, Shr.mati Ambika  
 Sujan Sir:gh, Shri  
 Sultan, Shrimati Maimoona  
 Sultan Singh, Shri  
 Surendra Mohan, Shri  
 Surjeet, Slui Harkishan SiDSh  
 Swu, Shri Scato  
 Tama, Shri Ratan  
 Totu, Shri Gian Chand  
 Tripathi, Shri Kamlapati  
 Vaishamr^yen, Shri S. K.  
 Varma, Shri Bhagwati Charan  
 Varma, Shri Mahadeo Prasad  
 Venigalla Satyanarayana, Shri  
 Venkatrao, Shri Chandalavada  
 Warjri, Shri Alexander  
 Yadav, Shri Ramanand  
 Yadav, Shrij Shyam Lai

NOSE—NIL

*The motion was 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.*

MR. CHAIRMAN: Now the procedure to be followed. We shall now take up clause by clause consideration of the Bill. Amendments to the clauses may be moved, considered and disposed of when that particular clause is under consideration. If any amendment is adopted by a simple majority, then that particular clause as amended will be put to vote immediately. For adoption of the clause as amended, special majority as prescribed would be necessary. If the amended clause does not get the prescribed majority then that particular clause would be treated as negatived by the House. Thereafter all the clauses on which there are no amendments or on which amendments have not been accepted will be put to vote together. In case member presses any particular clause to be put to vote separately voting on that clause will take place accordingly.

I hope the House agrees with this procedure.

SHRI BIPINPAL DAS (Assam): I want to go on record that we want separate voting for clauses 35, 44, 45 and 47.

MR. CHAIRMAN: That is all right. It has been made clear it would be done.

We shall now take up clause by clause consideration of the Bill.

*Clause 2 (Amendment of article 19)*

SHRI DINESH GOSWAMI: Sir, I move:

3. "That at page 1, for clause 2. the following clause be *substituted*, namely:

'2. In article 19 of the Constitution, for sub-clause (f), the following sub-clause shall be substituted, namely: —

"(f) to work; and".'

*(The amendment also stood in the names of Shri Devendra Nath Dwivedi, Shrimati Ambika Soni and Shrimafj Leela Damodara Menon)*

PROF. SOURENDRA BHATTACHARJEE (West Bengal): Sir, I move:

4. "That at page 1, for lines 9 to 12, the following be substituted, namely:

'(a) in clause (1), for sub-clause (f), the following sub-clause shall be *substituted*, namely: —

"(f) to gainful work and adequate means of livelihood; and.' "

*(The amendment also stood in the name of Shri Amarprosad Chakraborty)*

SHRI P. RAMAMURTI (Tamil Nadu): Sir, I move :

5. "That at page 1 for lines 9 to 12, the following be *substituted*, namely:—

'(a) in clause (1) for sub-clause (f), the following sub-clause shall be *substituted*, namely: —

"(f) to work and to an adequate means of livelihood; and".'"

*(The amendment also stood in the names of Shri Harkrishan Singh Surjeet, Shri Vishwanatha Menon and Shrimati Kanak Mukherjee)*

SHRI BHUPESH GUPTA: Sir, I move:

6. "That at page 1, for lines 10 to 12, the following be *substituted*, namely:

'(i) for sub-clause (f), the following sub-clause shall be *substituted*, namely: —

"(f) to work and earn a living" wage; and

(ii) in sub-clause (g), the words, "trade or business" shall be omitted." "

*(The amendment also stood in the names of Shri Kalyan Roy, Shri Bit Chand Deb Burman, shri Bhola prasad\* and Shri Lakshmann Mahapatro).*

*The questions were proposed.*

SHRI DINESH GOSWAMI: Sir, by this amendment I have asked to amend the clause by introduction of 'right to work'. The hon. Minister gave an illustration that if a person wants to construct a factory which should have produced 2 lakh tonnes of a certain thing in four years, another man may ; complain as to why 50,000 tonnes could not actually be produced in a year. I can understand it. But the difficulty is if you want to bring a machinery for 2 lakh tonnes of production in four years, your construction must show some amount of progress. Our complaint is that the Government is functioning in such a way that within one year instead of the concern showing some kind of construction, the owner is beginning to sell out his land.

[The Vice-Chairman (Shri Syed Nizam-ud-Din) in the Chair]

Our whole complaint is that not only you have not been able to solve the problem of unemployment to a certain extent, as Mr. Bhupesh Gupta has pointed out, the question of unemployment is getting worse day by day. And it is not because of anything else except lack of commitment to the right to work. That is why we have brought this amendment because we feel that under the present context it is extremely essential that the right to work should form part of the rights available to the individual; otherwise there is no hope whatsoever for the unemployed and unemployed educated youths in this country.

PROF. SOURENDRA BHATTACHARJEE: Mr. Vice-Chairman, Sir, my amendment is in a way self-explanatory saying that the right to work or right to adequate livelihood has not been included as one of our Fundamental Rights. In a welfare State which claims to have an egalitarian society, work to all able-bodied person should be assured in the interest of the nation and in the interest of the individuals. I am quite aware that merely by insertion of this clause, overnight employment won't be produced. As I

said in the earlier discussion, merely by explaining that socialism means end of economic exploitation, economic exploitation will not end in this blessed country of ours where the power of capitalism is in full play unless an obligation is undertaken to end it. Similarly a greater obligation would devolve on the Government if this amendment is adopted to clause (f) of Art. 19. At the same time, the people's movement for right to work and end of unemployment will be further strengthened. I would, therefore, appeal to the Law Minister to accept this amendment and I would appeal to the House to pass it unanimously. At least 27 years after the adoption of our Constitution it is time that we accept it as a Fundamental Right of the people and as a fundamental obligation of the Government.

THE VICE-CHAIRMAN (SHRI SYED NIZAM-UD-DIN): Mr. Ramamurti.

SHRI P. RAMAMURTI: I am not speaking.

SHRI AMARPROSAD CHAKRA-BORTY (West Bengal): I have got an amendment.

THE VICE-CHAIRMAN (SHRI SYED NIZAM-UD-DIN): Your name is not on this. Mrs. Ambika Soni.

SHRIMATI AMBIKA SONI (Punjab): I would like to move this amendment because as the Law Minister just now said, if you want production after 5 years in some big factory you cannot expect one-fourth of it after only one year has elapsed. But certainly we want to see that the foundations are being dug, if not the output. Sir, he mentioned that the Planning Commission is trying to create various avenues for further employment. But Prof. Raj Krishna, a Member of the Planning Commission, has said recently that to guarantee full employment it would be necessary to have an outlay of B.S. 3,300 crores, which is one-

I. Shrimati Ambika Soni]

third of the total Plan outlay. It has also been made clear that this amount of money can be collected if adequate resources are mobilised in agriculture industry, trade and other professions. What I mean to say is that unless it is incorporated in the Constitution that every one has the right to work, the very motivation and the compulsion of Government to fulfil it will not be there.

Another point that I want to make is that in this Forty-fifth Amendment Bill, the hon. Law Minister has moved an amendment for the definition of the word "socialism" where he has tried to define it as where there shall be no 'exploitation, socially, politically or economically. I hold that if a person is not guaranteed his right to work he is being exploited economically, socially and politically. I, therefore, move that the right to work should be incorporated.

THE VICE-CHAIRMAN (SHRI SYED NIZAM-UD-DIN): Mr. Bhu-pesh Gupta.

SHRI BHUPESH GUPTA: I have not much to say. No speech is needed. Right to work should be included. What is there to speak? Let us save time.

SHRI SHANTI BHUSHAN: I appreciate and would like to respond to the sentiments expressed by Shrimati Soni and Shri Goswami. I would entirely agree with the definition of "socialism". It has been given that there shall be no exploitation of any kind. It does include that if a person is unemployed he is certainly being exploited by society. I could not agree more. And that is why we are committed to removing unemployment completely. I would like to assure the honourable lady Member that the Plans which have been drawn up by the Planning Commission contemplate that the level of unemployment which exists today would be reduced by 60 per cent, at the end of the first Five Year Plan because every year new unemployment is also being generated.

But taking care of that and the existing backlog, 60 per cent, would he get rid of in addition to the new unemployment which is being generated in the first Five Year Plan and by the end of the Second Five Year Plan there would be no unemployment.

SHRI KALYAN ROY (West Bengal) Even in the public sector thousands of workers are being thrown out. You are not only not opening new avenues of employment you are throwing out workers. You are creating further unemployment.

SHRI SHANTI BHUSHAN: At a stage when new strategies are being worked out and decided upon it is only when they are put in force that the results will come out. Until the new plans are in force and the new strategies have been really implemented until then the results would not come out.

SHRI AMARPROSAD CHAKRABORTY: For the last twenty eight years right to work has been included in Directive Principles but nothing has been done.

SHRIMATI LEELA DAMODARA MENON (Kerala): By this definition against exploitation are not negating the provisions of the Constitution if you do not make it a positive one and give the people the right to work? You have a planned economy. You are getting all the resources also mobilised and if you do not do that it will not be a positive thing. Why should it not be a positive thing? It is a positive negation of rights. We have a planned economy and we have accepted a socialist State and also a Welfare State. Therefore, why make it a negative thing and negate your own Constitution?

SHRI K. K. MADHAVAN (Kerala): Just one minute. You can reply together.

SHRI SHANTI BHUSHAN: Let me reply to this first. I have already agreed with Shrimati Ambika Soni



that even though it is couched in a negative language, there is a positive content in the definition of socialism. When you say that there shall be no poverty, it is not a negative concept; it is a positive concept, namely, that everybody will be well-provided for. It is a question of concept. I have already agreed with you that the concept of socialism is a positive concept.

SHKIMATI LEELA DAMODARA MENON: Let us not mitigate a thing when people are not being given even a dole.

SHRI LAKSHMANA MAHAPATRO (Orissa): I would just like to mention that the confidence of the working class is shaken after the Bhootha-lingam Committee report which recommended only Rs. 100 per month as the lowest wage whereas a Committee went into the matter of wages in the year 1939 and it recommended Rs. 150 per month. Now, 39 years after that, there is a Committee which says that Rs. 100 should be the minimum wage. Therefore, we are not able to believe that the working class will be having a living wage to ensure what you said in the amendment. Therefore, not only should there be a guarantee of work but also a living wage ensured to the people. The other thing I want to say is that now during the regime of this Ministry 18 lakhs unemployed people have been added on to the rolls of the employment exchanges; and the number is going to increase further. Mr. Biju Patnaik might say: I will take one lakh of people. He has started it by shooting people at Bailadila ! How do you say that you will put up factories in four years and then you will provide employment to these people? Your factories are not going to cope with this problem because unemployment will be ever increasing. You may be working on it, you may work for years, but you will not be able to get away from this thing, *i.e.* the rise in the number of the unemployed people. This is the reason why so many youngsters even in the Janata group— I

the other day I was reading the resolution which was taken up at the Lohia Vichar Manch; I am referring to that—have said that they have been greatly disillusioned by the Janata rule. Therefore, these are the things which have been agitating us. We are, therefore, saying that the right to work and the right to a living wage should be provided for.

SHRI K. K. MADHAVAN: Sir, there is a set of amendments—amongst which there is an attempt at the abolition of the private property. And the right to work is a corollary to the attempt at the abolition of the private property. I do not stand by the private property. I am totally opposed to the private property. At the same time, you have to ensure the right to work to the citizens; every able-bodied person should have the right to work. That has to be assured. The hon. Law Minister is making a mirage of promises by saying that they will be doing this thing or that thing in future. Here is a Government which speaks a confusing language because of confused thinking. They talk of Socialism, they talk of Gandhi-ism, they talk of all sorts of 'isms' and they are making all sorts of confusions. By passing these amendments, can such a Government ensure the right to work? Can they ensure work at all?

SHRI SURENDRA MOHAN (Uttar Pradesh): Sir, I wish to make a submission. I would only submit that, as the Law Minister has said, the Janata Party, in its election manifesto, has accepted that there will be the right to work. The Draft Plan says that 41 million jobs will be created during the next five years, and within ten years maybe everybody will be given employment. So the right to work, if it has to be realised, will have to be realised progressively. The problem is that, during the last two and a half decades, we have been seeing a situation in which unemployment has increased. As everybody knows, when

[Shri Surendra Mohan]

the Second Five-Year Plan was launched, it was said that five million people were unemployed; when the Third Five-Year Plan was launched, the number was 9 million; and in any case now it is 34 crores, *i.e.* 35 million. Now, if today you have in the Constitution the right to work, then it means that we are going to reverse this whole process, a process in which unemployment increased seven-fold in 20 years. Can we do it with a stroke of pen? Will this be realistic? That is one thing. And secondly I say that the creation of employment will mean the definition of an entirely different economic strategy from the one that has been followed so far. The Janata Party has sought to define a certain alternative strategy. That is why the Janata Government and the Planning Commission say that during the next five years 41 million jobs will be created, which will take care of some backlog of the unemployed. And may I also say that every year 50 to 55 lakhs of people will find new jobs. They enter the labour market. When we say that the right of work is going to be made a Fundamental Right which is justiciable in a court of law, are we sure that we will be able to give employment every year not only to those 55 lakhs of new entrants but the backlog of the unemployed who are 300 crores. Therefore, my submission is that, while I entirely agree with the sentiments that the right to work must be recognised as a Fundamental Right, I think that writing it now will be unrealistic. Therefore, I would submit to the House .....

SHRI KALYAN ROY: For the last 30 years we have been hearing this. We have been told that the time has not been right, that it has not been pragmatic, and the same thing is being repeated now.

THE VICE-CHAIRMAN (SHRI SYED NIZAM-UD-DIN): The Hon. Minister has replied. Therefore, there is no question of the Members speaking now.

SHRI SURENDRA MOHAN: My only submission is that it is not a question either of promises or of statistics; it is a question, as I said, of finance and putting into practice an alternative economic development strategy has been defined: intensification of agriculture, building up of small rural industries and cottage industries and also in a big way construction of rural infrastructure without in any way diverting ourselves from the expansion of the public sector. This is the strategy, and I think that this strategy will guarantee the right to work.

SHRI G. C. BHATTACHARYA: One clarification.

THE VICE-CHAIRMAN (SHRI SYED NIZAM-UD-DIN): After the Hon. Minister has replied, there is no question. He has replied already. You should have asked at the appropriate time.

SHRI G. C. BHATTACHARYA: I want to know from the Hon. Member who has supported the right to work, whether he can expect the State to guarantee the right to work and that too fundamental right to work without the State having control over the means of production?

THE VICE-CHAIRMAN (SHRI SYED NIZAM-UD-DIN): That is true.

SHRI G. C. BHATTACHARYA: That was a slogan-mongering. We should not waste the time on such slogan-mongering.

THE VICE-CHAIRMAN (SHRI SYED NIZAM-UD-DIN): I would like to know whether you withdraw your amendment. What about your amendment, Mr. Goswami?

SHRI DINESH GOSWAMI: Sir, we have made our point, and we have exposed the hollowness of the Janata Party's promise.

THE VICE-CHAIRMAN (SHRI SYED NIZAM-UD-DIN): The Minister has not accepted it.

SHRI DINESH GOSWAMI: Sir, I withdraw.

*The Amendment\* (No. 3) was, by leave withdrawn.*

THE VICE-CHAIRMAN (SHRI SYED NIZAM-UD-DIN): Prof. Bhattachar-gee, are you pressing your amendment or are you withdrawing?

SHRI AMARPROSAD CHAKRABORTY: We are not withdrawing.

THE VICE-CHAIRMAN (SHRI SYED NIZAM-UD-DIN): Mr. Chakraborty, you please see, your name does not appear in the list of the amendment.

SHRI AMARPROSAD CHAKRABORTY: Yes, it appears.

THE VICE-CHAIRMAN (SHRI SYED NIZAM-UD-DIN): Do you not withdraw?

SHRI AMARPROSAD CHAKRABORTY: No.

SHRI PRANAB MUKHERJEE (West Bengal): If it goes in this way, I am afraid, it will take the whole night. Either you must regulate in such a way or I think the Minister of Parliamentary Affairs should see that on important articles we can speak, and the rest of the things we can go on. Otherwise, the whole night we have to pass. I have no objection, but it is for the Government to decide. I am prepared to co-operate.

SHRI KALYAN ROY: Now the time has come when we should have a Government.

THE VICE-CHAIRMAN (SHRI SYED NIZAM-UD-DIN): Unless the Members co-operate, it cannot be otherwise.

THE LEADER OF THE OPPOSITION (SHRI KAMLAPATI TRIPA-THI): When the Minister has already made his speech on any amendments, after that nobody should speak.

\*For text of Amendment vide col. 108 Supra.

THE VICE-CHAIRMAN (SHRI SYED NIZAM-UD-DIN): That is true.

The question is:

4. "That at page 1, for lines 9 to 12s, the following be *substituted*, namely: —

'(a) in clause (1), for sub-clause (f), the following sub-clause shall be substituted, namely: —

"(f) to gainful work and adequate means of livelihood; and"

*The motion was negatived.*

THE VICE-CHAIRMAN (SHRI SYED NIZAM-UD-DIN): Amendment No. 5. Mr. Ramamurti, are you pressing your amendment?

SHRI P. RAMAMURTI: I am not pressing it.

*The amendment\* (No. 5) was, by leave, withdrawn.*

THE VICE-CHAIRMAN (SHRI SYED NIZAM-UD-DIN): Amendment No. 6. Mr. Bhupesh Gupta, are you pressing it or withdrawing it?

SHRI BHUPESH GUPTA: Take voice vote. How can I withdraw it?

THE VICE-CHAIRMAN (SHRI SYED NIZAM-UD-DIN): The question is:

6. "That at page 1, for lines 10 to 12, the following be *substituted*, namely: —

'(i) for sub-clause (f), the following sub-clause shall be substituted, namely: —

"(f) to work and earn a living wage"; and

(ii) in sub-clause (g), the words, 'trade or business' shall be omitted."

*The motion was negatived.*

THE VICE-CHAIRMAN (SHRI SYED NIZAM-UD-DIN): Now, we take up clause 3. There are seven amendments.

\*For text of Amendment vide cols. 107 Supra.

Clause 3 (*Amendment of Article 22*)

SHRI HARKISHAN SINGH SUR-JEET (Punjab): Sir, I move;

7. "That at pages 1 and 2, *for* clause 3, the following clause be substituted, namely:—

'3. In article 22 of the Constitution,—

"(a) in clause (3), sub-clause (6) shall be omitted.'

"(b) clauses (4), (5), (6) and (7) shall be omitted.'"

*The amendment also stood in the names of Shri P. Ramamurti, Shri V. V. S. Sanatha Menon, Shrimati Kanak Mukherjee, Prof. Surenendra Bhatnagar, eharjee and Shri Amarprasad Chakrabarty.*

*The question was proposed.*

THE VICE-CHAIRMAN (SHRI SYED NIZAM-UD-DIN), Amendment No. 8. Mr. Dhabe. He is not here.

Amendment No. 9. Mr Bhupesh Gupta.

SHRI BHUPESH GUPTA: Sir, I move:

9. "That at pages 1 and 2, *for* clause 3, the following clause be substituted, namely >-

'3. In Article 22 of the Constitution,—

"(a) for clause (4), the following clause shall be substituted, namely:—

(4) No person who is arrested shall be detained without trial except under orders of the court and in accordance with the provisions of the law, for more than 24 hours.'

(b) clauses (5), (6) and (7) shall be omitted.'"

*(The amendment also stood in the names of Shri Kalyan Roy, Shri Bir Chandra Deb Burman, Shri Bhola Prasad and Shri Lakshmana Maha-patrol)*

This is the amendment. It is self-explanatory. We want the provision empowering preventive detention to go. This is the amendment. No speech is called for.

*The question was proposed.*

SHRI K. V. RAGHUNATHA REDDY (Andhra Pradesh): Sir, I move;

10. "That at pages 1 and 2, *for* clause 3, the following clause be substituted, namely:—

'3. In article 22 of the Constitution, clauses (3), (4), (5), (6) and (7) shall be omitted."

*(The amendment also stood in the name of Shri Mulka Govinda Reddy)*

SHRI MURASOLI MARAN (Tamil Nadu): Sir, I move;

11. "That at page 1, line 19, *before* the words 'No law' the words 'Notwithstanding anything in the Constitution, no law providing for preventive detention shall operate in respect of any citizen of India except during the period when Proclamation of Emergency issued under Article 352(1) is in operation and' be inserted."

SHRI DINESH GOSWAMI: Sir, I move;

12. "That at page 2, lines 8-9, for the words 'and the other members shall be serving or retired Judges of any High Court' the words 'and of the other members at least one shall be a serving Judge of any High Court and another may be a serving Judge of any High Court or a person qualified to be a Judge but not a retired Judge' be substituted."

SHRI R. NARASIMHA REDDY (Andhra Pradesh): Sir, I move,

13. "That at page 2, line 11, *after* the words 'detention of any person'

the words 'merely and solely on political grounds and' be *interted*."

*The questions were proposed.*

SHRI HARKISHAN SINGH SUR-JEET: Sir, this is a very important amendment. Within one-and-a-half years the Janata Party has forgotten its pledge and both the Congress (I) and the Janata Party are joining together to see that preventive detention remains in the Constitution. Sir, this has always been used earlier against the democratic movement, not against the black-marketeers, not against the monopolists, not against the big business houses, not against the landlords. We have got the worst experience of its use. I myself, Sir, had been kept under preventive detention for seven years, under the British regime as well as under the Congress rule. All the safeguards which the Law Minister has mentioned here would not be of any avail. He says that instead of "three months", it has been made "two months", that there will be a review and that it will be the judges who will decide and so on. Earlier also all these promises had been there. Here in the House whenever such preventive detention measures were brought, it was stated that they would not be used against the political workers. But they have always been used against the political people. Now, I could understand that after the economic situation became very difficult, the Congress had been using all these provisions. But the Janata Party had given new promises to the people; they had come forward with a solemn pledge to the people that they would not use it, that they would do away with the MISA immediately and so on. But now they want to put the same thing in the Constitution as a constitutional provision. I do not understand how the Law Minister and the Janata Party can justify this. I do not want to repeat, but I again appeal to them to reconsider the opposition on this question because the whole national movement

had fought against this. Subsequently also for 30 years we have been fighting against it. The whole history shows that this has been used against the democratic movement of the country, especially the Left movement, and the working class has been deprived of their rights by the use of this power, by putting their leaders in prison. On the basis of this experience, no protection, no safeguards will work. The executive will do whatever they want. And how is it done. Sir? Here at the Centre, from the Home Ministry in the night instructions are sent. Papers are cyclostyled or printed. They are instructed to prepare a list first. And then immediately in the whole night the operation takes place throughout the country, all the people are arrested, put behind bars and all that, and subsequently everything is done. Earlier also if you see the Forty-second Amendment, they had the same provisions. The present Law Minister also provided so many provisions, this and that. On this issue both the Janata Party and the Congress-I are united. What they have been doing, they do not want to undo. During its 17 years rule now the Janata Government says that this must be kept there. Why? Are not the present laws sufficient to protect them? And protect whom? Whom do they want to protect? The big industrialists, the big landlords, have already been protected. It is only the working class people who have to suffer under this. So I again appeal to the Government, if they want to adhere to their election pledge, if they want to assure the people, if they want to win the confidence of the people, they must accept this amendment and do away with this black provision, this preventive detention, from the Constitution.

SHRI INDRADEEP SINGH (Bihar): I would just like to refer to the Law Minister's statement here that preventive detention is necessary for detaining smugglers and other criminal elements. The Law Minister knows as well as I do, that these smugglers and criminal elements are

[Shri Indradeep Singh]

maintained by certain social classes and politicians arising out of those classes. The other day a Minister of the Janata Government in Bihar declared openly and he declared it in the Bihar Assembly, that he harbours goondas, he maintains them because goondas are necessary for capturing booths, election booths, polling booths during elections, and securing victory in the elections. Honestly he said it; others have not said it. So, who maintains these goondas and criminal elements and smugglers?

SHRI P. RAMAMURTI: You must thank that Minister.

SHRI INDRADEEP SINHA: Yes, we have thanked him. He is a very outspoken man. So it is a certain social system which maintains these goondas, and your preventive Act will not prevent them from carrying on their nefarious activities. There was a time when your great leader, Jayaprakash Narayan, went to the smugglers and wanted to convert them and change their heart. Smugglers are big patrons and smugglers cannot be tackled by this method. As a matter of fact, preventive detention is designed only to control the activities of the leftist and democratic forces. I have my experience. He talks of the Advisory Board. In 1965 when I was detained, we filed a *habeas corpus* petition in the High Court and the High Court ordered our release. We were released and just outside the jail gate we were again arrested and again put into the jail. That is how your Advisory Boards are treated by the Government. So the only remedy is to do away with preventive detention altogether. If you want a special law for dealing with Ministers who harbour criminals or for smugglers or other anti-social elements, Parliament is competent to enact. But there can be no provision in the Constitution for any type of preventive detention.

SHRI K. V. RAGHUNATHA REDDY: This is rather a draconian part of the Constitution though the honourable Minister tried to soften

4 P.M.

it by providing for a Advisory Boards and other machinery. We realise that, this is a part of the colonial heritage. During the British days, the British Government depended mostly on preventive detention in some form or other. Though the arguments advanced by Mr. Shanti Bhushan appear to be rather impressive as far their content is concerned, if you follow them to their logical conclusion, then even the very Constitutional amendment can be got passed by a conniving and designing Government by a simple majority in the House by putting most of the members of the opposition in jail....

SHRI P. RAMAMURTI: It was attempted in Kerala.

SHRI K. V. RAGHUNATHA REDDY: When the Forty-second Amendment was passed by both Houses of Parliament, it is not as if all the Members of parliament were present and voted. Where was the two-thirds majority? Even with a simple majority the Government can manage to get any amendment passed without any trouble. Last time also some of the leading Members of the opposition were under arrest. Our present Prime Minister was himself in prison. I am rather amazed that the Janata Government, having learnt the lesson and with sufficient experience of this should have thought it fit to continue this preventive detention provision. Of course, Mr. Shanti Bhushan mentioned about criminals, smugglers and dacoits. I do not think that the ingenuity of human legal brain is such that it cannot provide other necessary means to deal with such criminals and anti-social elements in this country.

SHRI P. RAMAMURTI: With political will it can be done.

SHRI K. V. RAGHUNATHA REDDY: Political will and determination of the law enforcing machinery should be there. They should be patriotic enough and then they can certainly eliminate these criminal activities from the country, of course,

with the public support. Experience in the past has shown that preventive detention was used only to deal with political opponents and not to deal with majority of criminals operating in this country.

SHRI MURASOLI MARAN: I am totally against preventive detention. It is an illegal law. We know there was a time when there was no preventive detention at all in our country. When Mrs. Gandhi wanted to bring in preventive detention law, after its life had expired, the DMK Party and the CPI did not give their support to the measure. At that time she was heading a minority Government. Preventive detention then came to an end in the midnight of December 31, 1969. For one and half years from then there was no preventive detention. The heavens did not fall because India did not have this law. It is very strange that after Mrs. Gandhi had a massive mandate in the election, she brought in prevention detention. Many of the Janata leaders are former detenus. They know that prevention detention was used against the RSS, the socialists, the communists and the labour leaders. It is very strange that the former detenus, after getting a massive mandate of the people are bringing in another provision for preventive detention. It is a shame. When in 1950 they brought in preventive detention law, they said it was to suppress Telengana movement. In 1961 when Rajaji was the Home Minister he said it was to suppress Communists. We know how the law was misused. Even though I am for total negation of preventive detention, yet as a compromise I have moved an amendment. If you think preventive detention is inevitable, use it only during emergency and according to me emergency should not be declared for armed rebellion. Nowhere in the world in any democratic country there is preventive detention during peace. Even in Britain or in America, only during a war, Sir, the Government is given such powers. That is why I beseech the honourable Minister to consider my request and I

think, Sir, that many even in the Janata Party are not for preventive detention. When they wanted to bring in the MISA as a part of the Criminal Procedure Code, they had to face terrific opposition and they had to drop it. I do not know how the Janata Party members are allowing this, are permitting this situation. I want to bring to the notice of the honourable Minister and also the House what a Janata Party member himself said in the Lok Sabha. Sir, one Janata Member, Mr. B. p. Mandal, has said;

"The Bill may prove to be the Waterloo of the Janata Party in the next elections."

That is all Sir.

SHRI DINESH GOSWAMI: Sir, my amendment is only that retired Judges should not be put on the Advisory Boards. I think many eminent jurists expressed their views against the appointment of retired jurists. Any way, the general feeling is that the appointment of retired Judges on this type of Boards is not a very healthy practice. I hope the honourable Minister will say something on this and accept it.

SHRI R. NARASIMHA REDDY: Sir, this problem of preventive detention must be looked at in my view, from a practical and a realistic point of view and not from merely an emotional angle. Human beings being what they are, I do not think that the human society, the human beings, whether in this country or in any other country, would become angels and that no law would become necessary. I do not think that the human beings would become so much conscious of their duties and other things that there would be no necessity for a State or for laws, I do not expect this situation. When we cannot visualise such a situation, we have to look at this problem from a practical point of view and, therefore, I am striking a midway. I say that this is an enabling provision in the Constitution and

[Shri iR. Narasimha Reddy] this Preventive Detention clause should be there. But herein comes the most important thing; The previous history has been that this has been misused against political opponents on political grounds and on political grounds they have been arrested. I was one of those who were detained for political purposes and on political grounds. The Law Minister has said that this is a necessary evil and that there are safeguards. There are plenty of safeguards and, therefore, these safeguards will see to it that this is not used for political purposes. This is what he has said. But, Sir, I would like to know whether this prevents any Legislature from passing a Preventive Detention Act where, certainly, these political grounds could be brought in. In such cases, what is it that your Advisory Boards can do? These Advisory Boards can go into the cases and can go into the causes and the reasons according to the Act that is there and they have to go by the Act only. Therefore, I have moved this amendment saying that preventive detention merely and solely on political grounds should not be there. and once this is there, once this is incorporated in the Constitution, no legislature can misuse this Act, and we will have the power to use it against the smugglers, against the blackmarketeers and against the spies. I therefore, request the honourable Minister to consider this.

SHRI P. RAMAMURTI: Sir, Mr. Shanti Bhushan talked of safeguards that have been provided for preventive detention. I would like to remind him that previously also there had been safeguards. We were also given charge-sheets not after three months, but even within a month. We been given the charge-sheets within a month and there had also been 3 sitting Judges of the High Court who were appointed on the Advisory Boards. I will give you my own experience. In 1948, I was ained. Actually, they could not execute the detention order till 1952.

In 1952, when that order of detention was executed and when I was given the charge-sheet, it said:

"He incited the peasants of Coimbatore, the tenants of Coimbatore, to fight for giving their share to the landlords in government-stamped measures and to receive their wages in Government-stamped measures."

This was one of the charges given to me then; I can go on giving such examples. In spite of that, Sir, the Advisory Board confirmed - that detention. Similarly, you all know, that in 1962 and in 1965, we were all detained, just because we said that there must be a peaceful solution of the problem with China, that there should be a peaceful solution to the Sino-Indian border dispute, because we could not go to war with them and that a war could not be there. In 1965, Sir, we said that we must improve our relations with China, we must send our ambassador from here to China and start getting their ambassador here so that things could become better later and things would improve later on. For that reason only, for that only reason, we were put in jail in 1965. We all know that whatever might be your safeguards, I know that in spite of all these safeguards, it does not work in practice. This can be used against leaders of the working class, leaders of the peasantry, leaders of the down-trodden people and their political opponents and particularly people who stand for a new kind of society. It is not there in any democratic country. Therefore, this is absolutely unnecessary. This clause must go.

SHRI GHANSHYAMBHAI OZA (Gujarat,): My feeling is, my apprehension is, that if the matter is examined by a sitting judge, along with other judges, and they hold that the preventive detention is all right and then the matter goes before the



High Court which sets aside and says that the detention is *malafide* then they will be in an embarrassing position, and the sitting judge will come in for criticism.

**SHRI AMARPROSAD CHAKRABORTY:** Sir, the Law Minister has told this House that he would not apply this detention provision against political workers. Dr. Prafulla Chandra Ghosh gave similar assurance. But we know how it has worked. We want that it should be completely omitted from the article. I think this should be omitted completely from the statute book.

**SHRI SHANTI PUSHAN:** Sir, I would not like to take much time of the House because there are so many clauses. But so far as the retired judges are concerned, it is a practical consideration because there are some High Courts which have very small number of judges, so that it is necessary to have this provision. So far as the sitting judge is concerned, actually the roles of the Advisory Board and the *habeas corpus* bench would be complementary in nature. There are certain things which can be seen by the Advisory Board. But at the same time, since the Advisory Board does not have the assistance of the counsel, that counsel properly puts forward all kinds of things in the Court. Therefore, it may be that the Advisory Board may not have certain materials before it which material may be available to the *Habeas Corpus* Bench. Therefore, no such embarrassing situation would arise. With these words, I would appeal to the hon. Members to withdraw their amendment and not to press it.

**SHRI HARKISHAN SINGH SURJEET:** Sir, I press it.

1134 R.S.—5

**THE VICE-CHAIRMAN (SHRI SYED NIZAM-UD-DIN):** The question is:

"That at pages 1 and 2, for clause 3, the following clause be substituted, namely:—

"3. In article 22 of the Constitution,—

(a) in clause (3), sub-clause (6) shall be omitted.

(b) clauses (4) (5), (6) and (7) shall be omitted."

The House divided.

**THE VICE-CHAIRMAN (SHRI SYED NIZAM-UD-DIN):** 2 Ayes—25; Noes—140.

**AYES—25**

Anand, Shri Jagjit Singh  
Bhattacharjee, Prof. Sourendra  
Bhola Prasad, Shri  
Chakraborty, Shri Amarprosad  
Deb Burman, Shri Bir Chandra  
Goswami, Shri Sriman Prafulla  
Gupta, Shri Bhupesh  
Khan, Prof. Rasheeduddin  
Kumaran, Shri S.  
Kunjachen, Shri P. K.  
Lakshmanan, Shri G.  
Mahapatro, Shri Lakshmana  
Maran, Shri Murali  
Mehta, Shri Om  
Menon, Shri Viswanatha  
Mukherjee, Shrimati Kanak  
Pathak, Shri Ananda  
Rajan, Shri Pattiam  
Ramamurti, Shri P.  
Reddy, Shri K. V. Raghunatha  
Roy, Shri Kalyan  
Shahedullah, Shri Syed  
Sharma, Shri Yogendra  
Sinha, Shri Indradeep  
Surjeet, Shri Harkishan Singh

## NOES—140

Adivarekar, Shrimati Sushila Shankar  
 Advani, Shri Lai K. Alva, Shrimati Margaret Amla, Shri Tirath Ram Anandam, Shri M. Anjiah, Shri T. Antulay, Shri A. R. Arif, Shri Mohammed Usman Asthana, Shri K. B. Bagaitkar, Shri Sadasiv Baleshwar Dayal, Shri Balram Das, Shri Banerjee, Shri Jaharlal Bansi Lai, Shri Basavaraj, Shri H. R. Bhabhda, Shri Harishanker Bhagat, Shri Ganapat Hiralal Bhagwan Din, Shri Bhandari, Shri Sunder Singh Bhattacharya, Shri G. C. Bhim Raj, Shri Bose, Shrimati Pratima Chandrasekhar, Shrimati Maragatham Chatterjee, Shri Pranab Chattopadhyaya, Prof. D. P. Chaurasia, Shri Shivdayal Singh Das, Shri Bipinpal Desai, Shri R. M. Dinesh Chandra, Shri Swami Dinesh Singh, Shri Dutt, Dr. V. P. Dwivedi, Shri Devendra Nath Gadgil, Shri Vithal Gupta, Shri Ram Lakhan Prasad Habibullah, Shrimati Hamida Hegde, Shri Ramakrishna Jagbir Singh, Shri Jamuna Devi, Shrimati Jha, Shri Kamalnath Jha, Shri Shiva Chandra Joshi, Shri Jagannathrao

Joshi, Shri Jagdish Joshi, Shri Krishna Nand  
 Joshi, Shrimati Kumudben Manishan-ker  
 Kadershah, Shri M.  
 Kakati, Shri Rabin  
 Kalaniya, Shri Ibrahim  
 Kamble, Prof. N. M.  
 Kameshwar Singh, Shri  
 Kesri, Shri Sitaram  
 Khan, Shri Ghayoor AH  
 Khan, Shri Khurshed Alam  
 Khan, Shri Maqsood Ali  
 Khan, Shrimati Ushi  
 Khaparde, Shrimati Saroj  
 Khobragade, Shri Bhaurao Devaji  
 Krishna, Shri M. R.  
 Krishna, Shri E. R.  
 Krishnan, Shri U. R.  
 Kureel, Shri Piare Lall *urj* Piare Lall  
 Talib Lakhan Singh, Shri Lokesh Chandra,  
 Dr. Latha, Shri Khyomo Mahanti, Shri Bhairab Chandra Mahida, Shri Harisinh Bhagubava Majhi, Shri Dhaneeswar Makwana, Shri Yogendra Mallick, Shri Harekrushna Manhar, Shri Bhagatram Mathur, Shri Jagdish Prasad Maurya, Shri Buddha Priya Mehrotra, Shri Prakash Menon, Shrimati Leela Damodara Mishra, Shri Kalraj Mishra, Shri Mahendra Mohan Mody, Shri Pilloo Mohanty, Shri Surendra Mohinder Kaur, Shrimati Mondal, Shri Ahmad Hossain Moopanar, Shri G. K. Morarka, Shri R. R. Mukherjee, Shri Pranab

Munuswamy, Shri V. P.  
 Muthu, Dr. (Shrimati) Sathiavani  
 Naidu, Shri N. P. Chengalray  
 Naik, Shri L. R.  
 Narendra Singh, Shri  
 Nigam, Shri Ladli Mohan  
 Oza, Shri Ghanshyambhai  
 Pande, Shri Bishambhar Nath  
 Prabhu Singh, Shri  
 Parikh, Prof. Ramlal  
 Patel, Shri Manubhai  
 Patil, Shri Deorao  
 Pattanayak, Shri Bhabani Charan  
 Pradhan, Shri Patitpaban  
 Prem Manohar, Shri  
 Rai, Shri Kalp Nath  
 Rajinder Kaur, Shrimati  
 Raju, Shri V. B.  
 Rameshwar Singh, Shri  
 Ranga, Prof. N. G.  
 Rao, Shri V. C. Kesava  
 Ray, Shri Rabi  
 Reddy, Shri B. Satyanarayan  
 Reddy, Shri R. Narasimha  
 Roshan Lai, Shri  
 Sahaya, Shri Dayanand  
 Samad, Shri Golandaz Mohammed-  
 husain A.  
 Saring, Shri Leonard Soloman  
 Sarup Singh, Dr.  
 Satchidananda, Shri  
 Schamnad, Shri Hamid Ali  
 Sezhiyan, Shri Era  
 Shahi, Shri Nageshwar Prasad  
 Shanti Bhushan, Shri  
 Sharma, Shri Ajit Kumar  
 Sharma, Shri Anant Prasad  
 Sharma, Shri Kishan Lai  
 Shastri, Shri Bhola Paswan  
 Singh, Shri Bhishma Narain  
 Singh, Shri J. K. P. N.  
 Singh, Shri Ng. Tompok

Singh, Shrimati Pratibha Singh, Shri  
 Shiva Nandan Sinha, Dr. Ramkripal  
 Sisodia, Shri Sawaisingh Sujan Singh,  
 Shri Sultan, Shrimati Maimoona Sultan  
 Singh, Shri Surendra Mohan, Shri Totu,  
 Shri Gian Chand Tripathi, Shri  
 Kamalapati Varma, Shri Bhagwati  
 Charan Varma Shri Mahadev Prasad  
 Venka, Shri V. Venkatrao, Shri  
 Chadalavada Warjri, Shri Alexander  
 Yadav, Shri Ramanand Yadav, Shri  
 Shyam Lai

*The motion was negatived.*

THE VICE-CHAIRMAN (SHRI SYED  
 NIZAM-UD-DIN): Now Amendment No. 9  
 by Shri Bhupesh Gupta.

The question is:

9. "That at pages 1 and 2, for clause 3,  
 the following clause be substituted,  
 namely:—

'3. In article 22 of the Constitution,—

"(a) for clause (4), the following clause  
 shall be substituted, name-  
 ly:—

"(4) No person who is arrested shall  
 be detained without trial except under  
 orders of the court and in accordance  
 with the provisions of the law, for more  
 than 24 hours.' "

"(b) clauses (5), (6) and (7) shall be  
 omitted."

*The motion was negatived,*

THE VICE-CHAIRMAN (SHRI SYED  
 NIZAM-UD-DIN): Amend, ment No. 10.

SHRI K. V. RAO: Sir, I am not pressing my amendment and I am withdrawing it.

*The amendment\* (No. 10) was, by leave, withdrawn.*

SHRI MURASOLI MARAN: Sir, I want voice vote on my amendment No. 11.

THE VICE-CHAIRMAN (SHRI SYED NIZAM-UD-DIN): The question is:

11. "That at page 1, line 19, before the words 'No law' the words 'Notwithstanding anything in the Constitution, no law providing for preventive detention shall operate in respect of any citizen of India except during the period when Proclamation of Emergency issued under article 352(1) is in operation and' be inserted."

*The motion was negatived.*

THE VICE-CHAIRMAN (SHRI SYED NIZAM-UD-DIN): Amendment No. 12—Shri Dinesh Goswami is not here.

12. The question is:

—*r.oti*

"That at page 2, lines 8-9 for the words 'and the other members shall be serving or retired Judges of any High Court' the words 'and of the other members at > least one I shall be a serving Judge of any High Court and another, may-be a serving Judge of any High Court or a person qualified to be a Judge but not a retired Judge' be substituted."

*The motion was negatived.*

SHRI R. NARASIMHA REDDY: Sir, I withdraw my Amendment No. 11.

\*For the text of the Amendment vide cols. 120-21 supra. •For the text of the Amendment vide col. 120 surjre

Amendment \*(No. 13) was, by leave withdrawn.

THE VICE-CHAIRMAN (SHRI SYED NIZAM-UD-DIN): The question is:

"That clause 3 stand part of the Bill'.

SHRI B. N. BANERJEE: Sir, may I bring something regarding the procedure to the notice of this House?

I will take two minutes only. I am helping you. I can understand that in respect of those clauses where there are no amendments, we are putting them to vote together. Now, in case of clause 2, the amendments were moved; many of the amendments were negatived and, Sir, you did not put clause 2 to vote, when we come to clause 2, there are amendments; some of them are negatived and you rejected the amendments, and then you are putting clause 3 to vote. Why is this different procedure being followed?

THE VICE-CHAIRMAN (SHRI SYED NIZAM-UD-DIN): It is because some of the Members wanted that clause 3 should be put to vote separately.

SHRI SUNDER SINGH BHANDARI (Uttar Pradesh): All other Articles where there is no objection, are to be taken up together.

SHRI B. N. BANERJEE: In case of clause 2, there are amendments which have been negatived. Clause 2 is kept there and is not put to vote. Why, then in case of clause 3, where the amendments are negatived you are putting straightaway clause 3 to vote? I cannot understand it.

THE VICE-CHAIRMAN (SHRI SYED NIZAM-UD-DIN): The question is:

"That clause 3 stand part of the Bill".

The *House divided*.

THE VICE-CHAIRMAN: Ayes—160;  
Noes—14.

AYES—160

Adivarekar, Shrimati Sushil Shankar  
Advani, Shri Lai K.  
Alva, Shrimati Margaret  
Amarjit Kaur, Shrimati  
Amla, Shri Tirath Ram  
Anandam, Shri M.  
Anjiah, Shri T.  
Arii, Shri Mohammed Usman  
Asthana, Shri K. B.  
Bagaitkar, Shri Sadasiv  
Baleshwar Dayal, Shri  
Balram Das, Shri  
Banerjee, Shri B. N.  
Banerjee, Shri Jaharlal  
Bansi Lai, Shri  
Barman, Shri Prasenjit  
Basavaraj, Shri H. R.  
Bhabhda, Shri Harishanker  
Bhagat, Shri Ganpat Hiralal  
Bhagwan Din, Shri  
Bhandari, Shri Sunder Singh  
Bhattacharya, Shri G. C.  
Bhim Raj, Shri  
Bose, Shrimati Pratima  
Chandrakshar, Shrimati Maragatham  
Chatterjee, Shri Pranab  
Chattopadhyaya, Prof. D. P.  
Chaurasia, Shri Shivdayal Singh  
Das, Shri Bipinpal  
Desai, Shri R. M.  
Deshmukh, Shri Bapuraoji Marotraoji  
Dinesh Chandra, Shri Swami

Dinesh Singh, Shri  
Dutt, Dr. V. P.  
Gadgil, Shri Vithal  
Goswami, Shri Sriman Prafulla  
Gupta, Shri Bhupesh  
Gupta, Shri Ram Lakhn Prasad  
Habibullah, Shrimati Hamida  
Hegde, Shri Ramakrishna  
Jagbir Singh, Shri  
Jamuna Devi, Shrimati  
Janardhanaim, Shri A. P.  
Jha, Shri Kamalnath  
Jha, Shri Shiva Chandra  
Joshi, Shri Jagannath Rao  
Joshi, Shri Jagdish  
Joshi, Shri Krishna Nand  
Joshi, Shrimati Kumudben Manishan-ker  
Kadershah, Shri M.  
Kakati, Shri Robin  
Kalaniya, Shri Ibrahim  
Kamble, Prof. N. M.  
Kameshwar Singh, Shri  
Kesri, Shri Sitaram  
Khan, Shri Ghayoor Ali  
Khan, Shri Khurshed Alam  
Khan, Shri Maqsood Ali  
Khan, Shrimati Ushi  
Khaparde, Shrimati Saroj  
Khobargade, Shri Bhaurao Devaji  
Krishna, Shri M. R.  
Krishnan, Shri E. R.  
Krishnan, Shri U. R.  
Kureel, Shri Piare Lall *urf* Piare Lall Talib  
Lakhn Singh, Shri  
Lakshmanan, Shri G.  
Lokesh Chandra, Dr.  
Lotha, Shri Khyomo  
Madhavan, Shri K. K.  
Mahanti, Shri Bhairab Chandra  
Mahavir, Dr. Bhai  
Mahida, Shri Harisinh Bhagubava

Majhi, Shri Dhaneswar  
 Makwana, Shri Yogendra  
 Mallick, Shri Harekrushna  
 Manher, Shri Bhagatram  
 Mathur, Shri Jagdish Prasad  
 Maurya, Shri Buddha Priya  
 Mehrotra, Shri Prakash  
 Mehta, Shri Om  
 Menon, Shrimati Leela Damodara  
 Mishra, Shri Kalraj  
 Mishra, Shri Mahendra Mohan  
 Mody, Shri Piloo  
 Mohanty, Shri Surendra  
 Mohinder Kaur, Shrimati  
 Mondal, Shri Ahmad Hossain  
 Moopnar, Shri G. K.  
 Morarka, Shri B. B.  
 Mukherjee, Shri Pranab  
 Munusamy, Shri V. P.  
 Muthu, Dr. (Shrimati) Sathivani  
 Naidu, Shri N. P. Chengalraya  
 Naik, Shri L. B.  
 Nanda, Shri Narasingha Prasad  
 Narendra Singh, Shri  
 Nigam, Shri Ladli Mohan  
 Oza, Shri Ghanshyambhai  
 Pande, Shri Bishambhar Nath  
 Parbhu Singh, Shri  
 Parikh, Prof. Bamlal  
 Patel, Shri Manubhai  
 Patil, Shri Deorao  
 Pattanayak, Shri Bhabani Charan  
 Pradhan, Shri Patitpaban Prasad, Shri K.  
 L. N. Prem Manohar, Shri Bai, Shri Kalp  
 Nath Bajinder Kaur, Shrimati Bajju, Shri  
 V. B. Bamamurti, Shri P. Rameshwar  
 Singh, Shri Banga, Prof. N. G. Rao, Shri  
 V. C. Kesava Batan Kumari, Shrimati

Bay, Shri Babi  
 Bazack, Shrimati Noorjehan  
 Beddy, Shri B. Satyanarayan  
 Beddy, Shri K. V. Baghunatha  
 Beddy, Shri Mulka Govinda  
 Beddy, Shri B. Narasimha  
 Boshan Lai, Shri  
 Sahaya, Shri Dayanand  
 Sahu, Shri Santosh Kumar  
 Samad, Shri Gollandaz Mohammedhu-  
 Sian A.  
 Saring, Shri Leonard Soloman  
 Sarup Singh, Shri  
 Satchidananda, Shri  
 Schammad, Shri Hamid Ali  
 Sezhiyan, Shri Era  
 Shahi, Shri Nageshwar Prasad  
 Shanti Bhushan, Shri  
 Sharma, Shri Ajit Kumar  
 Sharma, Shri Anant Prasad  
 Sharma, Shri Kishan Lai  
 Shastri, Shri Bhola Paswan

»  
 Singh, Shri Bhishma Narain  
 Singh, Shri J. K. P. N  
 Singh, Shri Ng. Tompok  
 Singh, Shrimati Pratibha  
 Singh, Shri Shiva Nandan  
 Sinha, Dr. Bamkripal  
 Sisodia, Shri Sawaisingh  
 Soni, Shrimati Ambika  
 Sujan Singh, Shri  
 Sultan, Shrimati Maimoona  
 Smltan Singh, Shri  
 Surendra Mohan, Shri  
 Totu, Shri Gian Chand Tripathi, Shri  
 Kamlapati Vaishampayan, Shri S. K.  
 Varma, Shri Bhagwati Charan Varma,  
 Shri Mahadeo Prasad Venigalla  
 Satyanarayana, Shri Venka, Shri V.

Venkatrao, Shri Chadalavada !

Warjri, Shri Alexander

Yadav, Shri Ramanand Yadav,  
Shri Shyam Lai

## NOES—14

Bhattacharjee, Shri Sourendra Bhola Prasad, Shri Chakraborty, Shri Amarprosad Deb Burman, Shri Bir Chandra Kumaran, Shri S. Kunjachen, Shri P. K. Lakshmanan, Shri G. Maran, Shri Murasoli Menon, Shri Viswanatha Mukherjee, Shrimati Kanak Pathak, Shri Ananda Raj an, Shri Pattiam Shahedullah, Shri Syed Surjeet, Shri Harikishan Singh

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

THE VICE-CHAIRMAN (SHRI SYED NIZAM-UD-DIN): Now, clauses 4 and 5. There are no amendments. We shall take up clause 6. There is one amendment, amendment No. 14 by Shri Devendra Nath Dwivedi.

SHRI DEVENDRA NATH DWIVEDI (Uttar Pradesh) : Sir, I am not moving.

THE VICE-CHAIRMAN (SHRI SYED NIZAM-UD-DIN): There are no amendments. We shall take up clause 8. Clause 8—Amendment of article 31C.

SHRI VITHAL GADGIL (Maharashtra) : Sir, I beg to move:

15. "That at page 3, clause 8 be deleted."

*(The amendment also stood in the names of Shri Pranab Mukherjee, Shri A. R. Antulay and Shri Shyam Lai Yadav.)*

SHRI K. V. RAGHUNATHA REDDY: Sir, I beg to move :

16. "That at page 3, for clause 8, the following clause be substituted, namely: —

'8. in Article 310 of the Constitution for the words and figures "article 14, article 19 or article 31", the words and figures "article 14 or article 19" shall be substituted.'

*(The amendment also stood in the name of Shri Mulka Govinda Reddy)*

SHRI BHUPESH GUPTA : Sir, I beg to move:

17. "That at page 3, line 8, for the words, brackets, letters and figures 'clause (b) or clause (c) of article 39' the words, figures and letters 'articles 38, 39, 39A, 41 42, 43, 43A, 44, 45, 46 and 51 of Part IV of the Constitution' be substituted."

*(The amendment also stood in the names of Shri Kalyan Roy, Shri Bir Chandra Deb Burman, Shri Bhola Prasad and Shri Lakshmana Maha-patro)*

SHRI V. B. RAJU: Sir, I beg to move:

18. "That at page 3, line 8, for the words and figures 'in clause (b) or clause (c) of article 39' the words, figures and letters 'in article 38, 39, 39A, 41, 42, 43, 43A, 45 and 46, be substituted."

*The questions were proposed.*

SHRI DINESH GOSWAMI: Sir, I am not moving my amendment, amendment No. 19.

SHRI BHUPESH GUPTA: Sir, I beg to move :

28. "That at page 3, lines 12 to 15 be deleted."

*(The amendment also stood in the names of Shri Kalyan Roy, Shri Bir Chandra Deb Burman, Shri Bhola Prasad and Shri Lakshmana Mahapatro).*

Sir, this is one of the amendments on which we propose to press for divi-

[Shri Bhupesh Gupta]

sion. Sir, by this, we want that the position of the Directive Principles should be restored. We want to give the Directive Principles a place of supremacy. In our amendment, you will have noted that we have taken out cow slaughter and prohibition. These Directive Principles will not be protected. These Directive Principles will have no supremacy. But the other Directive Principles should be protected. This is my amendment.

SHRI V. B. RAJU: Sir, I will give the same argument. When the Minister has retained article 39(b) and (c), why not other articles also? For example, article 38 says 'The State to secure a social order for the promotion of the welfare of the people'. Why should there be any objection? Why should the Minister have any objection to keep article 38? What is the objection? In article 31C, when you are keeping article 39(b) and (c), why should you not keep article 38? Then, article 42 says 'Provision for just and humane conditions of work and maternity relief'. What is the objection? Article 43 says 'Living wage etc. for workers'. Therefore, whatever justification is there to protect article 39(b) and (c), the same should be there in respect of other articles also. They come in the same queue. Why should the Minister have any objection to this?

[The Vice-Chairman (Shri Shyam Lal Yadav) in the Chair]

This is the general feeling. I am not entering into the controversy in regard to the Directive Principles and the Fundamental Rights, which is superior, which is not superior and so on.

The question was proposed.

SHRI PRANAB MUKHERJEE: Sir, I would like to make a submission. Mr. Vice-Chairman, before you proceed I would like to make a submission. On this occasion, every vote is important and it is not fair on the part

of the Chairman to remain absent and deprive a Member of either party to exercise his vote. Here, every decision has to be taken by vote. This has never happened so far as the Constitution Bills are concerned. It is the bounden duty of the Chairman to preside over the meeting so that individual Members can exercise their voting right. I do not understand what type of procedure we are going to follow. (Interruptions) If the Treasury Benches cannot ask the Chairman, let them provide a Member from their side and not our Member. Let the Chairman come. (Interruptions) I agree Mr. Nizam-ud-din should also exercise his right to vote. But my point is this. Therefore, let the Chairman be contacted and let him be requested to come and preside.

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV): All right, proceed with the business.

SHRI PILOO MODY (Gujarat): Don't be petty-minded.

SHRI ANANT PRASAD SHARMA (Bihar): Mr. Mody, you go out. To compensate you go out.

SHRI SHANTI BHUSHAN: Sir, I have already explained the reasons as to why it would not be proper to trample upon important Fundamental Rights, like right to equality, freedom of speech, trade unions, and so on. Therefore, I am unable to accept this.

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV): Amendment No. (15) is a negative amendment. Amendment No. (16). Mr. Reddy are you pressing it?

SHRI K. V. RAGHUNATHA REDDY: No, Sir. I withdraw my amendment.

The Amendment (No. 16) was, by leave, withdrawn.

SHRI VITHAL GADGIL: What about my amendment No. 15?

\*For the text of the amendment vide cols. 141-42 supra.



**THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV):** Amendment No. 15 is a negative amendment because it says that clause 8 be deleted. When clause 8 is put to vote, you can press for it.

Now the question is:

"That at page 3, line 6, for the words, brackets, letters and figures 'clause (b) or clause (c) of article 39' the words, figures and letters articles 38, 39, 39A, 41, 42, 43, 43A, 44, 45, 46, and 51 of Part IV of the Constitution be substituted."

The House divided.

**THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV):** Ayes—67; Noes—111.

**AYES—67**

Adivarekar, Shrimati Sushila Shankar.  
Alva, Shrimati Margaret.  
Amla, Shri Tirath Ram.  
Anjiah, Shri T.  
Antulay, Shri A. R.  
Arif, Shri Mohammed Usman  
Basavaraj, Shri H. R.  
Bhagwan Din, Shri  
Bhim Raj, Shri  
Bhola Prasad, Shri  
Chandrachand, Shrimati Maragathar  
Chattopadhyaya, Prof. D. P.  
Deb Burman, Shri Bir Chandra  
Desai, Shri R. M.  
Dinesh Chandra, Shri Swami  
Dutt, Dr. V. P.  
Gadgil, Shri Vithal  
Goswami, Shri Sriman Prafulla  
Gupta, Shri Bhupesh  
Habibullah, Shrimati Hamida  
Jha, Shri Kamalnath  
Joshi, Shri Krishna Nand

Kalaniya, Shri  
Kamble, Pro<sup>^</sup>JN<sup>^</sup>gS<sup>^</sup>p. Kesri, Shri  
Sitaram Khan, Shri Khurshed Alam  
Khan, Shri Maqsood Ali Khaparde,  
Shrimati Saroj Kumaran, Shri S.  
Kureel, Shri Piare Lal urf Piare Lal Talib

Lokesh Chandra, Dr. Mahapatro, Shri  
Lakshmana Mahida, Shri Harisinh  
Bhagubara Makana, Shri Yogendra Manhar,  
Shri Bhagatram Maurya, Shri Buddha Priya  
Mehrotra, Shri Prakash Mehta, Shri Om  
Mishra, Shri Mahendra Mohan  
Moopnar, Shri G. K.  
Mukherjee, Shri Pranab  
Naik, Shri L. R.  
Pande, Shri Bishambhar Nath  
Patil, Shri Deorao  
Rai, Shri Kalp Nath  
Raju, Shri V. B.  
Ranga, Prof. N. G.  
Rao, Shri V. C. Kesava  
Ratan Kumari, Shrimati  
Reddy, Shri K. V. Raghunatha  
Roshan Lai, Shri  
Roy, Shri Kalyan  
Satchidananda, Shri  
Sharma, Shri Anant Prasad  
Sharma, Shri Kishan Lai  
Sharma, Shri Yogendra  
Singh, Shri Bhishma Narain Singh,  
Shrimati Pratibha Sinha, Shri  
Indradeep Sisodia, Shri Sawaisingh  
Sultan, Shrimati Maimoona Sultan  
Singh, Shri Totu, Shri Gian Chand

Tripathi, Shri Kamalapati Venkatrao,  
Shri Chadalavada # Yadav, Shri  
Ramanand

NOES—111

Advani, Shri Lai K.  
Amarjit Kaur, Shrimati  
Anandam, Shri M.  
Asthana, Shri K. B.  
Bagaitkar, Shri Sadasiv  
Baleshwar Dayal, Shri  
Balram Das, Shri [  
Banerjee, Shri Jaharlal  
Barman, Shri Prasenjit  
Bhabhda, Shri Harishankar  
Bhagat, Shri Ganapat Hiralal  
Bhandari, Shri Sunder Singh  
Bhattacharjee, Prof. Sourendra  
Bhattacharya, Shri G. C.  
Bose, Shrimati Pratima  
Chakraborty, Shri Amarprosad  
Chatterjee, Shri Pranab  
Chaurasia, Shri Shivdayal Singh  
Das, Shri Bipinpal  
Deshmukh, Shri Bapuraoji Marotraoji  
Dinesh Singh, Shri  
Dwivedi, Shri Devendra Nath  
Gupta, Shri Gurudev  
Gupta, Shri Ram Lakhan Prasad  
Hegde, Shri Ramakrishna  
Imam, Shrimati Aziza  
Jagbir Singh, Shri  
Jamuna Devi, Shrimati  
Jha, Shri Shiva Chandra  
Joshi, Shri Jagannath Rao  
Joshi, Shri Jagdish  
Kadershah, Shri M.  
Kakati, Shri Robin  
Kameshwar Singh, Shri  
Khan, Shri Ghayoor Ali  
Khan, Prof. Rasheeduddin  
Khan, Shrimati Ushi  
Khobragade, Shri Bhaurao Devaji  
Krishna, Shri M. R.

Krishnan, Shri E. R.  
Krishnan, Shri U. R.  
Kunjachen, Shri P. K.  
Lakhan Singh, Shri  
Lakshmanan, Shri G.  
Lotha, Shri Khyomo  
Madhavan, Shri K. K.  
Mahanti, Shri Bhairab Chandra  
Mahavir, Dr. Bhai  
Majhi, Shri Dhaneswar  
Mallick, Shri Harekrushna  
Maran, Shri Murasoli  
Mathur, Shri Jagdish Prasad  
Menon, Shrimati Leela Damodara  
Menon, Shri Viswanatha  
Mishra, Shri Kalraj  
Mody, Shri Pилоo  
Mohanty, Shri Surendra  
Mohinder Kaur, Shrimati  
Mondal, Shri Ahmad Hossain  
Morarka, Shri R. R.  
Mukherjee, Shrimati Kanak  
Munusamy, Shri V. P.  
Muthu, Dr. (Shrimati) Sathiavani  
Naidu, Shri N. P. Chengalraya  
Nanda, Shri Narasingha Prasad  
Narendra Singh, Shri  
Nigam, Shri Ladli Mohan  
Nizam-ud-Din, Shri Syed  
Oza, Shri Ghanshyambhai  
Parbhu Singh, Shri  
Parikh, Prof. Ramlal  
Patel, Shri Manubhai  
Pathak, Shri Ananda  
Pattanayak, Shri Bhabani Charan  
Poddar, Shri R. K.  
Pradhan, Shri Patitpaban  
Prasad, Shri K. L. N.  
Prem Manohar, Shri  
Qasim, Sayyed Mir  
Raj an, Shri Pattiam  
Rajinder Kaur, Shrimati

Ramamurti, Shri P.  
 Ray, Shri Rabi  
 Reddy, Shri B. Satyanarayan  
 Reddy, Shri Mulka Govinda  
 Reddy, Shri R. Narasimha  
 Sahaya, Shri Dayanand  
 Sahu, Shri Santosh Kumar  
 Samad, Shri Golandaz Mohammed-  
 busian A. Saring, Shri Leonard  
 Soloman Sarup Singh, Shri  
 Schamnad, Shri Hamid Ali Sezhiyan,  
 Shri Era Shahedullah, Shri Syed  
 Shahi, Shri Nageshwar Prasad Shanti  
 Bhushan, Shri Sharma, Shri Ajit  
 Kumar Shastri, Shri Bhola Paswan  
 Siddhu, Dr. M. M. S. Singh, Shri J. K.  
 P. N. Singh, Shri Ng. Tompok Singh,  
 Shri Shiva Nandan Sinha, Dr.  
 Ramkripal Soni, Shrimati Ambika  
 Sujana Singh, Shri Surendra Mohan,  
 Shri Surjeet, Shri Harkishan Singh  
 Varma, Shri Bhagwati Charan Varma,  
 Shri Mahadeo Prasad Venigalla  
 Satyanarayana, Shri Venka, Shri V.  
 Warjri, Shri Alexander *The motion*  
*was negatived.*

THE VICE-CHAIRMAN (SHRI SHYAM  
 LAL YADAV): We shall now take up  
 amendment No. 18 by Shri V. B. Raju:

SHRI V. B. RAJU: Sir, it is the game  
 amendment and it will have the same fate. So  
 I would like to withdraw my amendment.

*The amendment \* (No. 18) was, by leave,*  
*withdrawn.*

\*For the text of the amendment *vide* col. 142 supra. \*For the text  
 of the amendment *vide* col. 142 supra.

THE VICE-CHAIRMAN (SHRI SHYAM  
 LAL YADAV): Amendment No. 19 has not  
 been moved. So we shall take up amendment  
 No. 20 by Shri Bhupesh Gupta.

SHRI BHUPESH GUPTA: I would like to  
 withdraw my amendment.

*The amendment i(No. 20) was, by leave,*  
*withdrawn.*

THE VICE-CHAIRMAN (SHRI SHYAM  
 LAL YADAV): I will now put clause 8 to  
 vote.

The question is:

"That clause 8 stand part of the Bill."

*The House divided.*

THE VICE-CHAIRMAN (SHRI SHYAM  
 LAL YADAV): Ayes—116; Noes—68

AYES—116

Advani, Shri Lai K.  
 Amarjit Kaur, Shrimati  
 Anandam, Shri M.  
 Asthana, Shri K. B.  
 Bagaikar, Shri Sadasiv  
 Baleshwar Dayal, Shri  
 Balram Das, Shri  
 Barman, Shri Prasenjit  
 Bhabhda, Shri Harishanker  
 Bhagat, Shri Ganapat Hiralal Bbandari, Shri  
 Sunder Singh Bhattacharjee, Prof.  
 Sourendra Bhattacharya, Shri G. C. Bose,  
 Shrimati Pratima Chakraborty, Shri  
 Amarprosad Chatterjee, Shri Pranab  
 Chattopadhyaya, Prof. D. P. Chaurasia,  
 Shri Shivdayal Singh

Das, Shri Bipinpal  
 Deshmukh, Shri Bapuraoji Marotraoji  
 Dinesh Singh, Shri  
 Dutt, Dr. V. P.  
 Dwivedi, Shri Devendra Nath  
 Goswami, Shri Dinesh  
 Gupta, Shri Gurudev  
 Gupta, Shri Ram Lakhan Prasad  
 Hegde, Shri Ramakrishna  
 Imam, Shrimati Aziza  
 Jagbir Singh, Shri  
 Jamuna Devi, Shrimati  
 Janardhanam, Shri A. P.  
 Jha, Shri Shiva Chandra  
 Joshi, Shri Jagannath Rao  
 Joshi, Shri Jagdish  
 Kadershah, Shri M.  
 Kakati, Shri Robin  
 Kameshwar Singh, Shri  
 Khan, Shri Ghayoor Ali  
 Khan, Shrimati Ushi  
 Khobragade, Shri Bhaurao Devaji  
 Krishna, Shri M. R.  
 Krishnan, Shri E. R.  
 Krishnan, Shri U. R.  
 Kunjachen, Shri P. K.  
 Lakhan Singh, Shri Lakshmanan, Shri G.  
 Lotha, Shri Khyomo Madhavan, Shri K.  
 K. Mahanti, Shri Bhairab Chandra  
 Mahavir, Dr. Bhai Majhi, Shri Dhaneswar  
 Mallick, Shri Harekrushna Maran, Shri  
 Murasoli Mathur, Shri Jagdish Prasad  
 Menon, Shrimati Leela Damodara Menon,  
 Shri Viswanatha Mishra, Shri Kalraj  
 Mody, Shri Piloo Mohanty, Shri Surendra  
 Mohinder Kaur, Shrimati Mondal, Shri  
 Ahmad Hossain

Morarka, Shri R. R.  
 Mukherjee, Shrimati Kanak  
 Munusamy, Shri V. P.  
 Muthu, Dr. (Shrimati) Sathiavani  
 Naidu, Shri N. P. Chengalraya  
 Nanda, Shri Narasingha Prasad  
 Narendra Singh, Shri  
 Nigam, Shri Ladli Mohan  
 Nizam-ud-Din, Shri Syed  
 Oza, Shri Ghanshyambhai  
 Parbhu Singh, Shri  
 Parikh, Prof. Ramlal  
 Patel, Shri Manubhai  
 Pathak, Shri Ananda  
 Pattanayak, Shri Bhabani Charan  
 Poddar, Shri R. K.  
 Pradhan, Shri Patitpaban  
 Prasad, Shri K. L. N.  
 Prem Manohar, Shri  
 Rajan, Shri Pattiam  
 Rajinder Kaur, Shrimati  
 Raju, Shri V. B.  
 Ramamurti, Shri P.  
 Ray, Shri Rabi  
 Razack, Shrimati Noorjehjn  
 Reddy, Shri B. Satyanarayan  
 Reddy, Shri K. V. Raghunatha  
 Reddy, Shri Mulka Govinda  
 Reddy, Shri R. Narasimha  
 Sahaya, Shri Dayanand  
 Sahu, Shri Santosh Kumar  
 Samad, Shri Golandaz Mohammed-  
 husian A. Saring, Shri Leonard  
 Soloman Sarup Singh, Dr. Schamnad, Shri  
 Hamid Ali Sezhiyan, Shri Era  
 Shahedullah, Shri Syed Shahi, Shri  
 Nageshwar Prasad Shanti Bhushan, Shri  
 Sharma, Shri Ajit Kumar Shastri, Shri  
 Bholu Paswan Siddhu, Dr. M. M. S. !  
 Singh, Shri J. K. P. N.

Singh, Shri Ng. Tompok  
 Singh, Shri Shiva Nandan  
 Sinha, Dr. Ramkripal  
 Soni, Shrimati Ambika  
 Sujan Singh, Shri  
 Surendra Mohan, Shri  
 Surjeet, Shri Harkishan Singh  
 Varma, Shri Bhagwati Charan  
 Varma, Shri Mahadeo Prasad  
 Venigalla Satyanarayana, Shri  
 Venka, Shri V.  
 Warjri, Shri Alexander

NOES—68

Adivarekar, Shrimati Sushila Shankar  
 Alva, Shrimati Margaret  
 Amla, Shri Tirath Ram  
 Anjiah, Shri T.  
 Arif, Shri Mohammed Usman  
 Banerjee, Shri Jahar Lal  
 Bansilal, Shri  
 Basavaraj, Shri H. R.  
 Bhagwan, Din, Shri  
 Bhim Raj, Shri  
 Bholu Prasad, Shri  
 Chandrasekhar, Shrimati Maragatham  
 Deb Burman, Shri Bir Chandra  
 Desai, Shri R. M.  
 Dinesh Chandra, Shri Swami  
 Gadgil, Shri Vithal  
 Goswami, Shri Sriman Prafulla  
 Gupta, Shri Bhupesh  
 Habibullah, Shrimati Hamida  
 Jha, Shri Kamalnath  
 Joshi, Shri Krishna Nand  
 Joshi, Shrimati Kumudben Mani-  
 shanker  
 Kalaniya, Shri Ibrahim  
 Kamble, Prof. N. M.  
 Kesri, Shri Sitaram  
 Khan, Shri Khurshed Alam  
 Khan, Shri Maqsood Ali  
 Khabra, Shrimati Saroj

Kumaran, Shri S.  
 Kureel, Shri Piare Lal urf Piare Lal  
 Talib  
 Lal Sawia, Shri  
 Lokesh Chandra, Dr.  
 Mahapatro, Shri Lakshmana  
 Mahida, Shri Harisinh Bhagubava  
 Makwana, Shri Yogendra  
 Manhar, Shri Bhagatram  
 Maurya, Shri Buddha Priya  
 Mehrotra, Shri Prakash  
 Mehta, Shri Om  
 Mishra, Shri Mahendra Mohan  
 Moopnar, Shri G. K.  
 Mukherjee, Shri Pranab  
 Naik, Shri L. R.  
 Pande, Shri Bishambhar Nath  
 Patil, Shri Deorao  
 Rai, Shri Kalp Nath  
 Ranga, Prof. N. G.  
 Rao, Shri V. C. Kesava  
 Ratan Kumari, Shrimati  
 Roshan Lal, Shri  
 Roy, Shri Kalpan  
 Satchindananda, Shri  
 Sharma, Shri Anant Prasad  
 Sharma, Shri Kishan Lal  
 Sharma, Shri Yogendra  
 Singh, Shri Bhishma Narain  
 Singh, Shrimati Pratibha  
 Sinha, Shri Indradeep  
 Sisodia, Shri Sawaisingh  
 Sultan, Shrimati Maimoona  
 Sultan Singh, Shri  
 Totu, Shri Gian Chand  
 Tripathi, Shri Kamtapati  
 Vaishampayan, Shri S. K.  
 Venkatrao, Shri Chadalavada  
 Yadav, Shri Ramanand  
 Yadav, Shri Shyam Lal

The motion was not 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.

SHRI SHANTI BHUSHAN: Sir, a consequential amendment would be needed of a routine nature. May I move that consequential amendment at the appropriate time?

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV): Yes. We now move to clause 9.

*Clause 9 (Amendment of article 38)*

SHRI K. V. RAGHUNATHA REDDY: Sir, I move;

21. "That at page 3, for lines 19 to 23, the following be substituted, namely; —

'(2) The State shall, in particular strive to minimise and eliminate the inequalities in wealth, income and control over means of production and distribution, status, facilities and opportunities, not only amongst individuals but also amongst groups of persons residing in areas or engaged in different profession, trade or business, for bringing in socialistic economic order.'"

*(The amendment also stood in the name of Shri Mulka Govinda Reddy)*

SHRI BHUPESH GUPTA: Sir, I move,-

22. "That at page 3, line 19, the words 'strive to' be deleted."

23. "That at page 3, lines 21—23, the words 'not only amongst individuals but also amongst groups of people residing in different areas or engaged in different vocations' be deleted."

*(The amendment Nos. 22 and 23 also stood in the names of Sarvashri Kalyan Roy, Bir Chandra Deb Burman, Bhola Prasad and Lakshmana Maha-patro.)*

SHRI DEORAO PATIL (Maharashtra) : Sir, I move:

24. "That at page 3, after line 23, the following be inserted, namely: —

'(3) The State shall take steps, by suitable legislation or in any

other way, to secure remunerative price for each major agricultural produce having regard to, *inter alia*, , the cost of production including minimum wages to be paid to the agricultural labourers under any law.'"

SHRI PRANAB MUKHERJEE: Sir, I move;

25. "That at page 3, lines 22—23, after the words 'engaged in different vocations' the words 'and no law passed by Parliament or a State Legislature to give effect to the said objective shall be called in question in any court of law' be inserted."

*(The amendment also stood in the names of Shri A. R. Antulay and Shri Kalp Nath Rai).*

*The questions were proposed.*

SHRI K. V. RAGHUNATHA REDDY: In article 38, the clause that is proposed by the Government is:

"The State shall, in particular, strive to minimise the inequalities in income, and endeavour to eliminate inequalities in status, facilities and opportunities, not only amongst individuals but also amongst groups of people residing in different areas or engaged in different vocations."

As the Directive Principles of the Constitution, the wording of this clause appears to be a kind of a pious wish. I have moved an amendment which seeks to substitute this clause. I have suggested a comprehensive amendment;

"The State shall, in particular, strive to minimise and eliminate the inequalities in wealth, income and control over means of production.."

Without the fetter of controlling the means of production it is a pious wish that they will be able to remove inequalities of income. And mere control of production will not do. There has to be control over distribution and wealth and income. Therefore, I have suggested this amendment

in order to make the amendment suggested by the Government more comprehensive, more meaningful, more purposeful and more practical. That is why we have suggested this amendment. I think if the Government is very serious and they will be able to accept this amendment.

[Mr. Chairman in the Chair]

SHRI BHUPESH GUPTA: I do not wish to read what is written there, which is self-explanatory. I want to improve upon it. Only two points I should like to make in regard to this clause, relating to the amendment. First of all, I want to make, it absolutely clear that we want the President to be bound absolutely and unconditionally by the advice of the Council of Ministers.

AN HON. MEMBER; Not this.

SHRI BHUPESH GUPTA: If we go beyond that, the President may create some lobby in Parliament, as has happened in other countries, like the King's lobby.

AN HON. MEMBER: You are on some other amendment.

SHRI BHUPESH GUPTA: As far as our amendment is concerned, it is self-explanatory. The "only thing is that Mr. Pranab Mukherjee wants that the advice of the Council of Ministers to the President...

SHRI PRANAB MUKHERJEE: That will come later on.

SHRI BHUPESH GUPTA: I will not have a chance to speak. I am speaking on my amendment. I do not know. They have the chance. Here the provision is a good one. Advice must be of the Council of Ministers, must not be that of the Prime Minister.

SHRI SHANTI BHUSHAN: Which clause?

SHRI PRANAB MUKHERJEE: (Interruptions) That will come later on.

SHRI BHUPESH GUPTA: Well, so far as our amendments are concerned, they are written. So no speech is called for.

श्री देवराव पाटील : सभापति महोदय, मेरा जो संशोधन है वह डाइरेक्टिव प्रिन्सिपल्स आफ स्टेट पालिसीज, पार्ट IV में आर्टिकल 38 के संबंध में है। आर्टिकल 38 में डाइरेक्टिव प्रिन्सिपल्स यह है और मेन क्लॉज यह है :

38. "The State to secure a Social order for the promotion of the people ....." "

सरकारी संशोधन आया है। उनका संशोधन यह है कि जो आज आय की डिस्पेन्डिज है उसको कम करना चाहिए। मेरा जो संशोधन है वह मैं पढ़कर बताता हूँ जिससे कि सदन के सदस्यों को इसका मतलब और महत्व ध्यान में आ जायगा।

"That at page 3, after line 23, the following be inserted, namely: —

'(3) The State shall shall take steps, by suitable legislation or in any other way, to secure remunerative price for each major agricultural produce having regard to, *inter alia*, the cost of production including minimum wages to be-paid to the agricultural labourers under any law."

5 P.M.

सभापति महोदय, आर्टिकल 38 और 39 में जो डाइरेक्टिव प्रिन्सिपल्स दिये गये हैं, उनको देखें तो उसमें adequate means to livelihood 39 में दिया गया है, 43 में living wage to the workers forr | I 47 «F Duty of the State to raise the standard of living.

यह महत्व के विषय डाइरेक्टिव प्रिंसिपल आफ स्टेट पालसी में है। यह अगर इम्पीलीमेंट करना है, तो इसके लिए मेरा प्रेमन्डमेंट बहुत उपयुक्त है। मैं प्रेमन्डमेंट पर ज्यादा भाषण नहीं दूंगा। सभापति महोदय, इसमें एक ही सवाल है, वह है, रेम्युनेशन का रेम्युनेशन का प्रिंसिपल सरकार सखती है या नहीं? अगर मान लेती है तो कृषि उत्पाद के महत्व को डाइरेक्टिव प्रिंसिपल में लगेयग कि, नहीं? रेम्युनेशन के बारे में ज्यादा नहीं कहूंगा, बहुत डिस्पेरिटोज है—

The President of India received a salary of Rs. 10,000 and the Chief Justice of India received a salary of Rs. 65,000 और जो सिंगलजिनेसमें फरे फरे है, उनकी वर मेंव की इन्कमाको 20,000 होती है। अभी ब्रतलसम कमेटी की रिपोर्ट अभी के उसमें लेबरे के बारे में सिफारिश है कि उनकी मासिक आय २० 100 होनी चाहिये। सभापति महोदय, मेरे सौमित्र एक महत्व के बतने के विषय में उदादा कुछ नहीं कहेंगे। मेरे विचारों को लिपिबद्ध करना है। इस कारण, मैं सदन का प्रश्न नहीं लूंगा। लेकिन सभापति महोदय, मैं आपका ध्यान इस से सम्बन्धित राष्ट्रपति के अभिभाषण की ओर दिलाना चाहता हूँ क्योंकि यह आपसे सम्बन्धित है। यह आपका संसद के संसद अभिभाषण है। भारत के राष्ट्रपति के रूप में कार्य करते हुए आपका अभिभाषण है जो कि 28 मार्च, 1977 को दिया गया, I quote प्रामाण्य शब्दों को उल्लेख में अर्थ-व्यवस्था में एक भौतिक असंतुलन उत्पन्न हुआ है जिससे लोग गाँवों से शहरों की ओर जाने लगे हैं। यह आपका स्पीच है। "किसानों को अपने उत्पाद का उचित दाम नहीं मिला है। I quote यह राष्ट्रपति के रूप में कार्य करते हुए आपने जो भाषण दिया है दोनों सदनों के सदस्यों के सामने वह मैंने कोट किया है और उसके महत्व को ध्यान में रखते हुए मैंने सदन के सामने यह संशोधन रखा है। मैंने यह बात रखी है कि कृषि उत्पाद के लिए रेम्युनेशन प्राइम-निर्धारित करने के लिए स्टेट के प्रकस करना चाहिए और इसके लिए इसको डाइरेक्टिव प्रिंसिपल में रखना चाहिए। संशोधन के अंतर्गत राज्य अन्य बातों के साथ साथ उत्पादन-लाभ, जिसमें किसी विधि के अधीन खेतिहर मजदूरों को अदा की जाने वाली न्यूनतम मजदूरी भी शामिल है, को ध्यान में रखते हुए प्रत्येक मुख्य कृषि उत्पाद के लिए, लाभकारी मूल्य सुनिश्चित करने के लिए उचित विधान द्वारा या किसी अन्य प्रकार से कदम उठाया। उसके लिए डाइरेक्टिव प्रिंसिपल आफ स्टेट पालसी में लाना चाहिए। आपसे और सरकार से मेरे रिक्वेस्ट हैं कि सरकार इस संशोधन को मान लें। संसदीय व्यवस्था में मेरी प्रार्थना है कि कोई सत्ता से कृषकों को लाभकारी मूल्य देने की बात को सदस्य मान रहे हैं। मिनिमम बेजिज ट एंड्रीक-कल्चरल लेबरे और मिनिमम रेम्युनेटिव प्राइम कीवर्स को मिलनी चाहिये। और उसको डाइरेक्टिव प्रिंसिपल आफ स्टेट पालसी में लाना है।

यही मेरी प्रार्थना है। मैं उम्मीद करता हूँ कि मेरी संशोधन सदन मान लेंगा।  
 SHRI PRANAB MUKHERJEE, Sir, in view of the position taken by the House in respect of clause 3, my amendment becomes irrelevant because I wanted to give the Directive Principles over-riding importance, and that is why I had framed my amendment. But now that it would also be a part of the Directive Principles and that we have taken a decision so far as clause 3 is concerned it is not necessary and now it seems to be irrelevant.

SHRI SHANTI BHUSHAN, Sir, I have to say something except that I am not in a position to accept the amendments conditionally by the advice of the Council of Ministers.

MR. CHAIRMAN: Amendment No. 21. Mr. K. V. Raghunatha Reddy, are you pressing your amendment?

SHRI K. V. RAGHUNATHA REDDY: Yes.

MR. CHAIRMAN: The question is:

21. "That at page 3, for lines 19 to 23, the following be substituted, namely:—

(2) The State shall, in particular, strive to minimise and eliminate the inequalities in wealth, income and control over means of production and distribution, status, facilities and opportunities, not only amongst individuals but also amongst groups of persons residing in areas or engaged in different profession, trade or business, for bringing in socialistic economic order.

The motion was negatived.

MR. CHAIRMAN: Amendments 22 and 23. Mr. Bhupesh Gupta is not here. I shall put them to vote.



The question is:

22. "That at page 3, line 19, the words 'strive to' be deleted."

The -motion, *was* negatived.

MR. CHAIRMAN; The question is:

23. "That at page 3, lines 21-23, the words 'not only amongst individuals' but also amongst, groups of people residing in different areas or engaged in different vocations be deleted."

The motion *was* negatived.

MR. CHAIRMAN: Amendment No. 24. Mr. Deorao Patil, are you pressing it?

SHRI DEORAO PATIL; Yes.

MR. CHAIRMAN: Now, before putting it to vote, I would like to bring to the notice of the hon. Members the clauses on which separate voting will take place. They are clauses 9, 11, 12, 14, 35, 38, 39, 43, 44, 45 and 47.

Now, the question is:

24. "That at page 3, after line 23, the following be inserted, namely:

'(3) The State shall take steps, by suitable legislation or in any other way, to secure remunerative price for each major agricultural produce having regard to, *inter alia*, the cost of production including minimum wages to be paid to the agricultural labourers under any law'."

The *House* divided.

MR. CHAIRMAN: Ayes—67; Noes—113.

AYES—67

Adivarekar, Shrimati Sushila Shankar

Alva, Shrimati Margaret

Amla, Shri Tirath Ram

Anjiah, Shri T.

Antulay, Shri A. R.

1134 RS—6.

Arif, Shri Mohammed Usman Bansi  
Lai, Shri Basavaraj, Shri H. R. Bhagwan  
Din, Shri Bhim Raj, Shri Bhola Prasad,  
Shri

Chandrasekhar, Shrimati Maragatham  
Chattopadhyaya, Prof. D. P.

Deb Burman, Shri Bir Chandra  
Desai, Shri R. M.

Dinesh Chandra, Shri Swami  
Gadgil, Shri Vithal

Goswami, Shri Sriman Prafulla  
Gupta, Shri Bhupesh

Habibullah, Shrimati Hamida

Jha, Shri Kamalnath

Joshi, Shri Krishna Nand

Joshi, Shrimati Kumudben

Manishanker Kalaniya, Shri Ibrahim  
Kamble, Prof. N. M. Kesri, Shri Sitaram  
Khan, Shri Khurshed Alam Khan, Shri  
Maqsood Ali Khaparde, Shrimati Saroj  
KumSran, Shri S. Kureel, Shri Piar, Lall urf  
Piare Lall

Talib Lokesh Chandra, Dr. Mahapatro,  
Shri Lakshmana Mahida, Shri Harisinh  
Bhagubava Makwana Shri Yogendra  
Manher, Shri Bhagatram Maurya, Shri  
Buddha Priya Mehrotra, Shri Prakash  
Mishra, Shri Mahendra Mohan Moopnar,  
Shri G. K. Mukherjee, Shri Pranab Naik, Shri  
L. R.

Pande, Shri Bishambhar Nath Patil,  
Shri Deorao Rai, Shri Kalp Nath Raju,  
Shri V. B.

Ranga, Prof. N. G. Rao, Shri V. C  
 Kesava Ratan Kumari, Shrimati  
 Reddy, Shri K. V. Raghunatha  
 Roshan Lai, Shri  
 Roy, Shri Kalyan  
 Satchidananda, Shri  
 Sharma, Shri Anant Prasad  
 Sharma, Shri Kishan Lai  
 Sharma, Shri Yogendra  
 Singh, Shri Bhishnra Narain  
 Singh, Shrimati Pratibha  
 Sinha, Shri Indradeep  
 Sisodia, Shri Sawaisingh  
 Sultan, Shrimati Maimoona  
 Sultan Singh, Shri  
 Totu, Shri Gian Chand  
 Tripathi, Shri Kamlapati  
 Venkatrao, Shri Chadalavada  
 Yadav, Shri Ramanand  
 Yadav, Shri Shyam Lai

NOES—113

Advani, Shri Lai K.  
 Amarjit Kaur, Shrimati  
 Anandam, Shri M.  
 Asthana, Shri K. B.  
 Bagaitkar, Shri Sadasiv  
 Baleshwar Dayal Shri  
 Balram Das, Shri  
 Banerjee, Shri JaharM  
 Barman, Shri Prasenjit  
 Bhabhda, Shri Harishanker  
 Bhagat, Shri Ganapat Hiralal  
 Bhandari, Shri Sunder Singh  
 Bhattacharjee, Prof. Sourendra  
 Bhattacharya, Shri G. C.  
 Bose, Shrimati Pratima  
 Chakraborty, shri Amarprosad  
 Chatterjee, Shri Pranab  
 Chaurasia, Shri Shivdayal Singh

Das, Shri Bipinpal Deshmukh, Shri  
 Bapuraoji Marotraoji  
 Dinesh Singh, Shri  
 Dutt, Dr. V. P.  
 Dwivedi, Shri Devendra Nath  
 Goswami, Shri Dinesh  
 Gupta, Shri Gurudev  
 Gupta, Shri Ram Lakhan Prasad  
 Hegde, Shri Ramakrishna  
 Imam, Shrimati Aziza  
 Jagbir Singh, Shri  
 Jamuna Devi, Shrimati  
 Janardhanam, Shri A. P.  
 Jha, Shri Shiva Chandra  
 Joshi, Shri Jagannath Rao  
 Joshi, Shri Jagdish  
 Kadershah, Shri M-  
 Kakati, Shri Robin  
 Kameshwar Singh Shri  
 Khan, Shri Ghayoor Ali  
 Khan, Shrimati Ushi  
 Khobragade, Shri Bhaurao Devaji  
 Krishna, Shri M. R.  
 Krishnan, Shri E. R-  
 Krishnan, Shri U. R.  
 Kunjachen, Shri P. K.  
 Lakhan Singh, Shri  
 Lakshmanan, Shri G.  
 Lotha, Shri Khyomo  
 Madhavan, Shri K K.  
 Mahanti, Shri Bhairab Chandra  
 Mahavir, Dr. Bhai  
 Majhi, Shri Dhaneswar  
 Mallick, Shri Harekrushna  
 Maran, Shri Murasoli  
 Mathur, Shri Jagdish Prasad  
 Menon, Shrimati Leela Damodara  
 Menon, Shri Viswanatha  
 Mishra, Shri Kalraj  
 Mody, Shri Pилоo  
 Mohanty, Shri Surendra  
 Mohinder Kaur, Shrimati  
 Mondal, Shri Ahmad Hos^ain

Morarka, Shri R. R. Mukherjee,  
Shrimati Kanak Munusamy, Shri  
V. P. Muthu, Dr. (Shrimati)

Sathiavani Naidu, Shri N. P.  
Chengalraya Nanda, Shri Narasingha  
Prasad Narendra Singh, Shri Nigam,  
Shri Ladli Mohan Nizam-ud-Din, Shri  
Syed Oza, Shri Ghanshyambhai Parbhu  
Singh, Shri Parikh, Prof. Ramlal Patel,  
Shri Manubhai Patbak, Shri Ananda  
Pattanayak, Shri Bhabani Charan  
Foddar, Shri R. K. Pradhan, Shri  
Patitpaban Prasad, Shri K. L. N. Prem  
Manohar, Shri Rajan, Shri Pattiam  
Rajinder Kaur, Shrimati Ramamurti,  
Shri P.

Rameshwar Singh, Shri

Ray, Shri Rabi Razack, Shrimati  
Noorjehan Reddy, Shri B. Satyanarayan  
Reddy, Shri Mulka Govinda Sahaya,  
Shri Dayanand Sahu, Shri Santosh  
Kumar Samad, Shri Golandaz  
Mohammedhusian A. Saring, Shri  
Leonard Soloman Sarup Singh, Dr.  
Sezhiyan, Shri Era Shahedullah, Shri  
Syed Shahi, Shri Nageshwar Prasad  
Shanti Bhushan, Shri Sharma, Shri Ajit  
Kumar Shastri, Shri Bhola Paswan  
Siddhu, Dr. M. M. S. Singh, Shri J. K.  
P. N. Singh, Shri Ns. Tompok

Singh, Shri Shiva Nandan Sinha, Dr.  
Ramkripal Soni, Shrimati Ambika Sujan  
Singh, Shri Surendra Mohan, Shri  
Surjeet, Shri Harkishan Singh Varma,  
Shri Bhagwati Charan Varmg, Shri  
Mahadeo Prasad Venigalla  
Satyanarayana, Shri Venka, Shri V.  
Warjri, Shri Alexander

*The motion was negatived.*

MR. CHAIRMAN: Are you pressing your  
amendment No. 25?

SHRI PRANAB MUKHERJEE: I am not  
pressing my amendment. I withdraw it.

*Amendment\* (No. 25) was, by  
leave withdrawn. MR.*

CHAIRMAN: The question is:

"That Clause 9 stand part of the Bill"

*The House divided.*

MR. CHAIRMAN: Ayes—181; Noes —  
NIL.

AYES—181

Adivarekar, Shrimati Sushila Shankar  
Advani, Shri Lai K.  
Alva, Shrimati Margaret  
Amarjit Kaur, Shrimati  
Amla, Shri Tirath Ram  
Anandam, Shri M.  
Anjiah, Shri T.  
Antulay, Shri A. R.  
Arif, Shri Mohammed Usman  
Asthana, Shri K. B.  
Bagaitkar, Shri Sadasiv  
Baleshwar Dayal, Shri

\*For the text of the Amendment vide cols  
156 supra

Balram Das, Shri  
 Banerjee, Shri B. N.  
 Banerjee, Shri Jaharlal  
 Bansi Lai, Shri  
 Barman, Shri Prasenjit  
 Basavaraj, Shri H. R.  
 Bhabhda, Shri Harishanker  
 Bhagat, Shri Ganpat Hiralal  
 Bhagwan Din, Shri  
 Bhandari, Shri Sunder Singh  
 Bhattacharjee, Prof. Sourendra  
 Bhattacharya, Shri G. C.  
 Bhim Raj, Shri  
 Bholu Prasad, Shri  
 Bose, Shrimati Pratima  
 Chakraborty, Shri Amarprosad  
 Chandrasekhar, Shrimati Maragatham  
 Chatterjee, Shri Pranab  
 Chattopadhyaya, Prof. D. P.  
 Chaurasia, Shri Shivdayal Singh  
 Das, Shri Bipinpal  
 Deb Burman, Shri Bir Chandra  
 Desai, Shri R. M.  
 Deshmukh, Shri Bapuraoji Marotraoji  
 Dinesh Chandra, Shri Swami  
 Dinesh Singh, Shri  
 Dutt, Dr. V. P.  
 Dwivedi, Shri Devendra Nath  
 Gadgil, Shri Vithal  
 Goswami, Shri Dinesh  
 Goswami, Shri Sriman Prafulla  
 Gupta, Shri Bhupesh  
 Gupta, Shri Gurudev  
 Gupta, Shri Ram Lakhan Prasad  
 Habibullah, Shrimati Hamida  
 Hegde, Shri Ramakrishna  
 Imam, Shrimati Aziza  
 Jagbir Smgh, Shri  
 Jamuna Devi, Shrimati  
 Janardhanam, Shri A. P.  
 Jha, Shri Kamalnath  
 Jha, Shri Shiva Chandra  
 Joshi, Shri Jagannath Rao

Joshi, Shri Jagdish Joshi, Shri Krishna  
 Nand Kakati, Shri Robin Kalaniya, Shri  
 Ibrahim Kamble, Prof. N. M. Kameshwar  
 Singh, Shri Kesri, Shri Sitaram Khan,  
 Shri Ghayoor AH Khan, Shri Khurshed  
 Alam< Khan, Shri Maqsood Ali Khan,  
 Prof. Rasheeduddin Khan, Shrimati Ushi  
 -Khaparde, Shrimati Saroj Khobragade,  
 Shri Bhaurao Devaft Krishna, Shri M. R.  
 Krishnan, Shri E. R. Knshnan, Shri U. R.  
 XT OU • <?  
 Kumaran, Shri S. Kunjachen,  
 Shri P. K.  
 Kureel, Shri Piare Lall *urf* Piare Lall Talib  
 Lakha<sub>n</sub> Singh, Shri  
 Lakshmanan, Shri G.  
 Lokesh Chandra, Dr.  
 Lotha, Shri Khyomo  
 Madhavan, Shri K. K.  
 Mahanti, Shri Bhairab Chandra  
 Mhapatro, Shri Lakshmana  
 Mahavir, Dr. Bhai  
 Mahida, Shri Harisinh Bhagubava Majhi,  
 Shri Dhaneswar Makwana, Shri  
 Yogendra Malick, Shri Harekrushna  
 Manher, Shri Bhagatram Maran, Shri  
 Murasolj Mathur, Shri Jagdish Prasad  
 Maurya, Shri Buddha Priya Mehrotra,  
 Shri Prakash Menon. Shrimati Leela  
 Damodara Menon, Shri Viawanatha  
 Mishra, Shri Kalraj Mishra, Shri  
 Mahendra Mohan Mody, Shri Piloo

Mohanty, Shri Surendra Mohinder Kaur, Shrimati Mondal, Shri Ahmad Hossain Moopnar, Shri G. K. Morarka, Shri R. R. Mukherjee, Shrimati Kanak Mukherjee, Shri Pranab Munuswamy, Shri V. P. Muthu, Dr. (Shrimati) Sathiavani Naidu, Shri N. P. Chengalraya Naik, Shri L. R. Nanda, Shri Narasingha Prasad Narendra Singh, Shri Nigam, Shri Ladli Mohan, Nizam-ud-Din, Shri Syed Oza, Shri Ghanshyambhai

Pande, Shri Bishambhar Nath

Prabhu Singh, Shri

Parikh, Prof. Ramlal

Patel, Shri Manubhai

Pathak, Shri Ananda

Patil, Shri Deorao

Pattanayak, Shri B'labani Charan

Poddar, Shri R. K.

Prasad, Shri Patitpaban

Prasad, Shri K. L. N.

Prem Manohar, Shri

Rai, Shri Kalp Nath

Rajan, Shri Pattiam

Raju, Shri V. B.

Ramamurti, Shri P.

Rameshwar Singh, Shri

Ranga, Prof. N. G.

Rao, Shri V. C. Kesava

Ratan Kumari, Shrimati Say, Shri Rabi

Sazack, Shrimati Noorjehan teddy, Shri

B. Satyanarayan teddy, Shri K. V.

Raghunatha teddy, Shri Mulka Govinda

teddy, Shri R. Narasimha toshan Lai,

Shri 'oy, Shri Kalyan

Sahaya, Shri Dayanand Sahu, Shri Santosh Kumar Samad, Shri Golandaz Mohammedhusian A.

Saring, Shri Leonard Soloman Sarup

Singh, Dr. Satchidananda, Shri Sezhiyan,

Shri Era Shahedullah, Shri Syed Shahi,

Shri Nageshwar Prasad Shanti Bhushan,

Shri Sharma, Shri Ajit Kumar Sharma,

Shri Anant Prasad Sharma, Shri Kishan

Lai Sharma, Shri Yogendra Shastri, Shri

Bhola Paswan Siddhu, Dr. M. M. S.

Singh, Shri Bhishma Narain Singh, Shri J.

K. P. N. Singh, Shri Ng. Tompok Singh,

Shrimati Pratibha Singh, Shri Shiva Nandan

Sinha, Shri Indradeep Sinha, Dr.

Ramkripal Sisodia, Shri Sawaisingh Soni,

Shrimati Ambika Sujan Singh, Shri

Sultan, Shrimati Maimoona Sultan Singh,

Shri Surendra Mohan, Shri Surjeet, Shri

Harkishan Singh

Totu, Shri Gian Chand Tripathi,

Shri Kamlapati Vaishampayan, Shri

S. K. Varma, Shri Bhagwati Charan

Varma, Shri Mahadeo Prasad Venigalla,

Satyanarayana, Shri Venka, Shri V.

Venkatrao, Shri Chadalavada

Warjri, Shri Alexander

Yadav, Shri Ramanand

Yadav. Shri Shyam Lai

NOES—NIL

*The motion was 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.*

Clause 9 was added to the Bill.

MR. CHAIRMAN: Clause 10. There are no amendments.

Clause 11—Amendment of article 74.

MR. CHAIRMAN: We will now go to the next clause. There are no amendments to clause 10. So, we will now go to clause 11. There are four amendments.

SHRI DINESH GOSWAMI: Sir, I beg to move:

26. "That at page 4, for clause 11, the following clause be substituted, namely:—

'In article 74 of the Constitution,—

(a) in clause (1) the following proviso shall be inserted at the end, namely:—

"Provided that the President may require the Council of Ministers to reconsider such advice, either generally or otherwise, and the President shall act in accordance with the advice tendered after such reconsideration:"

(b) in clause (2), after the 'President', the words 'and whether the President required the Council of Ministers to reconsider such advice, either generally or otherwise' shall be inserted."

SHRI PRANAB MUKHERJEE: Sir, I beg to move:

27. "That at page 4, line 3, after the word 'President' the words 'on the advice of the Prime Minister' be inserted."

(The amendment also stood in the names of Shri A. R. Antulay and Shri Kalp Nath Rat)

SHRI BHUPESH GUPTA • Sir, I beg to move:

28. "That at page 4, for lines 3 to 6, the following be substituted, namely:—

'Provided that where the President considers that the advice goes against the provisions of this Constitution, he shall give his reasons in writing and may require the Council of Ministers to reconsider such advice, either generally or otherwise, within a period of five days, and the President shall act in accordance with the advice tendered after such reconsideration'."

(The amendment also stood in the names of Shri Kalyan Roy, Shri Bir Chandra Deb Burman, Shri Bhola Prasad, and Shri Lakshmana Maha-patrol)

*The questions were proposed.*

SHRI DINESH GOSWAMI: Sir, I am not moving my amendment No. 29.

Sir, only I was pointing out that there are two amendments in my name, that is, No. 26 and 29 and that I am moving only my amendment No. 26 and not No. 29. (Interruptions). Sir, will you please bring some order in the House? So far as this clause is concerned, I had raised some points in the First Reading of the Bill and the honourable Minister has replied to it. I am not repeating those points though I am not satisfied with it. Now, so far as this amendment is concerned, I would only like to have a clarification from the honourable Minister. My amendment is only this: Under clause of article 74, nobody can question in a court of law the advice the Council of Ministers gave to the President. Now, under the amended provision the President has been given a constitutional right to refer back matters to the Council of Ministers for reconsideration and the Council of Ministers is constitutionally bound to consider such advice. I would like to know from the hon. Minister, since no amendment has been made to clause 2 whether it will be open for a person now to question

in a court of law about the advice that the President might have given to the Council of Ministers for reconsideration or to complain that the Council of Ministers did not consider the advice expressed by the President, a constitutional right being provided in terms of letters of law. Is it desirable that whatever advice the President gives the Council of Ministers for reconsideration should also be made immune from scrutiny of the court. My amendment seeks to remove this lacuna.

SHRI PRANAB MUKHERJEE:

My amendment is very simple, though Bhupesh Babu suggested that it should not be there. The whole Cabinet revolves round the Prime Minister. The Law Minister was trying to visualise a certain situation in which he made out his point and said that if a situation may arise, if the House of the People expresses no confidence, then why should not be the President go according to the advice given by that Council of Ministers. He is quite clear that the President is going to accept that advice. But the convention which has been practised in this country and which has been practised in other parliamentary forms of Government have never been questioned. In England, the practice has been that dissolution has become and is treated as the prerogative of the Prime Minister. Here a new idea is being injected in. We visualise a scheme where the President will have to go according to the advice of the Council of Ministers. The Council of Ministers is accountable to Parliament and through Parliament to the people. They are going to insert a clause where the President has the right to send it back to the Council of Ministers for its re-consideration. It is ensured in parliamentary democracy that the President should not act without the advice of the Council of Ministers. He should at least take the Prime Minister into confidence, and if the Prime Minister also feels that the matter should be reconsidered by the Council of Ministers, then the President can do it, otherwise cannot leave

it to the discretion of the President. The President may feel that a matter should be reconsidered. Actually, a situation may arise when the Prime Minister and the President do not see eye to eye. In that case, he can send back almost every issue for reconsideration at least once. Such a situation may arise. In that case, a situation will be created in which the Prime Minister would not be able to render any service. On the other hand, he enjoys the confidence of the House. He is the Leader of the Council of Ministers. Therefore, in order to avoid such a situation, I have suggested that the President and the Prime Minister must act in complete harmony. Therefore, if the President feels that certain matters should be reconsidered by the Council of Ministers, he should at least convince the Prime Minister about the necessity of it. That is the purpose of my amendment.

SHRI BHUPESH GUPTA : Sir, first of all I make it very clear that I wish that the Government had not disturbed the existing provision. I think it is a solid principle that the President shall be guided according to the advice of the Council of Ministers. The matter should have ended there. Now, they have brought in this reconsideration concept, that is to say, that

the President can send back certain things to the Council of Ministers for reconsideration. Then my friend, Mr. Pranab Mukherjee, brings in something else. I will speak about that later. First of all, I want the original position to remain.

SHRI PRANAB MUKHERJEE : I have no objection if you go back to the original position.

SHRI BHUPESH GUPTA: Now, Sir, if you bring in this concept of the President asking for reconsideration, what happens in some countries will happen here. The President may have his own opinion for a short while. Anyway, the real situation will be that there will be a President lobby over

[Shri Bhupesh Gupta]

certain matters. That lobby may not be identified in the formal sense. But we know that under similar arrangements what is called 'The President's Lobby' does operate. The President disagrees with the Council of Ministers and send a matter back to the Council of Ministers. Then almost automatically he will try to influence some Members of Parliament and also some Ministers. This position is not very *I* good. So, the original position is better. Now, Sir, if you must have it, then we want to make it a little binding by saying:

"Provided that where the President considers that the advice goes [ against the provisions of this Consti. ] tution, he shall give his reasons in writing and may require the Council of Ministers to reconsider such advice, either generally or otherwise, within a period of five days, and the President shall act in accordance with the advice tendered after such reconsideration."

If you must have this doctrine of reconsideration, which in my view is a very dangerous doctrine, then I want this kind of protection. What has our friend, Mr. Pranab Mukherjee, said? He says that if the President sends something for reconsideration, he will consult the Prime Minister. It is illogical. The Prime Minister will give the advice and then the Prime Minister will also agree to reconsideration. It cannot be. It is illogical. After all, the Prime Minister sends matter- to the President. His advice has been given. The President does not agree. Then again the Prime Minister comes into the picture. Will the Prime Minister say: All right, send it back to me for consideration? In that case, the

Prime Minister need not have given that advice.

SHRI PRANAB MUKHERJEE : The President cannot send anything for reconsideration.

SHRI BHUPESH GUPTA : I know that. Well, you may talk about the British Prime Minister. I won't talk

about him. After all, going through the experience of the emergency and also what is happening now, Sir, I would say: save us from the great personality of the Prime Minister and better go by the collective responsibility. Of course, Mr. Pranab Mukherjee, I do not know, I hear, that there is nothing called 'collective responsibility'. But our whole thing is based on collective responsibility. So, I say that Mr. Pranab Babu need not press it. I am also not pressing the amendment for vote. I think we have expressed our views. If we win by voice vote, we will win. If we lose by voice vote, we lose it. Sir, the original position would have been better. But if you do not accept our amendment and if you put this re-consideration clause for vote, then I will vote against that clause. I want the original position.

SHRI SHANTI BHUSHAN: Sir, so far as the amendment proposed by Shri Pranab Mukherjee is concerned, Shri Bhupesh Gupta has already replied to it on my behalf. So, I need not deal with it. So far as his own amendment is concerned, may I say that it is introducing this complication, namely that the President should first apply his mind to the question whether the advice goes contrary to some provisions of the Constitution and the controversy between the Council of Ministers and the President would arise as to who is going constitutionally, etc.—and that Shri Bhupesh Gupta will not press it? He has also made it clear that he wanted to make a speech. From time to time, he must make a speech and, therefore, I appreciate that idea, and he will not press it.

Sir, so far as Mr. Dinesh Goswami's amendment is concerned, Sir, I appreciate the objective behind it. But may I say that that amendment is not necessary because, Sir, the purpose of clause 2 of article 74 is that when a Government has made an order which is an effective order, then a question arises, and sometimes people want to raise a question as to whether the



rules of business were followed or not, as to what advice was tendered by the Council of Ministers in the legal sense, and whether the order is in accordance with that advice which is under the rules of business deemed to be an advice. But that question arises only after the final order of the Government has been made. So long as the stage for reconsideration, etc. is going on, the question of going into that does not arise. Therefore, never such a question can arise before a court of law. It is only after reconsideration when the final decision has been made, when the final order has been made, then only the question arises. Therefore, that amendment is also not necessary.

MR. CHAIRMAN : Now Amendment No. 26.

SHRI DINESH GOSWAMI: Sir, I am not pressing my amendment. I am withdrawing it.

*The amendments (No. 26) was, by leave, withdrawn.*  
I

SHRI PRANAB MUKHERJEE: Sir, I am not pressing my amendment No. 27. I am withdrawing it.

*The amendments (No. 27) was, by leave withdrawn.*

MR. CHAIRMAN: Amendment No. 28. Mr. Bhupesh Gupta, are you pressing it?

SHRI BHUPESH GUPTA: I do not move amendments which I easily withdraw.

THE CHAIRMAN: The question is:

28. "That at page 4, for lines 3 to 6, the following be *substituted*, namely.

'Provided that where the President considers that the advice

For the text of the Amendment vide col. 171 supra.

goes against the provisions of this Constitution, he shall give his reasons in writing and may require the Council of Ministers to reconsider such advice, either generally or otherwise, within a period of five days, and the President shall act in accordance with the advice tendered after such reconsideration.' "

*The motion was negatived.*

MR. CHAIRMAN: Now we will go to clause 12. There is one amendment (No. 30) by Shri Pranab Mukherjee.

SHRI PRANAB MUKHERJEE: Sir, I am not moving my amendment No. 30.

MR. CHAIRMAN: Now clause 13, There are no amendments.

*Clause 14—Substitution of new article for article 103*

SHRI PRANAB MUKHERJEE: Sir, I am not moving my amendment No. 31.

SHRI SHYAM LAL YADAV (Uttar Pradesh): Sir, I beg to move:

32. "That at page 4 *after* line 25, the following sub-clause be *inserted*, namely:

'(3) The question as to whether a person, found guilty of corrupt practice at an election to a House of Parliament under any law made by Parliament, shall be disqualified for being chosen as, a Member of either House of Parliament, or of a House of the Legislature of a State, or as to the period for which he shall be so disqualified, shall be decided by the Court finding the person guilty of such corrupt practice.'"

यह जो ओरिजनल है इसमें आर्टिकल 103 था। उसमें जो परिवर्तन किया गया वह इस दृष्टि

[Shri Shyam Lal Yadav]

से हुआ कि कोई सदस्य कब अयोग्य हो जाए, डिस्कवालोफाई हो जाए इशके संबंध में निर्णय कौन करेगा, कौन अधिकारी होगा, किस को अधिकार होगा यह सब अर्टिकल 103 में स्पष्ट किया गया जिसकी पहले व्यवस्था नहीं थी। क्योंकि पहले 103 में जो व्यवस्था थी वह इस तरह की नहीं थी जिससे प्रेजीडेंट इस तरह का फैसला करे और जब कोई सवाल उठे या अदालत फैसला दे तो उस समय यह प्रश्न राष्ट्रपति के विचाराधीन होगा और राष्ट्रपति इस पर इलेक्शन कमीशन से सलाह लेंगे। और उस सलाह लेने के बाद वे फैसला देंगे। ऐसा राष्ट्रपति को नहीं था कि वह अपनी मर्जी से फैसला दे दें। एक अच्छी व्यवस्था थी और चूंकि राज्यों के द्वारा या समय समय पर जो प्रश्न उत्पन्न होते हैं यह आवश्यक होता है कि राष्ट्रपति उसका फैसला दे। मैं समझता हूँ कि वह जो व्यवस्था की गयी है 42 वें संशोधन में अर्टिकल 103 में संशोधन करके वह बहुत ही उचित थी और उसमें किसी प्रकार का विवाद नहीं होता। उसमें कमीशन किसी के संबंध में जो विवाद उत्पन्न होता तो एक मौका उन मेम्बर को कमीशन के सामने साल्यूशन के लिए मिलता और वह दुबारा राष्ट्रपति के सामने जाता और उस समय वह रिप्रेजेंटेशन कर सकता था। इसलिए मेरा अनुरोध था कि कोई ऐसी परिस्थिति नहीं उत्पन्न हुई है-विधि मंत्री ने अपनी जो भूमिका दी है उसमें भी केवल इतना ही लिखा है कि जो पुराना विधान था उसी को हम कायम कर रहे हैं दुबारा। मेरा नमस में ऐसी कोई स्थिति उन्होंने नहीं बतायी जिसके कारण से अर्टिकल 103 को क्रियान्वित करने में कोई समस्या कहीं उत्पन्न हुई हो या किसी पक्ष को कोई असुविधा हो या उसके साथ अन्याय हो। उल्टे इससे मौका था और वह राष्ट्रपति ही फैसला करता है अन्याय अब इसका फैसला दूसरी तरह से होगा। इसलिए मैं समझता हूँ कि इसका जो पुराना विधान था 103 अर्टिकल 42 वें संशोधन के बाद उसमें ऐसी व्यवस्था थी जो काफी उचित थी। उसमें लोगों को मौका था। इससे सही फैसला होता, संतोष होता। क्योंकि कितने साल के लिए ही, कितना समय घटाया जाय या कितना नहीं घटाया जाय। कभी कभी 6 वर्ष के लिए डिस्कवालोफिकेशन होती है तो पूरे दो चुनावों में भाग नहीं ले पाता और फिर तीसरे चुनाव में जाकर 10 वर्ष का समय उसका व्यर्थ हो जाता है इसलिए मैं समझता हूँ कि यह उचित व्यवस्था थी और राष्ट्रपति जिस प्रकार से कार्य करता है मुझे दोहराने की जरूरत नहीं है सात जानता है कि राष्ट्रपति अपनी मंति परिषद् की सलाह पर काम करता है। अकेले राष्ट्रपति स्वतः कोई ग्राम नहीं करता है इसलिए इलेक्शन कमीशन और मंति परिषद् दोनों को मौका मिलता, इस बात पर विचार करते और उसी को दृष्टि में रखते हुए मैं वह संशोधन रखा है कि जो वर्तमान व्यवस्था संविधान के 42 वें संशोधन के अर्टिकल 103 की थी और वही व्यवस्था विधान सभाओं के लिए है उसको कायम रखा जाय।

*The question was proposed.*

SHRI SHANTI BHUSHAN: Sir, the only difference between article 103

as introduced by the Fortysecond Amendment and the one which was there before, and which is proposed to be re-introduced, is that the President, before the Forty-second Amendment, was bound by the advice of the Election Commission. So far as the matter of disqualification was concerned, virtually the power of taking a decision was with the Election Commission and not with the Government. But by the Fortysecond Amendment this effective power had been given to the Government. The Election Commission was only to be consulted. The advice or the views of the Election Commission were not to be binding on the Government.

Sir, the hon. Members would appreciate that in a democracy, when Governments are formed by political parties, it would not be right, in matters of disqualification, to have a provision, which would affect either an opposition Member or a Member of the ruling party, which would give the final decision making authority to the Government of the day. Rather the Election Commission, which is an independent authority, constitutional authority, must be given this final effective voice and, therefore, this position is being restored.

MR. CHAIRMAN: Mr. Yadav, will you press for it?

SHRI SHYAM LAL YADAV: Yes, Sir.

MR. CHAIRMAN: The question is:

32. "That at page 4, after line 25, the following sub-clause be inserted, namely:

'(3) The question as to whether a person found guilty of corrupt

practice at an election to a House of Parliament, under any law made by Parliament, shall be disqualified for being chosen as, a Member of either House of Parliament, or of a House of the Legislature of a State, or as to the period for which he shall be so disqualified, shall be decided by the Court finding the person guilty of such corrupt practice."

*The motion was negatived.*

MR. CHAIRMAN: Next is clause 15. There are no amendments to it. Then there is clause 16. There is one amendment by Shri Dinesh Goswami, No. 33.

*Clause 16—Amendment of article 123*

SHRI DINESH GOSWAMI: Sir, I move:

33. "That at page 4, for clause 16, the following clause be *substituted*, namely,

'16. In article 123 of the Constitution, for clause 4 the following clause shall be substituted, namely:—

(4) Notwithstanding anything in this Constitution, the satisfaction of the President mentioned in clause (1) shall be final and conclusive and shall not be questioned in any court on any ground except on the ground of *mala-fide*.' "

Sir, this amendment is again of a technical nature. Sir, if the President issues an Ordinance, his satisfaction cannot be questioned in a court of law. Now, that was the position even previously to 42nd amendment namely, that the satisfaction of the President regarding the promulgation of an Ordinance could not be questioned in a court of law. But, for the first time, if I am correct—if I am wrong, the Law Minister will correct me—I think in the Bank Nationalisation Case the minority judgment of the Supreme Court expressed some views to the effect that the satisfac-

tion can be questioned, though on that the majority did not give any opinion. That is why an express provision was made in article 123(4) to the effect that notwithstanding anything in this Constitution, the satisfaction of the President mentioned in clause (1) shall be final and conclusive and shall not be questioned in any court of law. I would like to know from the Law Minister what the view of the Government was. Is it the Government taking up a position that the President's satisfaction can be questioned in a court of law. Or, is it simply because that you feel that it is redundant, that you want to delete it? My submission is that when the minority view of the Supreme Court expressed some doubt, why is it that you want to delete the clause, which was, by way of an abundant caution, introduced in article 123.

The further amendment that I have suggested is that the Presidential satisfaction should normally be not questioned in a court of law but it should be questioned if one can prove that it is an Ordinance as a result of *mala fide*. We know that during emergency—it was the allegation of the opposition, and sometimes quite rightly, that a number of Ordinances were promulgated which were promulgated not *bona fide* but *mala fide*. Therefore, I have suggested as a matter of abundant caution that Presidential satisfaction cannot be questioned in a court of law except on the ground of *mala fide*. It is almost giving recognition—if I am wrong, the Law Minister will correct me—to the minority view which was expressed earlier.

*The question was proposed.*

SHRI SHANTI BHUSHAN: I appreciate the sentiments behind this amendment moved. But, Sir, the amendment proposed by him is totally unnecessary, if I may say so, with all respect, because that will have effect on the deletion of clause

[Shri Shanti Bhushan]  
4. Clause 4 could have prevented the power being exercised even when it was found that it was exercised *mala fide*. So far as the Government is concerned, the Government would not like to affect the power of the court in a case of provide *mala fide* but so far as sitting in judgment over the satisfaction of the President in other matters is concerned, it is an established law that whenever a power is given based on a condition, which is a subjective satisfaction, even then the subjective satisfaction of the Government cannot be replaced by subjective satisfaction of the court. So the court cannot say that it is *bona fide*. Therefore, the amendment is not acceptable.

MR. CHAIRMAN: Mr. Goswami, do you press for voting?

SHRI DINESH GOSWAMI: Yes, Sir.

MR. CHAIRMAN: The question is: ! 33.  
"That at page 4, for clause 16, the following clause be substituted, namely: —

'16. In article 123 of the Constitution, for clause (4) the following clause shall be substituted, namely: —

1  
(4) Notwithstanding anything in this Constitution, the Satisfaction of the President mentioned in clause (1) shall be final and conclusive and shall not be questioned in any court on any ground except on the ground of *mala-fide*."

*The motion was negatived.*

MR. CHAIRMAN: Clause 17 to 22. There are no amendments. We proceed to clause 23. There is one amendment No. 34 by Shri Dinesh Goswami.

SHRI DINESH GOSWAMI: I am not moving.

MR. CHAIRMAN: Clauses 24 to 29. I  
There are no amendments. Now we

proceed to 'clause 30. There are two amendments Nos. 35 by Shri Goswami and 36 by Shri Dhabe.

Clause 30—*Amendment of article 226.*

SHRI DINESH GOSWAMI: Sir, I move:

35. "That at page 7, after line 32, the following proviso, be inserted, namely: —

'Provided that if the application is not disposed of within a period of two weeks for reasons beyond the control of the contesting parties, the stay order will continue to be operative, if in the discretion of the court such extension is necessary for ends of justice.' "

*The question was proposed.*

MR. CHAIRMAN: Amendment No. 36 by Shri Dhabe. He is not here.

SHRI DINESH GOSWAMI: Sir, I have moved amendment No. 35 and I will beg of Mr. Shanti Bhushan to accept this amendment. Sir, the present position is—after the amendment of the Law Minister, as suggested, to Article 226—that if a person gets an order of stay in a High Court and if the respondent files an objection to the order of stay and if the application is not disposed of in 14 days, the stay order gets vacated though the parties may not be at all informed. Supposing a tenant gets a stay order in the High Court. The landlord files an application for vacation of the stay and within 14 days the application does not come up for hearing for no fault of the tenant, automatically on the 15th day, that stay order will get vacated. Mr. Shanti Bhushan, with his experience in the Bar, knows that one can create a situation by influencing the office so that the applications do not come up for disposal within 14 days and thus a rich landlord will be always in an advantage. I can tell him my personal experience of the High Court where sometimes we had only one judge—

because there are so many Benches— and the judge could dispose of only one application in a day. The result will be that for no fault of litigants, in very many cases, the stay order will get vacated. That is why I have suggested a very reasonable amendment. The amendment is that if the application is not disposed of within a period of two weeks for reasons beyond the control of the contesting parties—if the application is not disposed of because the court did not say so or because there are so many petitions and the court could dispose of only two petitions a day—then the stay order will continue to be in operation, if in the discretion of the court such extension is necessary for ends of justice.

I feel, Sir, that the Government should not stand on prestige because, I think, there will be lot of complications. I feel, this amendment should be accepted.

SHRI SHANTI BHUSHAN: Sir, I am not in a position to accept this amendment for this reason. The hon. Member referred to my experience of courts. If he is really prepared to rely on my experience, I would request him to withdraw this amendment for this reason. There have been lots of complaints that petitioners go and obtain interim orders and thereafter they do not want that, after hearing both the parties, the stay matter should be heard. That has been the complaint against the judiciary and even against the exercise of the writ jurisdiction. Even in this House, voices have been heard on this and that is why these administrative tribunals and so on have been suggested. These are the reasons why it has been proposed. So far as this is concerned, there should be absolutely no practical difficulty. The petitioner has obtained an interim order. He is available. His version is available. Then, the other party, after serving a copy of the notice of his application for vacation of the stay order files his version. Both the parties are available. The versions of both the

parties are there. It is only a miscellaneous application, stay application. There is not the slightest reason why that application cannot be heard and disposed of either in favour of this party or that party within a period of two weeks. Two weeks is quite a large period. It could have even been shorter. Once the provision is there, there would be no difficulty in passing the order one way or the other.

SHRI DINESH GOSWAMI: Sir, I am pressing my amendment.

MR. CHAIRMAN: The question is:

35. "That at page 7, after line 32, the following proviso be inserted, namely:—

'Provided that if the application is disposed of within a period of two weeks for reasons beyond the control of the contesting parties, the stay order will continue to be operative, if in the discretion of the court such extension is necessary for ends of justice.' "

*The motion was negatived.*

MR. CHAIRMAN: Now, we will go to the next clause. Clauses 31 to 33. There are no amendments. We shall now take up clause 34. There are four amendments. Shri V. B. Raju.

SHRI V. B. RAJU: Sir, on a point of order. Now, clause 34 refers to article 300A. Article 31C is retained as it was. Now, article 31 is also there. It is bad tactics that the vote of the House was not taken first for the deletion of article 31. Now, not only article 31C is there, but also article 31. consequentially, I do not know whether I am clear. (*Interruptions*) We have rejected the amendment in respect of article 31C. Therefore, the original article 31C is there. In article 31C, article 31 is mentioned. Article 31 continues.

SHRI SHANTI BHUSHAN: That is why I have given notice of a consequential amendment.

SHRI V. B. RAJU: Now, my question is, is my amendment relevant or not? If you are deleting article 31 and if you are keeping article 300A, the new article 300A, then, I have said that this article should be substituted in the following manner. What is exactly article 300A?

"No person shall be deprived of his property save by authority of law."

That is the new article. Then, I have added:

"No property shall be compulsorily acquired or requisitioned save for a public purpose and save by authority of a law which provides for acquisition or requisitioning of the property for an amount \_\_\_\_"

This was there originally. Now, if article 31 is going to continue...

SHRI SHANTI BHUSHAN: Article 31 is not going to continue. Clause 8 which has been voted down is in respect of article 31C. Now, you say that reference to article 31 is there in article 31C. I have moved a consequential amendment. Since clause 8 has been voted down, I have given notice of a consequential amendment that clause 7 A should be added to the Bill which will delete the reference to article 31 in article 31C. (*Interruptions*) May I explain? Clause 6 deals with the deletion of article 31. This is clause 6 of the Bill. That is yet to be put to vote. Now, if that is put to vote and passed, then, in that case, article 31 would not at all be there in the Constitution. The discrepancy you have pointed out is that, although article 31 would be deleted, reference to it would continue in article 31C. That is the reason why as soon as clause 8 was defeated I have given a notice of a consequential amendment. It will serve that purpose, namely, it will delete the reference to article 31 and article 31C.

SHRI V. B. RAJU: I want to know the legal position when an amend-

ment, that is to say, clause 8 is rejected, in clause 8(b) there is a reference to article 31 for deletion. Now, suppose, the House does not agree for ' the deletion of article 31 there, what will be the position?

SHRI SHANTI BHUSHAN: If the House does not agree for the deletion of article 31...

SHRI V. B. RAJU: That has yet to come. The House has not yet agreed for the deletion of article 31.

SHRI SHANTI BHUSHAN: Not so far because it has not been put to vote.

SHRI V. B. RAJU: When it is not put to vote I am not sure whether that will be accepted or not by the House.

SHRI SHANTI BHUSHAN: After the fate of article 31 has been decided, then only the question of the consequential amendment will come in.

Clause 34 may be taken up after clause 6 has been voted because if that clause is adopted only then this clause will be necessary. If clause 6 is defeated, a different situation may arise.

SHRI K. V. RAGHUNATHA REDDY: I may submit that by virtue of restoring article 31C to its previous position, article 31 is also mentioned in the body of article 31C. In other words, the Parliament has voted for the restoration of article 31 also indirectly. Therefore, it necessarily follows that unless article 31 is removed, it will be of no use *to go to* article 300A. If this clause is passed prior to taking up the clause relating to article 31, it would lead to a ridiculous position. Suppose we accept amendment to article 300A, then again it will lead to confusion. Therefore, let us take the clause relating to article 31 so that this matter may be very clear. Instead of creating any more confusion.

SHRI V. B. KAJU: You will kindly excuse me for a second. In clause 8 whatever has been struck down by the Supreme Court has been put in as an amendment by the Government. Now the House says, retain it. What is the consequence?

SHRI K. V. RAGHUNATHA REDDY: The Supreme Court may revise its decision.

SHRI SHANTI BHUSHAN: It will remain infructuous. It was merely written there but by the agreement of the previous Government. It was struck down by the Supreme Court. Even on behalf of the Government this has been stated in Keswananda Bharti's case that we do not support the validity of this. That was struck down on a concession. Yet also, if people want to retain it, let it remain there in golden letters.

SHRI K. V. RAGHUNATHA REDDY: At that time the Government itself wanted to remove this.

MR. CHAIRMAN: Yes, Mr. Gos-wami.

SHRI DINESH GOSWAMI: Sir, I move my amendment, but it is the same thing, we will take it up along with other clauses.

MR. CHAIRMAN: It will be put along with other clauses.

SHRI SHANTI BHUSHAN: After the other clauses have been taken up, this clause can be taken up.

SHRI DINESH GOSWAMI: Along with all the other clauses on the same subject.

SHRI NARASINGHA PRASAD NANDA (Orissa): We have also proposed two amendments to the same article. The two amendments Nos. (37) and (38) should be taken up later on when clause 6 is voted. Let us first know what is the fate of clause 6.

6 P.M.

SHRI SHANTI BHUSHAN: Consideration of clause 34 can be postponed to after clause 6 alongwith the other clauses has been adopted. I have no objection.

*Clause 35—Omission of Part XIVA*

MR. CHAIRMAN: We will go to the next clause—clause 35. There are two amendments. Amendment No. 41 is by Shri Shyam Lai Yadav. He is not here.

SHRI SHANTI BHUSHAN: Sir, they only negative the clause. Therefore, these are not amendments.

MR. CHAIRMAN: But they have a right to speak. Shri Shyam Lai Yadav is not here. Then amendment No. 42 is by Shri Pranab Mukherjee.

SHRI PRANAB MUKHERJEE: Sir, I am not speaking on it.

MR. CHAIRMAN: Now I will put clause 35 to vote separately, as per request of the toon. Members.

The question is:

"That clause 35 stand part of the Bill."  
*The House divided.* MR. CHAIRMAN:  
Ayes—94 Noes—96.

AYES—94

Advani, Shri Lai K. Asthana, Shri K. B. Bagaitkar, Shri Sadasiv Baleshwar Dayal, Shri Bhabhda, Shri Harishanker Bhagat, Shri Ganapat Hiralal Bhandari, Shri Sunder Singh Bhattacharjee, Prof. Sourendra Bhattacharya, Shri G. C. Bholu Prasad, Shri Chakraborty, Shri Amarprosad Chatterjee, Shri Pranab

Chaurasia, Shri Shivdayal Singh  
 Deb Burman, Shri Bir Chandra  
 Dinesh Singh, Shri  
 Gupta, Shri Ram Lakhan Prasad  
 Hegde, Shri Ramakrishna  
 Jain, Shri Dharamchand  
 Jamuna Devi, Shrimati  
 Janardhanam, Shri A. P.  
 Jha, Shri Shiva Chandra  
 Joshi, Shri Jagannath Rao  
 Joshi, Shri Jagdish  
 Kadershah, Shri M.  
 Kakati, Shri Robin  
 Khan, Shri Ghayoor Ali  
 Khobragade, Shri Bhaurao Devaji  
 Krishna, Shri M. R.  
 Krishnan, Shri E. R.  
 Krishnan, Shri U. R.  
 Kunjachen, Shri P. K.  
 Lakhan Singh, Shri  
 Lakshmanan, Shri G.  
 Lotha, Shri Khyomo  
 Mahanti, Shri Bhairab Chandra  
 Mahavir, Dr. Bhai  
 Majhi, Shri Dhaneswar  
 Mallick, Shri Harekrushna  
 Maran, Shri Murasoli  
 Mathur, Shri Jagdish Prasad  
 Menon, Shri Viswanatha  
 Mishra, Shri Kalraj  
 Mody, Shri Pилоo  
 Mohanty, Shri Surendra Mohinder Kaur,  
 Shrimati Morarka, Shri R. R. Mukherjee,  
 Shrimati Kanak Munusamy, Shri V. P.  
 Muthu, Dr. (Shrimati) Sathiavani Naidu,  
 Shri N. P. Chengalraya Narendra  
 Singh, Shri Nigam, Shri Ladli Mohan  
 Nizam-ud-Din, Shri Syed Oza, Shri  
 Ghanshyambhai Parbhu Singh, Shri

Parikh, Prof. Ramlal  
 Patel, Shri Manubhai  
 Pathak, Shri Ananda  
 Pattanayak, Shri Bhabani Charan  
 Poddar, Shri R. K.  
 Pradhan, Shri Patitpaban  
 Pre<sub>m</sub> Manohar, Shri  
 Rajan, Shri Pattjam  
 Rajinder Kaur, Shrimati  
 Ramamurti, Shri P.  
 Rameshwar Singh, Shri  
 Ray, Shri Rabi  
 Razack, Shrimati Noorjehan  
 Reddy, Shri B. Satyanarayan  
 Reddy, Shri R. Narasimha  
 Sahaya, Shri Dayanand  
 Samad, Shri Golandaz Mohammed-  
 husian A. Saring, Shri Leonard  
 Soloman Sarup Singh, Dr. Schamnad, Shri  
 Hamid AH Sezhiyan, Shri Era  
 Shahedullah, Shri Syed Shahi, Shri  
 Nageshwar Prasad Shanti Bhushan, Shri  
 Sharma, Shri Ajit Kumar Siddhu, Dr. M.  
 M. S. Singh, Shri J. K. P. N. Singh, Shri  
 Ng. Tompok Singh, Shri Shiva Nandan  
 Sinha, Dr. Ramkripal Sujana Singh, Shri  
 Surendra Mohan, Shri Surjeet, Shri  
 Harkishan Singh Swu, Shri Scato Tama,  
 Shri Ratan Varma, Shri Bhagwati Charan  
 Varma, Shri Mahadeo Prasad Venka, Shri  
 V. Warjraj, Shri Alexander

NOES-96 Adivarekar,

Shrimati Sushila Shankar



Alva, Shrimati Margaret Amarjit  
Kaur, Shrimati Amla, Shri Tirath  
Ram Anandam, Shri M. Anjiah,  
Shri T. Antulay, Shri A. R. Arif,  
shri Mohammed Usman Balram  
Das, Shri  
Banerjee, Shri Jaharlal  
Bansi Lai, Shri  
Barman, Shri Prasenjit  
Basavaraj, Shri H. R.  
Bhagwan Din, Shri  
Bhim Raj, Shri  
Bose, Shrimati Pratima  
Chandrasekhar, Shrimati Maragatham  
Chattopadhyaya, Prof. D. P.  
Chaudhari, Shri N. P.  
Das, Shri Bipinpal  
Desai, Shri R. M.  
Deshmukh, Shri Bapuraoji Marotrao-  
ji Dhulap, Shri Krishnarao Narayan  
Dinesh Chandra, Shri Swami Dutt, Dr. V. P.  
Dwivedi, Shri Devendra Nath Gadgil,  
Shri Vithal Goswami, Shri Dinesh  
Goswami, Shri Sriman Prafulla Gupta,  
Shri Bhupesh Gupta, Shri Gurudev  
Habibullah, Shrimati Hamida Imam,  
Shrimati Aziza Jha, Shri Kamalnath  
Joshi, Shri Krishna Nand  
Joshi, Shrimati Kumudben Mani-  
shankar  
Kalaniya, Shri Ibrahim  
Kamble, Prof. N. M.  
Kameshwar Singh, Shri  
Kesri, Shri Sitaram  
Khan, Shri Khurshed Alam  
Khan. Shri Maqsood Ali 1134  
R.S.—7

Khan, Shrimati Ushi  
Khaparde, Shrimati Saroj  
Kumaran, Shri S.  
Kureel, Shri Piare Lall *urj* Piare Lall  
Talib Lokesh Chandra, Dr. Madhavan,  
Shri K. K. Mahapatro, Shri Lakshmana  
Mahida, Shri .Harisinh Bhagubava  
Makwana, Shri Yogendra Manher, Shri  
Bhagatram Maurya, Shri Buddha Priya  
Mehrotra, Shri Prakash Menon, Shrimati  
Leela Damodara Mishra, Shri Mahendra  
Mohan Mittal, Shri Sat Paul Mondal,  
Shri Ahmad Hossain Moopanar, Shri G.  
K. Mukherjee, Shri Pranab Naik, Shri L.  
R  
Nanda, Shri Narasingha Prasad Pande,  
Shri Bishambhar Nath. Patil, Shri  
Deorao Prasad, Shri K. L. N. Rai, Shri  
Kalp Nath Raju, Shri V. B. Ranga, Prof.  
N. G. Ra-o, Shri V. C. Kesava Ratan  
Kumari, Shrimati Reddy, Shri K. V.  
Raghunatha Reddy, Shri Mulka Govinda  
Roshan Lai, Shri Roy, Shri Kalyan Sahu,  
Shri Santosh Kumar Saleem, Shri  
Mohammad Yunus Satchidananda, Shri  
Sharma, Shri Anant Prasad Sharma, Shri  
Kishore Lai Sharma, Shri Yogendra  
Shastri, Shri Bhola Paswan  
Singh, Shri Bhishma Narain Singh,  
Shrimati Pratibha Sinha, Shri  
Indradeep  
Sisodia, Shri Swaisingh

Soni, Shrimati Ambika

Sultan, Shrimati Maimoona

Sultan Singh, Shri

Totu, Shri Gian Chand

Triloki Singh, Shri

Tripathi, Shri Kamlapati

Vaishampayen, Shri S. K.

Venigalla Satyanarayana, Shri

Venkatarao, Shri Chadalavada

Yadav, Shri Ramanand

Yadav, Shri Shyam Lai

*The motion was not 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.*

SHRI SHANTI BHUSHAN: Since clause 35 has not been adopted a consequential amendment would be necessary to clause 47. So I am giving notice of the consequential amendment to be taken into consideration.

MR. CHAIRMAN: Now we go over to the next clause. For clauses 36 and 37 there are no amendments. So we proceed to clause 38. There are eight amendments.

Clause 38—*Amendment of article 352*

SHRI BHUPESH GUPTA: Sir, I move:

43. "That at pages 8 and 9, for lines 31 to 33 and 1 to 8, respectively, the following be substituted, namely:—

'(a) in clause (1), the words "or internal disturbance" shall be omitted.'

47. "That at page 10, for lines 34 to 38, the following be substituted, namely:—

(c) clause (4) shall be re-numbered as clause (9) and in the clause so renumbered, the words "or internal disturbance" in both the places where they occur shall be omitted'."

*[The amendments also stood in the names of Shri Kalyan Roy, Shri Bir Chandra Deb Burman, Shri Bhola Prasad, Shri Lakshmana Mahapatro, Shri P. Ramamurti, Shri Harkishan Singh Surjeet, Shri Viswanatha Menon, Shrimati Kanak Mukherjee, Prof. Sourendra Bhatta-charjee, Shri Amarprosad Chakra-barti and Shri Murasoli Maran.]*

SHRI K. V. RAGHUNATHA REDDY: Sir, I move:

44. "That at pages 8 and 9, for lines 31 to 33 and 1 to 8, respectively, the following be substituted, namely:—

'(a) in clause (1),—

(i) the words "or internal disturbance" shall be omitted; and

(ii) the following Explanation shall be inserted at the end, namely:—

*"Explanation.—A Proclamation of Emergency declaring that the security of India or any Part of the territory thereof is threatened by war or by external aggression may be made before the actual occurrence of war or of any such aggression if the President is satisfied that there is imminent danger thereof" "*

48. "That at page 10, for lines 34 to 37, the following be substituted, namely:—

'(c) clause (4) shall be re-numbered as clause (9) and for the

clause as so re-numbered the following shall be substituted namely:—

"(9) The power conferred on the President by this Article shall include the power to issue different Proclamations on different grounds, being war or external aggression or imminent danger of war or external aggression, whether or not there is a Proclamation already issued by the President under clause (1) and such Proclamation is in operation." "

SHRI KHURSHED ALAM KHAN (Delhi): Sir, I move:

45. "That at page 8, lines 32-33, after the words 'armed rebellion', the words 'or organised mob-violence against a section of society' be inserted."

46. "That at page 10, line 33, after the words 'such resolution' the words 'and at least seven days' notice shall be given to the members to 'attend such session', be inserted."

SHRI MURASOLI MARAN: Sir, I move:

49. "That at page 10, after line 37, the following be inserted, namely:—

'(cc) after clause (9) as so renumbered, the following clause shall be inserted, namely:—

"(10) A Proclamation issued under clause (1) shall be revoked within thirty days after the termination of war or external aggression." "

I

50. "That at page 10, after line j 38, the following be inserted namely:-

'(dd) Notwithstanding anything in the Constitution, the Supreme Court alone shall have the jurisdiction to decide about the validity of a Proclamation issued under clause (1).'" "

*The questions were proposed*

SHRI BHUPESH GUPTA: Sir, this is a very important clause. This clause relates to the issue of Emergency. My amendment is to the effect that there should not be—and shall not be—any internal Emergency under any pretext, not even under the pretext of dealing with 'armed rebellion'. Emergency should only be for dealing with external aggression, or threat of external aggression. Now, Sir, as you see, we the CPI group and the CPI(M) group, the Forward Bloc, RSP, AIADMK and others, have given this amendment. What I would like to point out here, and it should be known, is that I am a little pained and distressed that in the course of the discussion with the Prime Minister, we of the Opposition parties, if I remember aright, agreed that there should not be any internal Emergency. In fact, when Mr. Morarji Desai and the Government came with the suggestion of keeping alive internal Emergency under some pretext like 'armed rebellion', there was protest against it from the Opposition leaders—most of them. Publicly also, several Opposition leaders pertaining to my party and others have spoken against internal Emergency in any form. Sir, unfortunately, I am at a loss to understand why there should not be amendment of this type from Mr. Kamalapati Tripathi, our dear friend Bhola Paswanji. Well, it is very difficult to understand.

AN HON. MEMBER: They are supporting you.

SHRI BHUPESH GUPTA: You are living under an illusion. If they do it, I will welcome it. I still appeal to them to vote for it. Sir, if you keep internal Emergency provision, you will not have learnt the biggest lesson of the Emergency because internal Emergency, in whatever form you like, is likely to be misused. It maintains the spirit and carries forward under false pretence the internal Emergency of 19 months. Sir, we

[Shri Bhupesh Gupta]

thought that they would say a good bye to internal Emergency. Shrimati Indira Gandhi has said that for a thousand of years there shall not be any internal Emergency. I do not think our amendment will last up to a thousand years. Certainly, for ten centuries it will not last. Before that, much of the show will be over. We will be living in another world. If Shrimati Indira Gandhi thinks that internal Emergency would not be there for a thousand years, let us at least provide against it for the next fifty years, or at least ten years. At least 10 years? I am surprised, I do not know what our friends sitting there, honest friends, smiling and all that, would say. What do they say now? Is it the way of implementing the thousand-years-no-internal-emergency pledge? Then who will take them seriously? Well, in the public meetings you will say that there would be no emergency for a thousand years, and here, perhaps, you take the side of the Government. I would request them to reconsider. Take a little time to speak to your leader. You can telephone your leader, Prime Minister Indira Gandhi. Ex-Prime Minister. You see, even now I committed a mistake by saying, 'Prime Minister.' I appeal to them, Shrimati Ambika Soni and other ladies, sitting here not to back internal emergency. Many of them do not like it. What has happened? What revolution has taken place somewhere that they do not support this amendment? Sir, internal emergency must go. It is an instrument which built authoritarian power. Well, I need not say very much. Enough we have spoken. Only I am intrigued to find out that the champions of no emergency for a thousand years, perhaps will not *move* with us, for taking it out even for a short time. After all after some years many things will change.

Now, Sir, I appeal to the Congress friends. Paswan Ji. I would appeal

to you. I know that during the emergency you were against many of the things. I know, even after the emergency you have spoken against the emergency. Am I to bear the sight that you shall be voting with Shanti Bhushan Ji? I cannot understand.

Sir, the national mood is that the internal emergency provisions- must go. Any situation can be dealt with without such a provision in a written Constitution. Sir, we say that we fight against Authoritarianism. But how will you fight it out if you keep the internal emergency provision alive?

Now, I come to the last point. I want to finish very quickly. Our friend says, "armed rebellion." He gave a theory. Wonderful. Mr. Shanti Bhushan says, "We do not have 'internal disturbance', but 'armed rebellion'." Well, armed rebellion is a vague term. Anything can be taken advantage of to say that it is an armed rebellion. We know, in Bengal, in 1948, the charge against the Communist Party was that we were organising armed rebellion in the country. We were fighting for the peasants and for the workers, and we were accused of organising armed rebellion. Fantastic lying documents were published by the Ministry of Home Affairs at the Centre. We know it. Then he will say, 'no armed rebellion' but only when it threatens the security of the country. 'A sweepers' strike threatens the security of the country. We have seen how the MISA and the Preventive Detention Act have been misused by cooking a theory that the security of the State had been threatened. Well, there are many people sitting here, who were in jail for months and months on the ground that they were threatening the security' of the country.. We know how

you will use it. Not only that, there may be the peasants' struggle in certain areas of a village or something like that against the oPPI<sup>ess</sup> against the Harijans, and you may say that the armed rebellion has started and that the internal emergency should be put on the whole country. Well, Sir, therefore, I say that this argument is very much dangerous, and I will ask my friends here to say 'no' to it. ' Perhaps they think they will come to power again, some of them....

SHRI G. LAKSHMANAN (Tamil Nadu): And you are there to support them.

SHRI BHUPESH GUPTA: Please stop this. They may be thinking of advance booking. But if you do this thing here, well, you will be doing something which will negate many of the good things. We have a very interesting experience today. On the preventive detention clause, the Janata Party and the two Congress Parties voted together. On Emergency, perhaps they will vote together. On preventive detention, they have voted together. On President's rule—we want its abolition—I am sure they will vote together. Can you blame us if after that we say that a third alternative is needed in this country? You are no alternative to each other. You are complementary to each other. This is the position. I would ask my friends, Mr. Bholu Paswan Shastri and Mr. Kamalapati Tripathi to disabuse our minds of that apprehension. Well, Sir, today if they will vote together like that, the day after they may form a coalition Government also. Well, I he is smiling because he knows that what I am saying is God's own truth.

SHRI SHANTI BHUSHAN: I cannot help smiling whenever I listen to you or look at you.

SHRI BHUPESH GUPTA: He can smile. He himself was very much afraid that Internal Emergency would go altogether. Then he thought he would not move the Bill in the House

if Internal Emergency was not accepted. But he had negotiations and it does appear that he has successfully negotiated. I will not, however, congratulate him. Now, here our good friends are sitting. On many things we are voicing our demands together here. This Internal Emergency is a challenge to our conscience. Let the country know that the majority in the Rajya Sabha has done away with Internal Emergency. Therefore, I am appealing to you. You may come to power or may not come to power; I do not know. But today life has taught us that we must do away with Internal Emergency. All of us are for the security of the country, the unity of the country and the independence of the country. But for that, we do not need Internal Emergency. We have seen what Internal Emergency creates. Therefore, I do not wish to say very much. I hope some other will speak on this subject. Our friends, Mr. Ramamurti—where has he gone? He was here. Anyway he will also speak.

Sir, I am appealing to them, especially the two major parties in the Opposition. Let it not be said that the two majority parties in the Opposition had it open to them to do away with Internal Emergency but they threw their weight on the side of the Government to preserve and maintain Internal Emergency under some other guise. This is not dismantling the Emergency. To our Marxist friends. Mr. Harkishan Singh Surjeet and others, I would say, here is their democracy. Here is how they defend democracy.

SHRI HARIKISHAN SINGH SURJEET: We know. You must know that.

SHRI BHUPESH GUPTA: For defending democracy, some other forces must emerge. I know there are very good people, democratically minded, on this side and on that side also. I would appeal to them also: let us together vote against the Internal

[Shri Bhupesh Gupta] Emergency clause and make it a "red-letter clay in the history of free India's Parliament. Thank you.

SHRI HARKISHAN SINGH SUR-JEET:

Sir, I do not know how after going through the experience of Emergency, my friends of the Janata

Party have brought this amendment with the argument that they have ! changed the wording: earlier it was "internal disturbance" and now it is "armed rebellion". If they have gone into the experience of "internal disturbance", they must understand that "the words "armed rebellion" also can be used in the same way the words "internal disturbance" were used. What was the "internal disturbance" in the country? Railway j strike, JP movement, people rising in defence of their interests; that was called an internal disturbance. And to protect their own rule the whole Emergency was imposed. Many of them had to go to prison. We are used to it. We don't bother about it. Therefore, we know why it is being brought again; it is being brought mainly for us. That is why both of them are voting together . . .

SHRI HARISINH BHAGUBAVA MAHIDA: Are you-'going to create disturbances again?

SHRI HARIKISHAN SINGH SUR-JEET: No. But they created it. the policies pursued by the Congress thepolicies pursued by the Congress Government. So. to suppress the working class movement, that measure was brought. It is a chronic situation in the country which is not being tackled by the Janata

Party also. It is the economic situation which is responsible for it. If not tackled, it will again create such a situation. What is going to happen tomorrow? One cannot understand the arguments put forward by the Law Minister. He said, somebody from-outside will supply some arms and with that some armed rebellion might be created. In a country like India, if has got any experience of a revolt and something happening like that, like an armed rebellion, then, he must know that it is not on the basis of some arms supplied by some secret agency that some disturbance can be created, not in today's world. It will happen only when you are not able to manage the affairs of the country, if you are not able to tackle the acute economic and social problem. Then nobody can save you. This is the situation in the country. If the economic situation goes on worsening as happening now; then no Emergency can stop it. That is *why* I say, after having gone through the experience of Emergency, the worst part of what the Janata Government has brought forward here is that they are asking us to give our sanction in the name of an armed rebellion. Tomorrow they will say, some ten people in the forests of Bihar are creating some trouble, they have got arms in their hands, so a disturbance has occurred, or if some tenants are defending their land against the attacks of the landlords, they will say, it is an armed rebellion. Now, who will judge it? Who is to say what it is? It is the Government in power, it is the party in power which becomes the judge to say, now there is an armed rebellion as they had done earlier that an internal disturbance was created. I would, therefore, request the Law Minister even at this stage to withdraw this Clause and accept our amendment. I would also ask those Congressmen who, like us, also suffered under the Emergency—we know how the Emergency affected their internal party functioning, democratic functioning of that party, how they suffered under one person rule; they

were all affected—I would appeal to them not to vote for this provision so that this country has not to say again that this power is being used like earlier.

SHRI K. V. RAGHUNATHA RED-DY: Having gone through a gruesome experience of the Emergency, having got some personal knowledge of how Emergency provisions have been implemented, I consider it my duty to oppose Emergency in whatever form it might appear in the Constitution. I have seen the agony of my DMK friends who had been arrested during the period of Emergency without any rule or rhyme or cause. I have also seen many distinguished leaders being taken away, including members of the Congress Working Committee, without the knowledge of the Congress Party or the Council of Ministers. This is how the provisions of Emergency were implemented, and to detriment of democracy and democratic principles. I thought having gone through this hell, the Janata Party would have realised the need to remove the emergency provision once and for all from the statute. But unfortunately they want to replace the words 'internal disturbance' by the expression 'armed rebellion'. It looks as though they want to replace a milder expression like 'internal disturbance' by a wilder expression like 'armed rebellion' so that it might find acceptance among the people. Internal disturbance can be easily interpreted as armed rebellion and armed rebellion can be easily interpreted as internal disturbance. For that there is no difficulty at all. In fact internal disturbance can be engineered and equally armed rebellion can be engineered by the powers that be if they want to declare an emergency. Apart from that, even for a judicial determination of the expression 'armed rebellion', I would submit it is very imprecise like the term 'waging war

against the State in the Indian Penal Code for which many of our friends sitting here had been detained, imprisoned and punished. Similarly, armed rebellion can be interpreted to mean any offence covered under the Arms Act. This is the most dangerous thing that the Janata Government has thought of. I would appeal to the conscience of the Janata Party members who had suffered during the emergency, and who had come out with the election manifesto that they would liberate India from any emergency provision and to the people of India who voted them to power with the hope that the emergency provision would be done away with for all time to come and I appeal to their conscience and good sense to think seriously about it. Please do not think for a moment that you are going to remain in power for all time to come. Those who brought emergency to this country, notwithstanding their pious hopes and assurances, the people of India did not allow them to continue. After all you are going to be in power for a few years more—not beyond that. For the purpose of imposing emergency again this can be misused. It is very easy to say that there is armed rebellion because this provision is not subject to judicial interpretation at all. Armed rebellion is a very imprecise expression even for interpretation. Therefore, as in the case of internal disturbance, armed rebellion can be used as a camouflage to declare emergency. That is why I appeal to my friends and members of the Janata Party who had the experience of the emergency to have second thoughts on this provision. I appeal to the good sense of my friends to vote down the emergency provision. I appeal to Mr. Shanti Bhushan to withdraw this clause so that he will not give an opportunity to others to restore "internal disturbance" again in this country.

SHRI KHURSHED ALAM KHAN: I am sorry that I do not agree with the views expressed by the hon. members from the other side because

[Shri Khurshed Alam Khan]

I have my own say about this matter. The change in the amendment proposed by the Government in the original provision is not free from complications and implications and we have certain doubts about it which we have to express before this august House.

What has happened recently in the case of Harijan troubles starting from Belchi spreading to Agra, Marathwada and even upto Tamil Nadu. What is this? You had to call the army to quell the trouble and bring peace. Is it armed rebellion or worse than that? Maybe some occasions may arise when there may be an armed rebellion or a situation may arise which may be considered as armed rebellion.

But there may be certain situations which may be very disastrous and very damaging for certain communities, particularly the minority communities, and also the weaker sections of society and then it may not be possible for them to really face that kind of situation. Therefore, I very earnestly appeal to the Government and to all the Members that this should be retained. I am not in favour of any internal emergency or anything of that sort. Surely, we want certain safeguards for the security and safety of the weaker sections and the minorities. Now, Sir, surely, there can be certain situations which would not or cannot be strictly termed as an armed rebellion. But the consequences may be as disastrous, as I have said, as the consequences of an armed rebellion or anything of that sort. For instance, there may be a situation when certain persons may be determined to paralyse the administrative set-up of the country in order to create chaos and confusion as was done by some people in May 1974 when they had threatened to completely paralyse the Government as a result of a threatened railway

strike. Or, unfortunately, there may be a condition in which class struggles may be fanned by certain parties endangering the life and property of a large section of the people as has been done in Marathwada very recently... (Interruptions). It was done in Telengana very recently... (Interruptions) .. and what will be in Bihar very recently and it was done in West Bengal very recently... (Interruptions).. and what will be the remedy in this sort of a situation? How are you going to tackle it? (Interruptions).

SHRI G. LAKSHMANAN: Your definition of internal disturbance is the railway strike? Is it your idea of internal disturbance? Was the railway strike conducted in 1974 an internal disturbance?

(Interruptions)

SHRI KHURSHED ALAM KHAN: I am not saying about the railway strike. But you may remember that in certain parts of the country trains were available and in certain other parts trains were not available and the trains could not go from one part of the country to the other and you were not able to go from one part of the country to another part. If the people have the right to strike I have nothing to say. But

one thing I want to tell you and that is that such special situations have to be kept in view. Now, the question is this; What are you going to do in this sort of a situation which I mentioned just now? Unfortunately, determined and calculated efforts may be made for creating widespread communal riots, wide-spread communal trouble. Now, in the country, what are you seeing? How are you going to put them down? Are you not going to put down such troubles, this sort of atmosphere and this sort of a condition in the country? And, if you allow this, will it not be disastrous for the whole nation? What happens in the eastern part of the country now? What is happening there? It may not be te-



chnically an armed rebellion. But the situation is almost the same which is not really very tolerable. So, my appeal to you is this: I have nothing to say against the strike and I have nothing to say in favour of internal security. But I have only to say that we want safeguards and we want the security to life and property for ourselves and that is the amendment of mine which seeks to make this necessary provision for meeting such a situation as I have mentioned above.

SHRI MURASOLI MARAN: Sir, after the eloquent appeal of Mr. Raghunatha Reddy, I do not have much to say and I do not have many words to convince the honourable Minister and the Janata Party Members. We are totally against any kind of internal emergency. The honourable Minister has said that the Constitutional amendments are made because of certain compulsions and circumstances and experiences. But, Sir, what is our experience? We have gone through the darkest period in history. So, even after that, the Janata Party comes forward to substitute the words "armed rebellion" for "internal disturbance" and it is very vague also. Sir, I want to say only one thing: Even if the words "armed rebellion" were not there in the original Constitution, we could have had the emergency. For example, Sir, at that time, Shri Jaya-prakash Naryan was telling that the police and the army should not obey any illegal order. Sir, it could have been construed as a threat of army rebellion and the emergency could have been declared. That is why I say that a lot of abuse is possible. If the Government commands a majority and a two-thirds majority in the Rajya Sabha and also in the Lok Sabha, they can declare the emergency. Then, Sir, after declaring the emergency, with the use of money power and with the use of the police and the army, the referendum provision also can be manipulated. That

is why, Sir, I once again request the honourable Law Minister and also the Janata Party Members to reconsider the situation and to reconsider position. Again, I have given an amend the situation and to reconsider their position. Again, I have given an amendment, Amendment No. 49. There should be some time-limit even if the emergency is declared for the purpose of war or external aggression. What happened when the first emergency was declared in 1962; it was removed in 1968 alone. For six years it continued. The second emergency was declared in 1971; it continued up to 1977. So, during 28 years of our Republic, 12 years' period we went through emergency. That is why I say that there should be some kind of time-limit even if there is an emergency on account of war or external aggression. Sir, he has provided certain definite safeguards. They are not enough. That is why I have given another amendment that declaration of emergency should be justiciable in the Supreme Court. In the United States this is the situation. I would request the hon. Minister to consider my amendment.

SHRI SOURENDRA BHATTACHARJEE; I would request the Law Minister to consider whether by this amendment he would not deny in a way the very existence, the very basis of existence, of Janata Party, which was born out of emergency. It is a pity that the Janata Government had to bring forward this amendment as a concession to these who were responsible for imposing this internal emergency. If they were unable to amend it, perhaps that would have been a better situation. We have gone through the worst type of emergency for 19 months. The Law Minister should have noted it. This should be an eye-opener to the Janata Party. Please look to the dangerous potentiality of this clause. The list that he has given very clearly indicates that it would be used against the working class

[Shri Sourendra Bhattacharjee]

struggle, against the toiling people. A new concept has been brought today. If the Government are unable to defend the minorities or the weaker sections in the absence of internal emergency, that Government has no right. So, I appeal that the Law-Minister should consider this seriously. I would most earnestly appeal to you and the friends of Mr. Raghu-natha Reddy and those on the other side too at least now accept that the internal emergency was a wrong thing. They must prove the courage of conviction and vote with us in favour of this amendment.

SHRI AMARPROSAD CHAKRABORTY (West Bengal): Sir, if you remember the days of double emergency, you cannot do so. The Janata Government and its leaders were against it. Now, he has introduced this clause in the Constitution (*Amendment*) 'Bill. This is a strange thing. The real thing comes from him. This is how they suppress the progressive movement and this how they suppress the progressive Government under the garb of some rebellion or internal disturbance. They are creating public opinion and they are not allowing the other affairs to go into the country. It is a kind of idea. It is the principle for which we are fighting. We are fighting continuously. We are thankful and grateful to Mr. Gupta. Mr. Gupta supported the emergency and today they are giving their support to us who are against the emergency and who have suffered much at the time of emergency. I do not know how this clause comes in this Amendment Bill. It was not expected from the Janata Government and we did not expect it from the Law Minister. Sir, on behalf of my party, on behalf of the Forward Block, we strongly object to this. This clause should be omitted. We make a firm appeal to our friends in this House not to allow this clause to go down on the Statute Book. Sir, with these words, I conclude.

SHRI P. RAMAMURTI (Tamil Nadu): Sir, I would like to remind the Janata Party leaders of the time when the 42nd Amendment was being considered and when we could not discuss it in the entire country, but ; some low or the other we could manage to have a convention in Delhi. That convention was addressed, among others, by Mr. Charan Singh and Mr. Ashok Mehta. The convenor was Mr. Krishan Kant. A poem, a powerful poem was read in Hindi. It was sent by Mr. Vajpayee who now adorns the ministerial *gaddi*. All these people categorically stated that there shall be no emergency for any reason whatsoever. I want to remind them of the promise that they made that if they come to power:- at any time, they will delete this provision of internal emergency under any circumstances. That is all. They were not in power then. I understand it. You were frank enough. It is clear that what was said at that time was only for the consumption of the people. They were not in power then. The moment they came to power, they said: We are going to substitute the words 'armed rebellion' for the words 'internal disturbance'. So, it is clear that on this question, the Congress (I) and the Janata Party are the birds of the same feather. There is no distinction whatsoever. The class character of these two people is the same because they come from the same class.

SHRI PILOO MODY: Cultural-character.

SHRI P. RAMAMURTI: It is class character because they are afraid that if the people of this country rise in revolt against certain policies, it will always be open to them to say that this is an armed rebellion to put down the people. When Hitler came to power, he himself created the trouble and put it on the communists and became a dictator. Therefore, Sir, it is

not difficult for anybody to want to become a dictator to manoeuvre things. (Interruptions) Therefore, it is not at all difficult for anybody to want to manoeuvre an armed rebellion. If you want it, they can manoeuvre an armed rebellion. The CPI knows it very well. With their support it will be quite possible to manoeuvre the so-called armed rebellion. After all, an armed rebellion is not a justiciable thing, as he has pointed out. Anybody can do anything. And we also know as a result of the Commissions of Inquiry that have been going on through the whole question of Emergency in 1975, that it was promulgated on the basis of that internal disturbance, and it has been found that no internal disturbance report had come from any State whatsoever or even from the Police establishment. Therefore, who can prevent this kind of a thing? Therefore, I would appeal to the conscience of the Janata people, all those people who had at that time stated in a strident voice that there shall be no internal emergency, to stick to their words and not to betray the trust of the people that they have got.

**श्री योगेन्द्र शर्मा :** मैं भाषण नहीं करना चाहता। मैं सिर्फ माननीय मंत्रों की से री चाते पूछना चाहता हूँ। आपने काम करने के अधिकार को मनु अधिकारों में न रखने के सम्बन्ध में यह तर्क दिया था कि हमने यह वादा नहीं किया था कि आज ही हम इसको करेंगे। लेकिन जहाँ तक हम जानते हैं आपने इन्टरनल इमरजेंसी के बारे में यह तर्क दिया था कि हमने बोर्ड टाइम लिमिट नहीं रखा है। मैं समझता हूँ आपने जनता से यह मेनडेट लिया था कि ज्योंही आप सरकार में जायेंगे त्योंही आप इन्टरनल इमरजेंसी के प्राविजन को कांस्टीट्यूशन से निकाल देंगे। यह मेनडेट देकर आप आए थे और यदि आप आज कांस्टीट्यूशन से इस चीज को नहीं निकालते हैं, इन्टरनल इमरजेंसी के प्राविजन को नहीं निकालते हैं तो जनता के मेनडेट के साथ आप घोषणापत्र करते हैं, आप घोषणापत्र गाबित होंगे। यह तो नम्बर एक है और नम्बर दो में यह कहना चाहता हूँ कि हमारे देश में जो आदिवासी लोग हैं, आप जानते हैं वे हमेशा तौर धनुष के साथ रहते हैं। हमारे देश में बराबर आदिवासियों पर अत्याचार होते हैं और इन्हीं अत्याचारों से बचने के लिये तौर धनुष का सहारा लेते हैं। आप जानते हैं तौर धनुष हथियार है। जब यह हथियार है तो आप यह कहें कि आदिवासी लोग

आमड रिबेलियन कर रहे हैं इसलिये पूरे देश में इन्टरनल इमरजेंसी लगाई है। फिर क्या तर्काला निकालेगा यह आपकी बताना चाहता हूँ कि हम और आप सभी उसके भूक्तभोगी होंगे।

तीसरी बात हम आपसे यह पूछना चाते हैं जो आप आर्मड रिबेलियन की बात कर रहे हैं और यदि आपका यह प्रमेडमेंट मान लिया जाता है और कमलापति जी और गृह मंत्री होते हैं तो इमरजेंसी लगा करके जायें फर्नेन्डोस, जो अर्धो उद्योग मंत्री हैं उनको जेल में बंद कर दिया जाएगा। आप ऐसे लोगों को जेल में बंद करने के लिये कांस्टीट्यूशन में यह हथियार दे रहे हैं।

चौथी बात हम यह कहना चाहते हैं कि कुछ साल पहले डिस्ट्रिक्ट एरिया विल पेश हुआ था। जहाँ हिन्दू मुस्लिम दंगे होते हैं, साम्प्रदायिक दंगे होते हैं उन दंगों का सामना करने के लिये डिस्ट्रिक्ट एरिया विल गवर्नमेंट ने पेश किया था। आपकी गवर्नमेंट ने नहीं—यूनिट जी की गवर्नमेंट जब भी तब देवार किया गया था ऐसी स्थिति का मुकाबला करने के लिये। मेरा आपसे यह निवेदन है कि आप भी ऐसी स्थिति का मुकाबला करने के लिये इस तरह का कोई प्रावधान कीजिए। मैं माननीय मंत्रों जी से कहता हूँ कि यह आप जनता के प्रति कृतसंकल्प है, आप घोषणापत्र के प्रति यदि बंधासार हैं तो जनता को हमारे माननीय सदस्य श्रीमंत गान्ध और राममूर्ति जी बगैरह ने जो बातें कही हैं उनको मान लेना चाहिये। और देश पर इमरजेंसी का जो एक बौद्धिक अनुभव है और इमरजेंसी का जो शौक लोगों पर छाया हुआ है उससे देश को मुक्त किया जाये।

**श्री हरिशंकर भाभड़ा (राजस्थान) :** सभापति महोदय, इमरजेंसी के बारे में बहुत ही भावना पूर्ण शब्दों में विरोध प्रकट किया गया है। इमरजेंसी का शिकार मैं भी हुआ था। जीवन में बहुत से ऐसे काम होते हैं जो हम करना नहीं चाहते हैं, लेकिन परिस्थितियाँ ऐसी होती हैं कि वे हमें करने पड़ते हैं। कोई भी व्यक्ति अपने संबंधी के शरीर को द्राघात पहुंचाना नहीं चाहता, लेकिन मृत्यु होती है तो वही उसको जलाता है, अपने हाथों प्राण लगाता है। हम इमरजेंसी के बारे में यहां पर सोचने के लिए बैठे तो हम अपने सुख और दुख जो हमने भोगे हैं उन पर विचार करने लगे और सारा देश हमारी तजरों में न रहे तो यह उचित नहीं होगा। हमारे देश के अन्दर विघटनकारी लोग, देश की तत्कालीन परिस्थितियाँ और देश में काम करने वाले ऐसे तत्व जो शांत लोगों को और कानून का पालन करने वाले लोगों को अंगत रास्ते पर ले जायें तो उसका परिणाम क्या होगा इस पर हमें सम्भौरता से विचार करना होगा। सदन के अन्दर जो पावरफुल लोग हैं अगर वे अत्याचार करने लगे तो जंगल का कानून ही जाएगा और मरवाइवल आफ दी फिटनेस की बात लागू हो जाएगी। कमजोर वगू पर जो पावरफुल लोग हैं वे हावी हो जाएंगे। उनके साथ अत्याचार करेंगे। मान्यवर, हमने प्रजातंत्र के आधारभूत सिद्धान्त को माना है।

[THE VICE-CHAIRMAN Shri Shyam Lal Yadav in the Chair] in the Chair]

जब हमने प्रजातंत्र को स्वीकार किया है तो उसमें जो इनहेरेंट कमियाँ हैं और अच्छाइयाँ हैं, वे दोनों हमें स्वीकार करनी पड़ेंगी। प्रजातंत्र में स्टेट और प्रजा में लड़ाई चलती ही रहती है। जहाँ स्टेट अपने अधिकारों को बढ़ाने का प्रयास करता है वहाँ प्रजा विरोध करती है। मैं समझता हूँ कि यह बहुत कुछ प्रजा के विवेक पर निर्भर करता है कि वह अत्याचारी शासन को निकाल फेंके। यह लड़ाई प्रजातंत्र में सदैव से चली आ रही है। जहाँ प्रजातंत्र है वहाँ प्रजा और राज्य के बीच में इस प्रकार का संघर्ष चलता ही रहता है। हम इस बात को क्यों भूल जाते हैं कि जिन लोगों ने मरजेन्सी का दुरुपयोग किया है, जिन्होंने इमरजेन्सी लागू कर लोगों पर अत्याचार किये हैं उनके खिलाफ भारतवर्ष की जनता ने ऐसा उदाहरण पेश किया है जो विश्व में एक ही है। आप जानते हैं कि जहाँ जहाँ तानाशाही काम हुई है, चाहे वह इंग्लैण्ड हो, इटली हो, जर्मनी हो, चाहे फ्रांस हो, वहाँ पर तानाशाही को हटाने के लिए खून की नदियाँ बही हैं। लेकिन भारत की जनता ने शांतिपूर्ण तरीके से प्रजातंत्र पद्धति को मानते हुए अत्याचारी शासन को हटा दिया। यह बात हम सब जानते हैं। ऐसी स्थिति में हम अपनी शक्ति को क्यों भूल जाते हैं और यह क्यों सोचने लगते हैं कि अगर कोई दूसरी सरकार आएगी तो वह हमारे ऊपर अत्याचार करेगी। क्या हमारी भावनाएं तब तक मर जाएंगी और क्या हमारी कुतन्त्र शक्ति नष्ट हो जाएगी? यदि कोई सरकार अपने अधिकारों का दुरुपयोग करेगी तो हमारा संघर्ष चलता रहेगा। मैं समझता हूँ कि अगर हमें राजनीति में काम करना है तो इन बातों को अपने ध्यान में रखना ही होगा। हम इस संघर्ष से बच नहीं सकते हैं, भाग नहीं सकते हैं। हमें अपने अधिकारों और कमजोर वर्गों के हितों की रक्षा के लिए सदैव संघर्षरत रहना पड़ेगा। यदि हम सरकार को पावर शून्य कर दें या शक्तिहीन कर दें तो इस तरह से इस देश में हम प्रजातंत्र को किस तरह से सही ढंग से चला पाएंगे? पिछले कुछ दिनों से इस सदन के अन्दर ला एंड आर्डर की सिचुयेशन को लेकर आपत्तियाँ उठाई जा रही हैं। इसका एक मात्र कारण अनेक कारणों में से जो मैं समझता हूँ वह यह है कि पिछले एक साल से जो शांति थी, चुप थी, उन लोगों को जब प्रजातांत्रिक अधिकार मिले तो उन्होंने जगह जगह पर अपनी आवाज उठाई और जो लोग हमेशा अशांति में विश्वास करते हैं वे उनको भड़काने में लग गये। इससे ला एंड आर्डर की सिचुयेशन में कमी आई है। मान्यवर, इमरजेन्सी के बारे में यद्यपि भारी मन से मैं माननीय सदस्यों की भावनाओं की कद्र करता हूँ। मैं स्वयं इस बात को मानता हूँ कि इमरजेन्सी के माध्यम से गरीब जनता पर अत्याचार नहीं किया जाना चाहिए। लेकिन हमें अपने आप में विश्वास है और अगर कोई सरकार अपने अधिकारों का दुरुपयोग करेगी तो हम उस दुरुपयोग का जवाब देने के लिये सक्षम हैं। भारत की जनता में यह शक्ति है। इसलिये इस संविधान के शोधन में मजबूत जनता सरकार इमरजेन्सी को रख रही है उससे ह इतना घबराना या उससे इतना भयभीत

होने की मैं समझता हूँ कोई आवश्यकता नहीं है। क्यों कि यहाँ की जनता पर हमें विश्वास होना चाहिए, हमें अपनी शक्ति पर विश्वास होना चाहिए कि चाहे यह सरकार रहे और कोई भी सरकार हो वह इमरजेन्सी का दुरुपयोग नहीं कर सकती। इस बात के लिये जनता सरकार को धन्यवाद देना चाहिए कि जब और सरकारें सत्ता में आती हैं तो वे संविधान में संशोधन करके अपने अधिकारों को बढ़ाना चाहती हैं। लेकिन जनता सरकार ने संविधान में जो संशोधन प्रस्तुत किया है उससे वह अपने अधिकारों को कम करती जा रही है। आप भले ही इस बात को स्वीकार न करें परन्तु मैं समझता हूँ कि जनता सरकार जान-बूझकर इस तरह का एक उदाहरण प्रस्तुत कर रही है। इस का आप लोगों को क्याल रखना चाहिए। श्रीमन्, इतना कद्र कर मैं समाप्त करता हूँ।

SHRI KAMESHWAR SINGH  
(Bihar): Sir, on a point of order.

THE VICE-CHAIRMAN (SHRI SHV. AM LAL YADAV): What is it?

SHRI KAMESHWAR SINGH: Sir, the ^ok Sabha has adjourned *sine die*. Ever if we sit here till 2 o'clock in the morning to pass this Bill...

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV): This point has been discussed so many times. There is nj point of order. Mr. Mulka Govinda Reddy.

SHRI MULKA. GOVINDA REDDY (Karnataka): Mr. Vice-Chairman, Sir, internal emergency should be opposed after having gone through the nightmare of emergency for 20 months, when important national leaders, like Shri Jayaprakash Narayan and others, were arrested and ill-treated in the jail and even their representatives were threatened.

[Mr. Chairman in the Chair]

I cannot understand how the Janata Government which came into power mainly because they opposed emergency are now proposing this emergency in case of armed rebellion. Whether for reasons of armed rebellion or for internal disturbances, this emergency should never be imposed. In case of external aggression or war,

everybody in this House will support provision for emergency. Sir, after having gone through the reports of the Shah Commission on the atrocities that were committed, demolitions that took place, arrests that were made and the treatment meted out to the political leaders, we all feel ashamed that we were in the Congress Party at that time when this emergency was imposed. We had lost our courage to oppose these illegal provisions of the emergency and persons like Chawlas, like Dhavans and like Jag Mohans took the law into their own hand in imposing all sorts of indignities on the Indian people. Therefore, Sir, after having gone through such a period, it is impossible, for any honest and right-thinking man to support emergency provision here again. There are enough powers under the law whereby we can tackle such of the offences. If there is any armed rebellion, the armed forces are there. With the help of the armed forces, we can put down any armed rebellion. I do not think there is any need for this Emergency provision, whether for 'internal disturbances' or for armed rebellion.

SHRI SRIMAN PRAFULLA GOSWAMI (Assam): Sir, it is shocking to me that the Janata Government which came to power by the ballot box, by non-violent methods and which pledged to remove internal Emergency has now brought this provision with a sugar coating. Instead of 'internal disturbances' they say 'armed rebellion'. I do not know whether you are going back to the old days when the British ruled us. We revolted against it. We had a national movement. We revolted against the British imperialists. We had the 1942 movement. Even at that time, the British imperialists did not have such a provision as 'armed rebellion'. There were ample provisions then. They had sedition and other things which they could control. Now, Sir, this word 'armed rebellion' is shocking. By this amendment, they are exposing their class character. They are afraid of class

consciousness. They are the representatives of the capitalists and the bourgeois. Sir, during the Emergency, when I was a member of the ruling party, I brought to the notice of the Government many Emergency excesses. But they did not do anything. Now, Sir, they are introducing this 'armed rebellion'. There have been many armed rebellions in many places, many local struggles. But they have been subdued a long time ago. There was the Naga trouble. It was subdued. Then, there was the Mizo trouble. Sir, I suspect there is a motive, a very bad motive. This 'armed rebellion' reminds us of those days. If you introduce this 'armed rebellion', people will be constrained to resort to armed rebellion—they will exercise their right—when they find that there is an unjust order, there is an oppressive Government, there is a dictatorial Government. They will rebel against such a Government. It is their birth-right to rebel. They will rebel against any injustice or against any Government which oppresses them. They will rebel against a Government which is a capitalist Government. Now, Sir, they were accusing others of being fascists. But they are now behaving like fascists. Not only that. If you are inserting this provision, this will encourage the people. They will become conscious. They will resort to armed action if necessary. I warned you about this yesterday. If you are not hypocritical, don't do this. If you dare and if you have the courage, go to the people. Dissolve Parliament and go to the people. Let us see whether the people will accept this or not.

श्री कमलनाथ झा (बिहार) : सभापति महोदय, अभी इमरजेंसी के विरोध में जबरदस्त-नारा लगा कर, हिन्दुस्तान की जनता के सामने वायदा करके कि हम आपात कालीन स्थिति को समाप्त करेंगे, ऐसा दावा करते हैं कि हम सत्ता में आए लेकिन सत्ता में आने के सिर्फ डेढ़ वर्ष के अन्दर जनता पार्टी ने उन सारे मुद्दों को जिनके विरोध में उन्होंने हमारे विरुद्ध आवाज उठाई थी चाहे वह फैमिली प्लानिंग का ही हो, उसको बदल दिया। चाहे वह प्रिवेन्टिव डिटेन्शन

[श्री कमलनाथ झा]

के रूप में हो और अब मीसा को भी अंगीकार कर लिया, फैमिली प्लानिंग को भी अंगीकार कर लिया और इमरजेंसी को भी अंगीकार कर लिया ...

श्री नागेश्वर प्रसाद शाही (उत्तर प्रदेश) : श्रीमन्, एक व्यवस्था का प्रश्न है ।

समापति महोदय, अगर हमारे साथी चाहते हैं कि 12 बजे तक बैठें तो ऐसा तय कर लिया जाये और सब लोग लम्बे लम्बे भाषण दें, हमें कोई एतराज नहीं है । लेकिन तय कर लिया जाये और नहीं तो सवा सात हो चुका है, साठ बजे खत्म किया जाये और अगर साठ बजे के बाद बैठना हो तो मैं अनुरोध करूंगा कि सदन को एडजॉन किया जाये और कल कार्यवाही की जाये, यह उचित नहीं है कि रोजाना . . . (अन्तर्वाधा) नहीं श्रीमन्, मुनिये, परसां हाऊस बैठा, कल हाऊस 9 बजे रात तक चला तथा आज फिर 12 बजे रात तक बैठना चाहता हूँ . . . (अन्तर्वाधा) आपने क्या कन्सुआ मजदूर बना रखा है हम लोगों को ? . . . (अन्तर्वाधा)

MR. CHAIRMAN: Thank you, we will not take more time now.

SHRI BHAURAO DEVAJI KHOB-RAGADE (Maharashtra): There has been enough discussion on this clause now.

श्री कमलनाथ झा : प्वाइंट ऑफ आर्डर, यही जनतंत्र को स्टोर किया है । हाउस में उनके पक्ष के लोग 15 मिनट बोलें और हम बोलें तो प्वाइंट ऑफ आर्डर उठता है । 30 वर्ष से कांग्रेस पार्टी इस देश में सत्ता चला रही थी । कॉन्स्टीट्यूशन में इमरजेंसी का प्राविधान था और इमरजेंसी के प्राविधान का कोई दुरुपयोग कांग्रेस ने नहीं किया और मैं समझता हूँ कि विरोधी दल के लोगों ने देश में अराजकता की स्थिति पैदा की तो हमें बाध्य होकर इमरजेंसी का प्राविजन लागू करना पड़ा और ऐसी परिस्थिति में आज वह खुद परिस्थिति के सामने झुक रहे हैं । जनता के सामने वादा करते हैं कि इमरजेंसी को नहीं लागू करेंगे और फिर इमरजेंसी के प्राविजन को रखते हैं । इसलिए समापति जो इनको कथनी और करनी में कहीं मेल नहीं है और इनको सत्ता का कोई व्यावहारिक अनुभव नहीं है । क्योंकि आदेश और कार्यों में जो मेल होता है वह नहीं है । इसलिए मैं इनसे निवेदन करना चाहता हूँ, आपके माध्यम से कि दूसरों पर छीटाकसी करना, आज्ञाचना करना, बहुत जुल्म की बात करना और इमरजेंसी से सौगुना अधिक जुल्म करना तो इसी लिए अपने नेताओं को, आपको हिम्मत है जो दूसरी पार्टी के लोग इमरजेंसी का विरोध करते हैं, हमारी पार्टी भी इमरजेंसी का समर्थन नहीं करती है और हम यह चाहते हैं कि इमरजेंसी को जो हमारे सीडर ने कबूल नहीं किया फिर

भी इमरजेंसी लागू करेंगे तो दुनिया का कोई डिक्टेटर चाहे वह हिटलर हो, मुसोलिनी हो या जो भी हो, अगर दुनिया के किसी भी डिक्टेटर को हटाया गया है तो इन्टरवैन्शन से । लेकिन हमारे सीडर ने इमरजेंसी को खत्म कर के, जनता को वोट का राईट दिया । इसलिए जो इस तरह से अप्रत्यक्ष रूप से छीटाकशी जो है वह नहीं होनी चाहिए और मिम्पुल डिक्लेरेशन होना चाहिए ।

DR. V. P. DUTT (Nominated): Only one minute, Sir. If the Law Minister permits and if he is willing to hear, I would like to say. Some of us have ri i to speak because, our esteemed colleagues, Shri Bhupesh Gupta and Shri Harikishan Singh Surjeet, asked the question as to what our position is on this. I said, well my esteemed colleague, Mr. Mulka Govinda Rfddy, has already made the position clear. So far as we are concerned, we are against the retention of any provision for internal emergency. There is no question about it. Our position is clear and categorical on this. The only question was whether certain technical problems compelled us to vote with the Government or not. That is a different matter. But go far as the issue itself is concerned, we are against it. I would like to say to the Law Minister that he teaches law, he practices law, I teach history and political systems and institutions. When does an armed rebellion take place in a country? When does an armed rebellion occur in any country in history? I would like to say that it occurs only when the social conditions have deteriorated beyond the point of tolerance, when people's sufferings and miseries go beyond the acceptable limits and when there is hunger and starvation in the country and finally—that is most important—when the central authority collapses. That is when an armed rebellion takes place in any country. Now if they are afraid that the central authority is going to collapse in this country, that they are not even going to be able to rule or govern, then perhaps they are right. In fact, what we are pre seeing is the process of the collapse of

the central authority and maybe that is why they want to have the provision for internal emergency so that they can impose it in order to be able to rule. Otherwise, hon'ble Law Minister, you have not given any cogent reason for the retention of this provision and you have not mentioned what is the difference between 'internal disturbance' and 'armed uprising'. What is this nice distinction? You are very good at making nice distinctions—like you have made the distinction between 'blast' and 'explosion'. I do not understand what is this difference between 'internal disturbance' and 'armed uprising'. So far no cogent reason has come. What you have said is that you are providing for certain safeguards. That is an entirely different matter. What we are worrying is more fundamental. Your present powers are sufficient and abundant. You have even now sufficient powers under the external emergency which is there. There are tremendous powers being given to the Government under external emergency. In fact they can also be misused. Some slight incident can be created on the border and you can say, "there is external aggression" and declare external emergency and use all the provisions under the external emergency. Therefore, it is not as if you have not sufficient powers. Even under the present laws, you have tremendous powers to control. It is for the first time that we are hearing this argument in this House that for the sake of the protection of the weaker sections we need internal emergency provisions. I have great respect for you. My friend and colleague, Mr. Khurshed Alam Khan also pointed this out, but I cannot imagine that you need internal emergency for the protection of the weaker sections. You have plenty of powers available under the laws at present to be able to meet the situation provided there is

the will power. You need the will power, not the laws, to meet that kind of a situation. That will power is lacking unfortunately. You have to have that. Therefore, we appeal, along with other sections of the House, to the hon. Law Minister to accept this. This is the general feeling here as well as in the country. You don't need any provision for internal emergency.

SHRI K. K. MADHAVAN: Sir, it is a very serious subject. It is a matter to be trifled with. There is a mistaken notion about the saying that the right to revolt against tyranny or oppression is sacred. As a dictum, it is all right. But let us look at the present day conditions. We are towards the close of the twentieth century. I think every right thinking Member of this House should support this amendment because ours is a democratic State having democratically elected people where people are free to work out a revolution by their willing consent. That is the condition, whatever be the social atmosphere prevailing in this country. In action, ours is a democratic State. Are we interested in importing revolution? Are we interested in having a revolution by armed insurrection or armed rebellion? We are not for that. This country is not for that. The culture of this country is not for that. This amendment seeks to amend this particular article by the substitution of a word. In article 352, in place of the word "internal disturbance" the word "disturbance" is sought to be substituted by rebellion". Armed rebellion is a different question. There is a world of difference between the two words because this can be misinterpreted in any manner.

MR. CHAIRMAN: Please conclude.

SHRI K. K. MADHAVAN: It is precisely this word that this amendment seeks to replace. It reduces the possibility of misinterpretation. Therefore, I support the amendment and I hope all hon'ble Members will support this amendment.

SHRI SHANTI BHUSHAN: Sir, Shri Bhupesh Gupta is the greatest champion of Parliamentary democracy that I have ever known.

SHRI MOHAMMAD YUNUS SA-LEEM (Andhra Pradesh): How many compliments are you going to pay him today?

SHRI SHANTI BHUSHAN: That was also proved when he wanted that so far as Parliamentary democracy is concerned, not merely democracy should be preserved and protected, even by being included in the guarantee of referendum I hope Parliamentary democracy also includes democracy in Parliament. Sir, I am sorry for him, and I would like to sympathise with him when today I found him so desolate. He is having a feeling that he is being deserted by all his people, either belonging to the right parties or to the left parties.

SHRI BHUPESH GUPTA: No. no. We are all together. (*Interruptions*)

SHRI SHANTI BHUSHAN: They are the parties on the right and we are the parties on the left, to the right of Shri Bhupesh Gupta and to the left of Shri Bhupesh Gupta.

SHRI BHUPESH GUPTA: Here, Sir, there is emergency to my left and emergency to my right.

SHRI SHANTI BHUSHAN: Sir, he is feeling deserted and he is looking for friends all round. He does not find any friends on the right and he does not find any friend on the left.

On the question of having an armed rebellion in the country, Sir, I am sorry that he is not having many supporters. Even, Sir, in his block the Member who keeps constant vigil from behind, Mr. Madhavan, has demolished all his arguments.

SHRI BHUPESH GUPTA: He has supported me very valiantly on this question.

SHRI SHANTI BHUSHAN: On the question of armed rebellion in the country he finds himself almost in isolation. Of course, he has a few friends still left. But I am not surprised because in democracy when people have the freedom to remove the government whom they do not like, they can propagate, they can educate and they can persuade the people to remove that government by ballot, by their sweet will, as they have shown that in this country the people can remove the government through peaceful means. They do not need any armed rebellion. You can persuade the people against the government if you do not like it. But please do not think of armed rebellion. This country does not believe in armed rebellion. The Government must have ample powers to deal with armed rebellion.

SHRI BHUPESH GUPTA: Did Mr. George Fernandes not believe in it when he associated himself with the Bareilly Dynamite case?

SHRI SHANTI BHUSHAN: I believe even Mr. Bhupesh Gupta appears to be convinced now. I need not take more time of the House.

SHRI YOGENDRA SHARMA: I had put two or three questions to which he has not replied.

SHRI SHANTI BHUSHAN: Sir, because there is a complaint that a specific question was put by an hon. Member and I have not replied to it, let me reply. He referred to the election manifesto. I am glad that he has read the election manifesto, but in which language he has read it, I do not know. I have it before me. It clearly shows that two promises were made: to lift the Emergency; and to amend article 352 of the Constitution to prevent its abuse in the interests of an individual or a group. Therefore, we are carrying out the pledge to its full. We had never said that even on the ground of external aggression, even if there is a threat to the security of India, under



10 circumstances, can Emergency be declared. Of course, "internal disturbance" was too weak a thing, but an "armed rebellion" can create the same situation which "external aggression" can create.

*(Interruptions)*

SHRI YOGENDRA SHARMA: And, Sir, my second question was about Mr. George Fernandes.

MR. CHAIRMAN: The question is:

43. "That at pages 8 and 9 for lines 31 to 33 and 1 to 8, respectively, the following be substituted, namely:—

'Ca) in clause (1), the words "or internal disturbance" shall be omitted.' "

47. "That at page 10, for lines 34 to 38, the following be substituted, namely:—

'(c) clause (4) shall be re-numbered as clause (9) and in the clause as so re-numbered, the words "or internal disturbance" in both the places where they occur shall be omitted.' "

SHRI BHAURAO DEVAJI KHOB-RAGADE: How can you put both simultaneously?

MR. CHAIRMAN: Yes, yes, the Members desired.

*The House divided.*

MR. CHAIRMAN: Ayes—41; Noes—143

AYES—41

Amarjit Kaur, Shrimati Anandam, Shri M. Balram Das, Shri Bhattacharjee, Shri Sourendra Bhola Prasad, Shri Bose, Shrimati Pratima Chakraborty, Shri Amarprosad 1134 RS—8.

Chattopadhyaya, Prof. D. P.  
Chaudhari, Shri N. P.  
Deshmukh, Shri Bapuraoji Marotraoji  
Dutt, Dr. V. P.  
Dwivedi, Shri Devendra Nath  
Goswami, Shri Sriman Prafulla  
Gupta, Shri Bhupesh  
Gupta, Shri Gurudev  
Imam, Shrimati Aziza  
Kameshwar Singh, Shri  
Khan, Shrimati Ushi  
Kumaran, Shri S.  
Kunjachen, Shri P. K.  
Lakshmanan, Shri G.  
Mahapatro, Shri Lakshmana  
Maran, Shri Murasoli  
Menon, Shri Viswanatha  
Mukherjee, Shrimati Kanak  
Nanda, Shri Narasingha Prasad  
Pathak, Shri Ananda  
Rajan, Shri Pattiam  
Raju, Shri V. B.  
Ramamurti, Shri P.  
Reddy, Shri K. V. Raghunatha  
Reddy, Shri Mulka Govinda  
Roy, Shri Kalyan  
Saleem, Shri Mohammad Yunus  
Shahedullah, Shri Syed  
Sharma, Shri Yogendra  
Sinha, Shri Indradeep  
Soni, Shrimati Ambika  
Surjeet, Shri Harkishan Singh  
Triloki Singh, Shri  
Venigalla Satyanarayana. Shri

NOES—143

Adivarekar, Shrimati Sushila Shankar  
Advani, Shri Lai K.  
Alva, Shrimati Margaret  
Amla, Shri Tirath Ram  
Anjiah, Shri T.  
Antulay, Shri A. R.

Arif, Shri Mohammed Usman  
 Asthana, Shri K. B. Bagaitkar, Shri  
 Sadasiv Baleshwar Dayal, Shri  
 Banerjee, Shri Jaharlal Bansi Lai,  
 Shri Barman, Shri Prasenjit  
 Basavaraj, Shri H. R. Bhabha,  
 Shri Harishar.ker Bhagat, Shri  
 Ganapat Hiralal Bhagwan Din, Shri  
 Bhandari, Shri Sunder Singh  
 Bhattacharya, Shri G. C. Bhim Raj,  
 Shri  
 Chandrasekhar, Shrimati Maragatham  
 Chatterjee, Shri Pranab  
 Chaurasia, Shri Shivdayal Singh  
 Das, Shri Bipinpal  
 Desai, Shri R. M.  
 Dinesh Chandra, Shri Swami  
 Dinesh Singh, Shri  
 Gadgil, Shri Vithal  
 Goswami, Shri Dinesh  
 Gupta, Shri Ram Lakhan Prasad  
 Habibullah, Shrimati Hamida  
 Hegde, Shri Ramakrishna  
 Jagbir Singh, Shri  
 Jain, Shri Dharamchand  
 Jamuna Devi, Shrimati  
 Janardhanam, Shri A. P.  
 Jha, Shri Kamalnath  
 Jha, Shri Shiva Chandra  
 Joshi, Shri Jagannath Rao  
 Joshi, Shri Jagdish  
 Joshi, Shri Krishna Nand  
 Joshi, Shrimati Kumudben Manishar-ker  
 Kadershah, Shri M.  
 Kakati, Shri Robin  
 Kalaniya, Shri Ibrahim  
 Kamble, Prof. N. M.  
 Kesri, Shri Sitaram  
 Khan, Shri Ghayoor Ali  
 Khan, Shri Khurshed Alam

Khan, Shri Maqsood Ali Khaparde,  
 Shrimati Saroj Khobragade, Shri  
 Bhaurao Devaji Kiishna, Shri M. R.  
 Kiishnan, Shri E. R. Kiishnan, Shri U.  
 R.

Kureel, Shri Piare Lall *uri* Piare Lall Talib  
 Lfkhan Singh, Shri

Lckesh Chandra, Dr. LcJtha, Shri  
 Khyomo Madhavan, Shri K. K.  
 Mahanti, Shri Bhairab Chandra  
 Mahavir, Dr. Bhai

Mahida. Shri Harisinh Bhagubava Mnjhi,  
 Shri Dhaneswar M.;kvvana, Shri Yogendra  
 Miillick, Shri Harekrushna Manhar, Shri  
 Bhagatram Mathur, Shri Jagdish Prasad  
 Maurya, Shri Buddha Priya Mflhrotra, Shri  
 Prakash

Menon, Shrimati Leela Damodara  
 Mifehra, Shri Kalraj

Miihra, Shri Mahendra Mohan  
 Mi:tal, Shri Sat Paul

A.'charity, Shri Surendra  
 Mchinder Kaur, Shrimati

Mondal, Shri Ahmad Hossain  
 Mcopnar, Shri G. K.

Morarka, Shri R. R.  
 Mukherjee, Shri Pranab

Munusamy, Shri V. P.  
 Mujthu, Dr. (Shrimati) Sathiavani

Na du, Shri N. P. Chengalraya Na k,  
 Shri L. R. Narendra Singh, Shri Nigam,  
 shri Ladli Mohan Nizam-ud-Din, Shri  
 Syed Ozck, Shri Ghanshyambhai  
 Paitde, Shri Eishambar Nath Paibhu  
 Singh, Shri Pai'ikh, Prof. Ramlal

Patel, Shri Manubhai  
 Patil, Shri Deorao  
 Pattanayak, Shri Bhabani Charan  
 Poddar, Shri R. K.  
 Pradhan, Shri Patitpaban  
 Prem Manohar, Shri  
 Rai, Shri Kalp Nath  
 Rajinder Kaur, Shrimati  
 Rameshwar Singh, Shri  
 Ranga, Prof. N. G.  
 Rao, Shri V. C. Kesava  
 Ratan Kumari, Shrimati  
 Ray, Shri Rabi  
 Razack, Shrimati Noorjehan  
 Reddy, Shri B. Satyanarayan  
 Reddy, Shri R. Narasimha  
 Roshan Lai, Shri Sahaya, Shri  
 Dayanand Sahu, Shri Santosh  
 Kumar  
 Samad, Shri Golandaz Mohammed-  
 busian A.  
 Saring, Shri Leonard Soloman  
 Ssrup Singh, Dr.  
 Satchidananda, Shri  
 Sezhiyan, Shri Era  
 Shahi, Shri Nageshwar Prasad  
 Shanti Bhushan, Shri Sharma, Shri  
 A]jit Kumar Sharma, Shri Anant  
 Prasad Sharma, Shri Kishan Lai  
 Shastri, Shri Bhola Paswan Siddhu.  
 Dr. M. M. S.  
 Singh, Shri Bhishma Narain Singh,  
 Shri J. K- P. N. Singh, Shri Ng.  
 Tompok Singh, Shrimati Pratibha  
 Singh, Shri Shiva Nandan  
 Sinha, Dr. Ramkripal Sisodia, Shri  
 Sawaisingh Sujan Singh, Shri  
 Sultan, Shrimati Maimoona Sultan  
 Singh, Shri Surendra Mohan, Shri

S'vuu, Shri Scato  
 Tama, Shri Ratan  
 Totu, Shri Gian Chand  
 Tripathi, Shri Kamlapati  
 Varma, Shri Mahadeo Prasad  
 Venka, Shri V.  
 Venkatrao, Shri Chadalavada  
 Warjri, Shri Alexander  
 Yadav, Shri Ramanand  
 Yadav, Shri Shyam Lai

*The Motion was negated.*

MR. CHAIRMAN: Now I put to vote amendment Nos. 44 and 48 by Shri K. V. Raghunatha Reddy. Do you press them?

SHRI K. V. RAGHUNATHA REDDY; I am pressing the amendments. Sir.

MR. CHAIRMAN: The question is:

44. "That at pages 8 and 9, for lines 31 to 33 and 1 to 8 respectively, the following be substituted, namely:—

'(a) in clause (1),—

(i) the words "or internal disturbance" shall be omitted; and

(ii) the following Explanation shall be inserted at the end, namely:—

•Explanation—A Proclamation of Emergency declaring that the security of India or any Part of the territory thereof is threatened by war or by external aggression may be made before the actual occurrence of war or of any such aggression, if the President is satisfied that there is imminent danger thereof." "

48. "That at page 10, for lines 34 to 37, the following be substituted, namely:—

'(c) clause C4 shall be re-numbered as clause (9) and for the clause as so re-numbered the following shall be substituted, namely.—

"(9) The power conferred on the President by this Article shall in-

[Mr. Chairman] elude the power to issue different Proclamations on different grounds, being war of external aggression or imminent danger of war or external aggression, whether or not there is a Proclamation already issued by the President under clause (1) and such Proclamation is in operation." ' "

The motion was negatived.

MR. CHAIRMAN: Amendments 45 and 46. Mr. Khurshed Alam Khan, are you pressing?

SHRI KHURSHED ALAM KHAN: Let there be voice vote,

MR. CHAIRMAN ; The question is:

45. "That at page 8, lines 32-33, after the words 'armed rebellion', the words 'or organised mob-violence against a section of society' be inserted."

The Motion was negatived.

MR. CHAIRMAN: The question is:

46. "That at page 10, line 33, after the words 'such resolution' the words 'and at least seven days' notice shall be given to the members to attend such session', be inserted."

The Motion was negatived.

MR. CHAIRMAN: Amendments 49 and 50. Mr. Maran, are you pressing them?

SHRI MURASOLI MARAN : Yes.

MR. CHAIRMAN: The question is :

49. "That at page 10, after line 37, the following be inserted, namely:—

'(cc) after clause (9) as so re-numbered, the following clause shall be inserted, namely:—

"(10) A Proclamation issued under clause (1) shall be revoked within thirty days after the termination of war or external aggression." ' "

The Motion was negatived.

MR. CHAIRMAN: The question is:

50. "That at page 10, after line 38, the following be inserted, namely:—

'(dd) Notwithstanding anything in the Constitution, the Supreme Court alone shall have the jurisdiction to decide about the validity of a Proclamation issued under clause

'

The Motion was negatived.

MR. CHAIRMAN; Now, I shall put clause 38.

The question is:

"That clause 38 stand part of the Bill."

The House divided.

MR. CHAIRMAN: Ayes—171; Noes— 7.

AYES—171

Adivarekar, Shrimati Sushila Shankar  
Advani, Shri Lai K.  
Alva, Shrimati Margaret  
Amarjit Kaur, Shrimati  
Amla, Shri Tirath Ram  
Anandam, Shri M.  
Anjiah, Shri T.  
Antulay, Shri A. R.  
Arif, Shri Mohammed Usman  
Asthana, Shri K. B.  
Bagaitkar, Shri Sadasiv  
Baleshwar Dayal, Shri  
Balram Das, Shri  
Banejee, Shri B. N.  
Banerjee, Shri Jaharlal  
Bansal, Shri  
Barnjan, Shri Prasenjit  
Basai;araj, Shri H. R.  
Bhabhda, Shri Harishanker  
Bhagat, Shri Ganapat Hiralal  
Bhagwan Din, Shri

Bhandari, Shri Sunder Singh  
 Bhattacharya, Shri G. C.  
 Bhim Raj, Shri  
 Bose, Shrimati Pratima  
 Chandrasekhar, Shrimatj Maragatham  
 Chatterjee, Shri Pranab  
 Ohattopadhyaya, Prof. D. P.  
 Chaudhari, Shri N. P.  
 Chaurasia, Shri Shivdayal Singh  
 Das, Shri Bipinpal  
 Desai, Shri R. M.  
 Deshmukh, Shri Bapuraoji Marotraoji  
 Dinesh Chandra, Shri Swami  
 Dinesh Singh, Shri  
 Dutt, Dr. V. P.  
 Dwivedi, Shri Devendra Nath  
 Gadgil, Shri Vithal  
 Goswami, Shri Dinesh  
 Gupta, Shri Gurudev  
 Gupta, Shri Ram Lakhan Prasad  
 Habibullah, Shrimati Hamida  
 Hegde, Shri Ramakrishna  
 Imam, Shrimati Aziza  
 Jagbir Singh, Shri  
 Jain, Shri Dharamchand  
 Jamuna Devi, Shrimati  
 Janardhanam, Shri A. P.  
 Jha, Shri Kamalnath  
 Jha, Shri Shiva Chandra  
 Joshi, Shri Jagannath Rao  
 Joshi, Shri Jagdish  
 Joshi, Shri Krishna Nand  
 Joshi, Shrimati Kumudben Manishan-ker  
 Kadershah, Shri M.  
 Kakati Shri Robin  
 Kalaniya, Shri Ibrahim  
 Kamble, Prof. N. M.  
 Kameshwar Singh, Shri  
 Kesri, Shri Sitaram  
 Khan, Shri Ghayoor Ali  
 Khan, Shri Khurshed Alam  
 Khan, Shri Maqsood Ali  
 Khan, Shrimati Ushi

Khaparde, Shrimati Saroj  
 Khobragade, Shri Bhaurao Devaji  
 Krishna, Shri M. R.  
 Krishnan, Shri E. R.  
 Krishnan, Shri U. R.  
 Kunjachen, Shri P. K.  
 Kureel Shri Piar, Lall urf Piare Lall Talib  
 Lakhan Singh, Shri  
 Lakshmanan, Shri G.  
 Lokesh Chandra, Dr  
 Lofcha, Shri Khyomo  
 Madhavan, Shri K. K.  
 Mathanti, Shri Bhairab Chandra  
 Mahavir, Dr. Bhai  
 Mahida, Shri Harisinh Bhagubava  
 Majhi, Shri Dhaneswar Makwana,  
 Shri Yogendra Mallick, Shri  
 Harekrushna Manhar, Shri Bhagatram  
 Maran, Shri Murasoli Mathur, Shri  
 Jagdish Prasad Maurya, Shri Buddha  
 Priya Mehrotra, Shri Prakash  
 Menon, Shrimati Leela Damodara Menon,  
 Shri Viswanatha Mishra, Shri Kalraj Mishra,  
 Shri Mahendra Mohan Mittal, Shri Sat paul  
 Mohanty, Shri Surendra Mohinder Kaur,  
 Shrimati  
 Mondal, Shri Almad Hossain  
 Mopnar, Shri G. K. Morarka, Shri  
 R. R. Mukherjee, Shri Pranab  
 Munusamy, Shri V. P.  
 Muthu, Dr. (Shrimati) Sathiavani Naidu, Shri  
 N. P. Chengalraya Naik, Shri L. R. Nanda, Shri  
 Narasingha Prasad Narendra Singh, Shri I  
 Nigam, Shri Ladli Mohan Nizam-ud-Din, Shri  
 Syed

Oza, Shri Ghanshyambhai Pande, Shri  
 Bishambhar Nath Parbhu Singh, Shri  
 Parikh, Prof. Ramlal Patel, Shri  
 Manubhai Patil, Shri Deorao  
 Pattanayak, Shri Bhabani Charan  
 Poddar, Shri R. K.  
 Pradhan, Shri Patitpahan  
 Prem Manohar, Shri  
 Rai, Shri Kalp Nath  
 Rajan, Shri Pattiam  
 Rajinder Kaur, Shrimati  
 Raju, Shri V. B.  
 Ramamurti, Shri P.  
 Rameshwar Singh, Shri  
 Ranga, PROF. N. G.  
 Rao, Shri V. C. Kesava  
 Ratan Kumari, Shrimati  
 Ray, Shri Rabi  
 Razack, Shrimati Noorjehan  
 Reddy, Shri B. Satyanarayan  
 Reddy, Shri Mulka Govinda  
 Reddy, Shri R. Narasimha  
 Roshan Lai, Shri  
 Sahaya, Shri Dayanand  
 Sahu, Shri Santosh Kumar  
 Saleem, Shri Mohammad Yunus  
 Samad, Shri Golandaz Mohammed  
 husian A. Saring, Shri Leonard  
 Soloman Sarup Singh, Dr.  
 Satchidananda, Shri Sezhiyan, Shri Era  
 Shahi, Shri Nageshwar Prasad Shanti  
 Bhushan, Shri Sharma, Shri Ajit Kumar  
 Sharma, Shri Anant Prasad Sharma,  
 Shri Kishan Lai Shastri, Shri Bhola  
 Paswan Siddhu, Dr. M. M. S. Singh,  
 Shri Bishma Narain Singh, Shri J. K.  
 p. N. Singh, Shri Ng. Tompok

Singh, Shrimati Pratibha Singh,  
 Shri Shiva Nandan Sinha, Dr.  
 Ramkripal Sisodia, Shri Sawaisingh  
 Soni, Shrimati Ambika Suja<sub>n</sub> Singh,  
 Shri Sultan, Shrimati Maimoona  
 Iultai Singh, Shri Surendra Mohan,  
 Shri Swu, shri Secato Tama, Shri  
 Ratan Totu, Shri Gian Chand Triton  
 Singh, Shri

Tripalathi, Shri Kamlapati

Vaishampayen, Shri S. K.

Varra, Shri Mahadeo Prasad

Venigalla Satyanarayana, Shri

Venka, Shri V.

Venkatrao, Shri Chadalavada

War j-i, Shri Alexander

Yada/, Shri Ramanand

Yada/, Shri Shyam Lai

NOES—7

Bhattacharjee, Prof. Sourendra  
 Chakraborty, Shri Amarprosad  
 Goswami, Shri Sriman Prafulla  
 Mukherjee, Shrimati Kanak Pathak, Shri  
 Ananda

T

Shahodullah, Shri Syed Surjejet, Shri  
 Harkishan Singh

*The motion was 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.*

*Clause 38 was added to the Bill.*

*Clause 39—Amendment of Article 356.*

SHRI K. V. RAGHUNATHA  
 REDDY: Sir, I move.

51. "That at pages 10 and 11, for clause 39, the following clause be substituted, namely:

'39. in article-356 of the Consti-tion,—

(a) in clause (4),—

(i) for the words, brackets and figure "one year from the date of the passing of the second "of the resolution approving the Proclamation under clause (3)", the words "six months from the date of issue of the Proclamation" shall be substituted;

(ii) in the first proviso, for the words "one year", the words "six months" shall be substituted;

(iii) in the second proviso, for the words "one year", the words "six months" shall be substituted;

(b) for clause (5), the following clause shall be substituted, namely:—

"(5) notwithstanding anything contained in clause (4), a resolution with respect to the continuance in force of a Proclamation approved under clause (3) for any period beyond the expiration of one year from the date of such Proclamation shall not be passed by either House of Parliament unless,—

(a) a proclamation of Emergency is in operation, in the whole of India or, as the case may be, in the whole or any part of the State, at the time of the passing of such resolution, and

(b) the Election Commission certifies that the continuance in force of the Proclamation approve-ed under clause (3) during the period specified in such resolution is necessary on account of difficulties in holding general elections to the Legislative Assembly of the State concerned.

(c) notwithstanding anything contained in this Constitution, if the President is satisfied, he may appoint a Judicial Commission

consisting of three serving Judges, among whom one shall be the Judge of the Supreme Court, who shall be the Chairman of the Commission and two from among the Judges of the High Courts, to enquire and advise him whether the report of the Governor is made in good faith or the information received by him otherwise for his satisfaction is founded on sufficient evidence; and, on the advice of the Commission, the President may revoke the Proclamation,

(d) the Judicial Commission shall submit its Report within a period of two months. The Judicial Commission, in expressing its view, shall consult the opinion of the Members of the Legislative Assembly and/or the Members of the Legislative Council, as the case may be,

(e) notwithstanding anything contained in the Constitution, no Assembly shall be dissolved before the expiry of a period of three months after the Proclamation under clause (1)."

(The amendment also stood *in the name of Shri Mulka Govinda Reddy.*)

SHRI P. RAMAMURTI: Sir, I move:

52. "That at pages 10 and 11, for clause 39, the following clause be substituted, namely:—

'39. Article 356 of the Constitution shall be omitted."

*The amendment also stood in the names of Shri Harkishan Singh Surjeet, Shri Viswanatha Menon, Shrimati Kanak Mukherjee, Prof. Sourendra Bhattacharjee, Shri Amar-prosad Chakrabarty, Shri Bhupesh .Gupta, Shri Kalyan Roy, Shri Bir Vandra Deb Burman, Shri Bhola .Prasad, Shri Lakshmana Mahapatro and Shri Miirasoli Maran.*)

SHRI BHUPESH GUPTA: Sir, I move:

[Shri Bhupesh Gupta]

54. "That at page 10, line 43, for the words 'six months' the words 'two months' be substituted."

55. "That at page 10, line 46, for the words 'six months' the words 'two months' be substituted."

56. "That at page 10, line 48, for the words 'six months' the words 'two months' be substituted."

57. "That at page 11, line 6, for the words 'one year' the words 'six months' be substituted."

*(The amendments also stood in the names of Shri Kalyan R°V, Shri Bir Chandra Deb Burman, Shri Bhola Prasad and Shri Lakshmana Maha-patro.)*

*The questions were proposed.*

SHRI K. V. RAGHUNATHA REDDY: This is a matter relating to proclamation of President's rule in the States. Of all persons in the House, you will kindly pardon me if I say, you have got a very intimate knowledge of the way in which President's rule is promulgated in the States. This is an Article which had been put to a lot of misuse for purposes of settling political quarrels of political parties. Very often we also know that the so-called reports of Governors are written in Delhi, and not by Governors \_\_\_\_\_

AN HON MEMBER: Were you not a party to that?

SHRI K. V. RAGHUNATHA REDDY: I have some knowledge, I was not a party to it. Sir, you also know that whenever even the internal problems of a political party have to be settled, proclamation of President's rule is resorted to, instead of settling those problems of the political party internally. You are also fully aware, to illustrate my point, of how Governor's rule had been brought in Orissa, for instance. As you are aware, I happened to visit that State just before the Governor's rule was imposed there. I happened to meet the Governor in the

irjprning at his invitation. I asked the Governor as to what was all that about that was going on: Was there any real reason for the apprehension about the way in which the administration was going on there? Was there any cause for alarm? The Governor said, except some kind of certain administrative problems here and there in one or two districts, there was absolutely nothing; the Chief Minister enjoyed the confidence not only of the legislature but of her own legislature party. This was what the Governor told me. And a few days later instead of settling the internal problems of the party with the good offices of the political leadership, the Cabinet decided to introduce President's rule, and after the Cabinet decision had been taken, a message had been sent to the Chief Minister "either you resign or you will be dismissed, with all the consequences of a dismissal" Probably it was planned to take her to Rohtak. You know that famous Rohtak, you know why it is so famous. Rohtak is known to everybody, why it is famous in this context. Then, with regard to

MK Government: Not that the MK Government did not commit one of the things which they were accused of, but still the problem with the dismissal of the DMK Government as a political problem which had nothing to do with administration. Many accusations were levelled against the DMK Government in Tamil Nadu. It was dismissed as a result of the Emergency to which rather than to this Emergency provision to which the Janata Government has now become a party. This Emergency power was invoked and even some of our colleagues like Mr. Murasoli Maran were victims of that Emergency. Notwithstanding all this....

SHRI YOGENDRA MAKWAN (Gujarat): What were you doing in those days? Did you not have the courage to say this thing in those days? You could have resigned.



SHRI K. V. RAGHUNATHA REDDY: As I said the other day, we have been members of a community of sinners who are quite a number in this House. We had to fight against such tendencies in our own way. Now you have combined with the Janata Party. These twin brothers of right reaction are emerging hand in hand today and we have to fight this battle with our own technique without falling prey to the emergency provision.

Sir, the Chief Ministers were not safe and no State Government was safe and we all know how these provisions were implemented in those days when even the Cabinet was a captive Cabinet. Even the Parliament was captive in those days. ...

SHRI YOGENDRA MAKWANA: What prevented you from resigning?

SHRI KALP NATH RAI (Uttar Pradesh): Why did he not resign?

MR. CHAIRMAN: You ought to have asked him at that time, not now.

[The Vice-Chairman (Shri Syed Nizam-ud-Din) in the Chair.]

SHRI K. V. RAGHUNATHA REDDY: Sir, I do not want Governor's rule or President's rule in any State. But if it becomes inevitable and if it is considered necessary to have this provision, then it must be in a modified form. There must be an independent machinery to judge whether the Governor's report has been sent in good faith or it has been drafted in Delhi and sent to the Governor who is forced to sign it. I know of one of the Governors who paid glowing tributes the government of his State, but when he came here he made all sorts of malicious allegations against that State. This does not add to the dignity of the office of the Governor. This happened in the South. If that is the case there must be some kind of guarantee against the manipulation of Governors' reports. I am not in favour of the President's rule. But I recog-

nise that sometimes there may be some emergency situation in a particular State. If in such cases the President's rule is felt inevitable, then I have suggested an amendment saying that a judicial Commission consisting a Supreme Court Judge as its Chairman and two High Court Judges as the Members should visit that State, take evidence of people there including members of the legislature and submit a report to the President independently giving advice what the President must do. Then the President can exercise his discretion and revoke the President's rule in the State. This acts as a corrective against the Governors who write their reports at the behest of the Central Government. This may give some protection to Parliamentary Democracy and Party Governments especially in a federal structure. This is absolutely necessary. This is a simple amendment and I hope the House will appreciate this amendment and commend its acceptance.

SHRI HARKISHAN SINGH SUR-JEET: Since 1954, in the history of this country, article 356 has often been misused for narrow political ends of the Party ruling at the Centre whether it was PEPSU, Travancore-Cochin or any other State in this country. I hope everybody will agree on this. Wherever some disagreement was there in the past or some difficulty was there in any particular State, this article has been misused to see that the monopoly of power of the Party ruling at the Centre remains in tact and not broken. I do not know why the Janata Party required it. They have got their own problems, enough number of problems. Is it by using this article that they want to consolidate themselves? I think this article is unwarranted and the whole experience shows that even if it is one year, one year also plays disaster so far as the democratic functioning of the institutions are concerned. That is why I propose that they should accept this amendment and adhere to the princi-

[Shri Harkishan Singh Surjeet] pies which they have been advocating and they should see that this article completely goes away.

SHRI BHUPESH GUPTA: Naturally. Sir, it has been spoken upon. I am at least in agreement with the one amendment which wants the deletion of article 356. My second amendment comes later. If you delete this, then, Sir, Mr. Shanti Bhushan will not be troubled with my next amendment.

Sir, we are fully in favour of the deletion of article 356, that is, we are for the abolition of the provision in the Constitution which empowers the Central Government to intervene at will and to do away with the elected government and to impose what they call the President's Rule. Sir, we have at least in this House two former Chief Ministers and one of them is sitting here and the other is Mr. Kamlapati Tripathi.

SHRI K. V. RAGHUNATHA REDDY: The third one is there, Mr. Bhola Paswan Shastri.

SHRI BHUPESH GUPTA: But he is not a victim of this provision. Now, two former Chief Ministers are here. I know about it and I was here. Sir, here are the victims of inter-party manoeuvres and manipulations. Sir, Mr. Tripathi is not here now and I would like to say this in his presence. You know, in 1973, he suddenly resigned. What was that for? President's Rule came there. How? The Assembly was suspended and was not dissolved. The decision was taken in New Delhi in the Congress Party that Mr. Tripathi now the leader of the Congress(I) here, should be replaced by another leader of the UP Legislature Party, that is, another Chief Minister should be there. His friends were aware of it and everybody knew about it. Mr. Raghunatha Reddy, did you know it? You must have known this and everybody knew about it and it is an open secret. Everybody knew that plans were prepared to see that Mr. Tripathi was squeezed out. How?

Kamlapatiji was told, or his followers were told, "Better resign; otherwise. President's Rule is coming". And, Sir, the arrangement was that Mr. Kamlapati Tripathi would step down in favour of another Congressman and he would resign. Being a saintly man and not going in for trouble he thought it would be better to get out. So, he left and the President's Rule was imposed for some time.

SHRI G. LAKSHMANAN: He is coming now, Mr. Gupta.

SHRI BHUPESH GUPTA: Mr. Tripathi, I am saying that in this House itself we saw you were becoming a victim of article 356 and that victim happens to be the Leader of the Opposition here today. That is what I am saying.

SHRI KAMLAPATI TRIPATHI: Thank you very much.

SHRI BHUPESH GUPTA: I know you will not deny it.

SHRI P. RAMAMURTI: Where is the question of his denying it? He is thanking you.

SHRI BHUPESH GUPTA: I know why he is thanking me, because he cannot tell the truth, not that he is not a truthful man.

Now, Sir, I say that he was removed in the name of resignation which, just like emergency in the name of armed rebellion, was engineered. This is what I say. We all knew it. We knew that he was going and that the President's Rule was being planned in a particular Secretariat and that emissaries had been sent and later, Sir, our good friend: Shri Kamlapati Tripathi, went out. This is how the President's Rule came there. Who succeeded you as the Chief Minister there, Mr. Tripathi? Sir, the Assembly was suspended and not dissolved. He had a clear majority. He had a very clear majority in the UP Assembly and there was no manipulation to reduce his majority. Nothing was there.

So, they imposed the President's Rule. Was the President's Rule meant for the internal affairs of a political party. Here is another example of Mr. Oza, Chief Minister...

SHRI GHANSHYAMBHAI OZA:  
President's rule came long after I left.

SHRI BHUPESH GUPTA: Anyway, there is the example of Mrs. Nandini Satpathy. When some people demanded that Nandini Satpathy should go, telephone went: You resign, otherwise President's rule is coming. And then she had to resign, and the President's rule came and some arrangement was made, another Chief Minister was found. Well, within 13 days the President's rule was revoked there. So many examples are there. Fifty times President's rule had been imposed. If you examine them, on most occasions they had been imposed either for subverting democratic institutions or for handling internal circumstances of Congress Party. We became the first victim in Kerala. We had the majority—United Communist Party in 1957. In 1959 it was removed. Nothing could be done. President's rule came. We had the majority and they ordered President's rule by making some excuse of the vimochan struggle. In West Bengal, President's rule was imposed. Comrade Surjit said. We want to take the country out of the jungle. Now, how will you handle the situation. You can hold mid-term elections. Mr. Charan Singh has shown that when he wants he can hold elections—within 40 days. So the Government that is in power can function as a caretaker Government.

SHRI SUNDER SINGH BHANDARI: Not in the rainy season.

SHRI BHUPESH GUPTA: That is the period required for notification, for announcement. Therefore, it can be easily done. But that was not done. It all depends on how the ruling party behaves. In Madhya Pradesh, Mr. D. P. Mishra was a clever man. He was the 'Chanakya' of the Congress raj, he knew how to handle the situation. I can give many instances.

President's rule is a bogus method. I know he will give the argument; The Centre is there, there is to be unity of the country. But what about the States? Why only the "Centre? What is wrong there?

Sir, about the Governor, the less said the better. Governor's institution should really go. Governor's are just the agents of the Centre. It is true. Charan Singh dispensed even with the Governor's report. Some of the reports used to be written in Delhi, signed by the Governor. They would send for the Governors to Delhi. Mr Charan Singh would say: I am satisfied, there must be President's rule. President's rule came by a stroke of pen in nine States. That is how it all happened. Therefore, I say that this is an antidemocratic arrangement. It does not conform to democratic standards. There are other countries also where, if there is some constitutional difficulty, elections are held and the problem is settled that way, going to the people and asking them.

8.00 P.M.

Sir, something has to be done here. As long as the President's rule remains, the pressure of the Central Government on the State Governments will also remain and the Government of the State will be at the mercy of the Central Government. They misuse it. because the democle's sword of President's rule under one pretext or the other will always be available to the Central Government. They misuse it. They have misused it. Everybody knows it. Therefore, Sir, I think that our amendment is the most sensible amendment. Kamlapati Ji will not support it. What can I do? He is the biggest victim of it and still he will not support it.

(Interruptions)

SHRI KAMLAPATI TRIPATHI:  
Everybody else joined the Janata Government except myself. I am here.

SHRI BHUPESH GUPTA: Kamlapati Ji, anyway I must say one thing. If President's rule had not been there.

[Shri Bhupesh Gupta] Kamlapati Ji would have never come to the Centre. Nobody would have found you on our side in the opposition. It has been a long-term gain. It was in 1973 and we gained you in 1977, after four years. I say, Sir, that this provision is a very bad provision. Sir, there are other things also. I will not seek division on them. But this is a very crucial provision. I say: Hands down with the President's rule and hands down with article 356.

SHRI MURASOLI MARAN: Sir, article 356 is a much misused article in our Constitution. Is antidemocratic and anti-federal. Sir, Mr. Raghunatha Reddy and Mr. Bhupesh Gupta were saying how the reports of the Governors were prepared. Sir, we have practical knowledge about it. When Mr. K. K. Shah was the Governor of Tamil Nadu, he was praising the then D.M.K Government of the day at a function in the morning. But the President's rule was declared in the evening.

[Mr. Chairman in the Chair]

Perhaps he was not aware when he was praising the Government that at Delhi, in the Home Ministry, the report was being prepared. He was asked to sign a report for which he was not the author. That is how the reports were prepared. Sir, there is a word 'otherwise' in article 356. The Central Government does not believe the Governors also. Supposing the Governor is a conscientious man, then even without the Governor sending the report, the President can dismiss the Government. That is there. Cruel situation it is. We all know that it is borrowed, textually copied, from Section 93 of the 1935 Act. When there was interim Parliament and there was the Constituent Assembly, this section was not there in the 1935 Act as it was amended then. Later, when we became a republic and we had our own Constitution, this provision was transplanted. Sir, it is a pity that when the white Sahibs were there this section was there. Later

came the brown Sahibs. It was very useful for them. So, they are keeping it. I am sorry that even the Janata Government continues to have it. It means that there is a kind of imperialism going on here. That is why they want this provision for their exploitation. I am sorry, I cannot understand that the hon. Minister the other day said that even the President's rule is a kind of representative Government because it is governed by Parliament. I cannot understand. If it were so, why are you going to award statehood to Delhi? It is against the federal concept. It is a pistol pointed at the States in order to blackmail them. If you believe in democracy, if you believe in federalism, then please take this article out of the Constitution.

SHRI SHANTI BHUSHAN: Sir, I do not have to say much on this clause. But I entirely agree with Shri Bhupesh Gupta that this provision has been very much misused in the past by the previous Government. Sir, we have a galaxy of victims even in this House. But, Sir...

SHRI A. R. ANTULAY: Sir, the hon. Law Minister went on the AIR to convince the people of India as to how the Government was right in dismissing all the State Governments. That was the biggest misuse.

SHRI KALP NATH RAI: That was the slaughter of democracy by you. You slaughtered democracy.

SHRI SHANTI BHUSHAN: Sir, I was only wondering whether Shri Bhupesh Gupta did really try to analyse as to how it had become possible for a Government to misuse its powers under article 356. Sir, if he had been vigilant in regard to his parliamentary functions in checking the Government from doing a wrong thing. I am sure, he would have been able to prevent that Government from doing wrong things.

SHRI BHUPESH GUPTA: That is why I cannot prevent you now.

SHRI SHANTI BHUSHAN: No. You are not supporting us. You were supporting them. That was the trouble, [if you had really been checking them, perhaps, all that abuse would not have taken place. Sir, I have seen that he can check and check so strongly and valiantly that he is like a road-block and nothing can go through. So, Sir, when he had given up his function of that road-block, the speeding-cars, rash driving, etc. were allowed to take place without using his road-block. Then all that misuse occurred. Sir, now that the road-block is alive and kicking, no abuse is possible. And that is why we have made an attempt to impose restrictions, limitations on this power of imposing the President's Rule.

MR. CHAIRMAN: Now I put amendment No. 51 to vote.

SHRI P. RAMAMURTI: Sir, may I say one thing? You first put amendment No. 52 to vote because, if this amendment is passed, the other amendment does not arise. Therefore, Sir, you put this to vote.

MR. CHAIRMAN: I will put amendment No. 52 to vote.

The question is:

52. "That at pages 10 and 11, for clause 39, the following clause be substituted, namely:—

'39. Article 356 of the Constitution shall be omitted.' " *The House divided.* "

MR. CHAIRMAN: Ayes—20; Noes—

162 AYES—20

Bhattacharjee, Prof. Sourendra  
Bhola Prasad, Shri  
Chakraborty, Shri Amarprosad  
Deb Burman, Shri Bir Chandra  
Gupta, Shri Bhupesh  
Kumaran, Shri S.  
Kunjachen, Shri P. K.  
Lakshmanan, Shri G.

I Mahapatro, Shri Lakshmana  
Maran, Shri Murasoli  
Menon, Shri Viswanatha  
Mukherjee, Shrimati Kanak  
Pathak, Shri Ananda  
Rajan, Shri Pattiam  
Ramamurti, Shri P.  
Roy, Shri Kalyan  
Shahedullah, Shri Syed  
Sharma, Shri Yogendra  
Sinha, Shri Indradeep i Surjeet,  
Shri Harkishan Singh

NOES—162

Adivarekar, Shrimati Sushila Shankar  
Advani, Shri Lai K.  
Alva, Shrimati Margaret  
Amarjit Kaur, Shrimati  
Amla, Shri Tirath Ram  
Anandam, Shri M.  
Anjiah, Shri T.  
Antulay, Shri A. R.  
Arif, Shri Mohammed Usman  
Aslhana, Shri K. B.  
Bagaitkar, Shri Sadasiv  
Baleshwar Dayal, Shri  
Balram Das, Shri  
Banerjee, Shri Jaharlal  
Bansi Lai, Shri  
Barman, Shri Prasenjit  
Vasavaraj, Shri H. R.  
Bhabhda, Shri Harishanker  
Bhagat, Shri Ganapat Hiralal  
Bhagwan Din, Shri  
Bhandari, Shri Sunder Singh  
Bhattacharya, Shri G. C.  
Bhim Raj, Shri  
Bose, Shrimati Pratima  
Chandrasekhar, Shrimati Maragatham  
Chatterjee, Shri Pranab  
Chattopadhyaya, Prof. D. P.  
Chaudhari, Shri N. P. Chaurasia,  
Shri Shivdayal Singh  
Das, Shri Bipinpal

Desai, Shri R. M.  
 Deshmukh, Shri Bapuraoji Marotraoji  
 Dhulap, Shri Krishnarao Narayan  
 Dinesh Chandra, Shri Swami  
 Dinesh Singh, Shri  
 Dutt, Dr. V. P.  
 Dwivedi, Shri Devendra Nath  
 Gadgil, Shri Vithal  
 Goswami, Shri Dinesh  
 Gupta, Shri Gurudev  
 Gupta, Shri Ram Lakhan Prasad  
 Habibullah, Shrimati Hamida  
 Hegde, Shri Ramakrishna  
 Imam, Shrimati Aziza  
 Jagbir Singh, Shri  
 Jain, Shri Dharamchand  
 Jamuna Devi, Shrimati  
 Janardhanam, Shri A. P.  
 Jha, Shri Kamalnath  
 Jha, Shri Shiva Chandra  
 Joshi, Shri Jagannathrao  
 Joshi, Shri Jagdish  
 Joshi, Shri Krishnanand  
 Joshi, Shrimati Kumudben Manishan-ker  
 Kadershah, Shri M.  
 Kakati, Shri Robin  
 Kalaniya, Shri Ibrahim  
 Kamble, Prof. N. M.  
 Kesri, Shri Sitaram  
 Khan, Shri Ghayoor Ali  
 Khan, Shri Khurshed Alam  
 Khan, Shri Maqsood Ali  
 Khan, Shrimati Ushi  
 Khaparde, Shrimati Saroj  
 Khobragade, Shri Bhaurao Devaji  
 Krishnan, Shri M. R.  
 Krishnan, Shri E. R'. Krishnan, Shri U.  
 R. Kureel, Shri Piare Lall urf Piare  
 Lall Talib Lakhan Singh,  
 Shri Lokesh Chandra. Dr.  
 Lotha, Shri Khyomo  
 Madhavan, Shri K. K.

Mlahanti, Shri Bhairab Chandra  
 MJihavir, Dr. Bhai  
 Mkhida, Shri Harisinh Bhagubava  
 Majhi, Shri Dhaneshwar  
 Makwana, Shri Yogendra  
 Maillick, Shri Harekrushna  
 Mannar, Shri Bhagatram  
 Myithur, Shri Jagdish Prasad  
 Milurya, Shri Buddha Priya  
 Mahrota, Shri Prakash  
 Manon, Shrimati Leela Damodara  
 Mi|shra, Shri Kalraj  
 Mishra, Shri Mahendra Mohan  
 Mittal, Shri Sat Paul  
 Mdhanty, Shri Surendra  
 Moainde, Kaur, Shrimati  
 Mopdal, Shri Ahmad Hossain  
 Moppanar, Shri G. K.  
 Mofaka, Shri R. R.  
 Muiherjee, Shri Pranab  
 Mulhu, Dr. (Shrimati) Sathiavani  
 Nairiiu, Shri N. P. Chengalraya  
 Naic, Shri L. R.  
 Narida, Shri Narasingha Prasad  
 Narendra Singh, Shri  
 Nigam, Shri Ladli Mohan  
 Nizam-ud-Din, Shri Syed  
 Oza Shri Ghanshyambhai  
 Pande, Shri Bishambhar Nath  
 Parlbhu Singh, Shri  
 Parikh, Prof. Ramlal  
 Patel, Shri Manubhai  
 Patii, Shri Deorao  
 Patt mayak, Shri Bhabani Charan  
 Podilar, Shri R. K.  
 Pradaan, Shri Patitpaban  
 Prem Manohar, Shri  
 Rai, Shri Kalp Nath  
 Raju Shri V. B.  
 Rameshwar Singh, Shri  
 Ranga, Prof. N. G.  
 Rao, Shri V. C. Kesava  
 Ratan Kumari, Shrimati

Ray, Shri Rabi Razack, Shrimati Noorjehan Reddy, Shri B. Satyanarayan Reddy, Shri Mulka Govinda Reddy, Shri R. Narasimha Roshan Lai, Shri Sahu, Shri Santosh Kumar Saleem, Shri Mohammad Yunus, Samad, Shri Golandaz Mohammed-husian A. Saring, Shri Leonard Solomon Sarup Singh, Dr. Satchidanda, Shri Schamnad, Shri Hamid Ali Sezhiyan, Shri Era Shahi, Shri Nageshwar Prasad Shanti Bhushan, Shri Sharma, Shri A jit Kumar Sharma, Shri Anant Prasad Sharma, Shri Kishan Lai Shastri, Shri Bhola Paswan Siddhu, Dr. M. M. S.

Singh, Shri Bhishma Narain Singh, Shri J. K. P. N. Singh, Shri Ng. Tompok Singh, Shrimati Pratibha Singh, Shri Shiva Nandan Sinha, Dr. Ramkripal Sisodia, Shri Sawaisingh Soni, Shrimati Ambika Suja, Singh, Shri

Sultan, Shrimati Maimoona Sultan Singh, Shri Surendra Mohan, Shri Swu, Shri Scato Tama, Shri Ratan

Totu, Shri Gian Chand Triloki Singh, Shri Tripathi, Shri Kamlapati Vaishampayan, Shri S. K. Varma, Shri Mahadeo Prasad Venigalla Satyanarayana, Shri

Venka, Shri V.

Venkatarao, Shri Chandalavada Warjri, Shri Alexander Yadav, Shri Ramanand Yadav; Shri Shyam Lai *The motion was negatived.*

SHRI MOHAMMAD YUNUS SA-LEEM: We shall go for dinner, Sir. We are very hungry... (*Interruptions*).

MR. CHAIRMAN: Now, clause 39.

SHRI MOHAMMAD YUNUS SA-LEEM: We shall go for dinner and come back.

MR. CHAIRMAN: My request is that when the third reading starts, we can go and take food.

SOME HON. MEMBERS: No, No. . . . (*Interruptions*)

SHRI KAMLAPATI TRIPATHI: My request is, Sir, to continue it and finish it as early as possible. I request that Members may be requested not to make long speeches.

सदन के नेता ( श्री लाल कृष्ण आडवाणी ) : सभापति जी, विरोधी दल के नेता ने जो सुझाव दिया है मैं भी उसका अनुमोदन करता हूँ और मैं निवेदन करूँगा कि जिस समय थर्ड रीडिंग, तीसरा वाचन शुरू हो उस समय हममें से कुछ लोग भोजन करने के लिए जा सकते हैं।

MR. CHAIRMAN: I now put amendment No. 51 by Shri K. V. Raghunatha Reddy to vote. The question is:

51. "That at pages 10 and 11, for clause 39, the following clause be sub-situated, namely:—

'39. In article 356 of the Constitution,—

(a) in clause (4),—

(i) for the words, brackets and figure 'one year from the date of the passing of the second of the resolution approving the Proclamation under clause (3)', the words "six months from the date of issue of the Proclamation" shall be substituted;

(ii) in the first proviso, for the words 'one year', the words "six months"\* shall be substituted;

[Mr. Chairman]

(iii) in the second proviso, for the words "one year", the words "six months" shall be substituted;

(b) for clause (5J), the following-clause shall be substituted, namely:—

'(5) Notwithstanding anything contained in clause (4), a resolution with respect to the continuance in force of a Proclamation approved under clause (3) for any period beyond the expiration of one year from the date of such Proclamation shall not be passed by either House of Parliament unless,—

(a) a Proclamation of Emergency is in operation, in the whole of India, or as the case may be, in the whole or any part of the State, at the time of the passing of such resolution;

(b) the Election Commission certifies that the continuance in force of the proclamation approved under clause (3) during the period specified in such resolution is necessary on account of difficulties in holding general elections to the Legislative Assembly of the State concerned.

(c) notwithstanding anything contained in this Constitution, if the President is satisfied, he may appoint a Judicial Commission consisting of three serving Judges, among whom one shall be the Judge of the Supreme Court, who shall be the Chairman of the Commission and two from among the Judges of the High Courts, to enquire and advise him whether the report of the Governor is made in good faith or the information received by him otherwise for his satisfaction is founded on sufficient evidence; and on the advice of the Commission, the President may revoke the Proclamation;

(d) the Judicial Commission shall submit its Report within a period of two months. The Judicial Commission, in expressing its view, shall consult the opinion of the

Members of the Legislative Assembly and/or the Members of the Legislative Council, as the case may be;

Oe) notwithstanding anything contained in the Constitution, no Assembly shall be dissolved before the expiry of a period of three months after the Proclamation under clause (D'I"

*The motion was negatived.*

MR. CHAIRMAN; Amendment No. 53 by Siiri Dhabe. He has not moved. Amendments Nos. 54 to 57 are by Shri Bhupesh Gupta.

SHRI BHUFESH GUPTA: Sir, I withdraw the amendments.

*Amendments\* Nos. 54, 55, 56 and 57 were, by leave, withdrawn.*

MR. CHAIRMAN: The question is :

"That clause 39 stand part of the Bill."

*The House divided.*

MR. CHAIRMAN: Ayes—173; Noes —2.

AYES—173

Adivaresar, Shrimati Sushila Shankar

Advani, Shri Lai K.

Alva, Shrimati Margaret

Amarjit Kaur, Shrimati

Amla, Shri Tirath Ram

Anandafn, Shri M.

Anjiah, Shri T.

Antulay, Shri A. R.

Arif, Shri Mohammed Usman

Asthantl Shri K. B.

Bagaitkar, Shri Sadasiv

Baleshwar Dayal, Shri

Balram Das, Shri

Banerje?, Shri B. N.

◆For text of amendments, vide cols. 23?) supra.



Banerjee, Shri Jaharlal Bansi Lai, Shri ' Barman, Shri Prasenjit Basavaraj, Shri H. R. Bhabhda, Shri Harishanker Bhagat, Shri Ganapat Hiralal Bhagwan Din, Shri Bhandari, Shri Sunder Singh Bhattacharya, Shri G. C. Bhim Raj, Shri Bose, Shrimati Pratima Chandrasekhar, Shrimati Maragatham Chatterjee, Shri Pranab Chattopadhyaya, Prof. D. P. Chaurasia, Shri Shivdayal Singh Das, Shri Bipinpal Desai, Shri R. M.

Deshmukh, Shri Bapuraoji Marotraoji Dhulap, Shri Krishnarao Narayan Dinesh Chandra, Shri Swami Dinesh Singh, Shri Dutt, Dr. V. P.

Dwivedi, Shri Devendra Nath

Gadgil, Shri Vithal

Goswami, Shri Dinesh

Goswami, Shri Sriman Prafulla

Gupta, Shri Gurudev

Gupta, Shri Ram Lakhan Prasad

Habibullah, Shrimati Hamida

Hegde, Shri Ramakrishna

Imam, Shrimati Aziza

Jagbir Singh, Shri

Jain, Shri Dharamchand

Jamuna Devi, Shrimati

Janardhanam, Shri A. P.

Jha, Shri Kamalnath

Jha, Shri Shiva Chandra

Joshi, Shri Jagannathrao

Joshi, Shri Jagdish

Joshi, Shri Krishna Nand

Joshi, Shrimati Kumudbhen Mani-

shanker Kadershah, Shri

M. Kakati, Shri Robin

1134 RS—9.

Kalaniya, Shri Ibrahim Kamble, Prof. N. M. Kameshwar Singh, Shri Kesri, Shri Sitaram Khan, Shri Ghayoor AH Khan, Shri Khurshed Alam Khan, Shri Maqsood Ali Khan, Shrimati Ushi Khaparde, Shrimati Saroj Khobragade, Shri Bhaurao Devaji Krishna, Shri M. R. Krishnan, Shri E. R. Krishnan, Shri U. R.

Kureel, Shri Piare Lall *urf* Piare Lall

Talib Lakhan Singh, Shri Lakshmanan, Shri G.

Lokesh Chandra, Dr. Lotha, Shri Khyomo

Madhavan, Shri K. K. Mahanti, Shri Bhairab

Chandra Mahavir, Dr. Bhai Mahida, Shri

Harisinh Bhagubava Majhi, Shri Dhaneswar

Makwarta, Shri Yogendra Mallick, Shri

Harekrushna Manhar, Shri Bhagatram Maran,

Shri Murasoli Mathur, Shri Jagdish Prasad

Maurya, Shri Buddha Priya Mehrotra, Shri

Prakash Menon, Shrimati Lee] a Damodara

Menon, Shri Viswanatha Mishra, Shri Kalraj

Mishra, Shri Mahendra Mohan Mittal, Shri Sat

Paul Mohanty, Shri Surendra Mohinder Kaur,

Shrimati Mondal, Shri Ahmad Hossain

Moopnar, Shri G. K. Morarka, Shri R. R.

Mukherjee, Shrimati Kanak Mukherjee, Shri

Pranab Munusamy, Shri V. P.

Muthu, Dr. (Shrimati)- Sathiavani  
 Naidu, Shri N. P. Chengalraya  
 Naik, Shri L. R.  
 Nanda, Shri Narasmgha Prasad  
 Narendra Singh, Shri  
 Nigam, Shri Ladli Mohan  
 Nizam-ud-Din, Shri Syed  
 Oza, Shri Ghanshyambhai  
 Pande, Shri Bishambhar Nath  
 Parbhu Singh, Shri  
 Parikh, Prof. Ramlal  
 Patel, Shri Manubhai  
 Pathak, Shri Ananda  
 Patil, Shri Deorao  
 Pattanayak, Shri Bhabani Charan  
 Poddar, Shri R. K.  
 Pradhan, Shri Patitpaban  
 Prem Manohar, Shri  
 Rai, Shri Kalp Nath  
 Raju, Shri V. B.  
 Ramamurti, Shri P.  
 Rameshwar Singh, Shri  
 Ranga, Prof. N. G.  
 Rao, Shri V. C. Kesava  
 Ratan Kumari, Shrimati  
 Ray, Shri Rabi  
 Razack, Shrimati Noorjehan  
 Reddy, Shri B. Satyanarayan  
 Reddy, Shri K. V. Raghunatha  
 Reddy, Shri Mulka Govinda  
 Reddy, Shri R. Narasimha  
 Roshan Lai, Shri  
 Sahu, Shri Santosh Kumar  
 Saleem, Shri Mohammad Yunus  
 Samad, Shri Golangaz Mohammed-  
 husian A. Saring, Shri Leonard  
 Soloman Sarup Singh, Dr.  
 Satchidananda, Shri Schamnad, Shri  
 Hamid Ali Sezhiyan, Shri Era  
 Shahedullah, Shri Syed Shahi, Shri  
 Nageshwar Prasad Shantl Bhushan, Shri

Sharma, Shri Ajit Kumar  
 Sharma, Shri Anant Prasad  
 Sharma, Shri Kishan Lai  
 Shas;ri, Shri Bhola Paswan  
 Siddhu, Dr. M. M. S.  
 Singh, Shri Bishma Narain  
 Singh, Shri J. K. P. N.  
 Singh, Shri Ng. Tompok  
 Singh Shrimati Pratibha  
 Singh, Shri Shiva Nandan  
 Sinha, Dr. Ramkripal  
 Sisod.a, Shri Sawaisingh  
 Soni, Shrimati Ambika  
 Sujar Singh. Shri  
 Sultai, Shrimati Maimoona  
 Sultan Singh, Shri  
 Surendra Mohan, Shri  
 Swu, Shri Scato  
 Tama, Shri Ratan  
 Tctu, Shri Gian Chand  
 Trilohi Singh, Shri  
 Tripathi, Shri Kamlapati  
 Vaishimpayen, Shri S. K.  
 Varmii, Shri Mahadeo Prasad  
 Venigilla Satyanarayana, Shri  
 Venka, Shri V.  
 Venkatrao, Shri Chadalavada  
 Warjr, Shri Alexander  
 Yadav, Shri Ramanand  
 Yadav, Shri Shyam Lai

NOES—2

Bhattacharjee, Prof. Sourendra  
 Chakraborty, Shri Amarprosad

*The motion was 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 ai-d voting.*

*Clause 40—Amendment of article 358*

MR. CHAIRMAN. We shall now take up clause 40. There is one amendment, amendment No. 58 by Shri Bhupesh Gupta.

SHRI BHUPESH GUPTA: Sir, I beg to move:

58. "That at page 11, for clause 40, the following clause be substituted, namely:—

'40. Article 358 of the Constitution shall be omitted'."

[The amendment also stood in the names of Shri Kalyan Roy, Shri Bir Chandra Deb Burman, Shri Bhola Prasad, Shri Lakshmana Mahapatro, Shri P. Ramamurti, Shri Harkishan Singh Surjeet, Shri Viswanatha Menon, Shrimati Kanak Mukherjee, Prof. Sourendra Bhattacharjee and Shri Amarprosad Chakraborty.]

Sir, I do not wish to make any speech. These are deletions. These are omissions. You can put it to vote. Voice vote will be sufficient.

*The question was proposed.*

MR. CHAIRMAN: The question is:

58. "That at page 11, for clause 40, the following clause be substituted, namely:—

'40. Article 358 of the Constitution shall be omitted'."

*The motion was negatived.*

Clause 41—Amendment of article 359

MR. CHAIRMAN: We shall now take up clause 41. There is one amendment, amendment No. 59 by Shri Bhupesh Gupta.

SHRI BHUPESH GUPTA; Sir, I beg to move:

59. "That at pages 11 and 12, for clause 41, the following clause be substituted, namely:—

'41. Article 359 of the Constitution shall be omitted'."

[The amendment also stood in the names of Shri Kalyan Roy, Shri Bir Chandra Deb Burman, Shri Bhola Prasad, Shri Lakshmana Mahapatro, Shri P. Ramamurti, Shri Harkishan Singh Surjeet, Shri Viswanatha Menon, Shrimati Kanak Mukherjee, Prof. Sourendra Bhattacharjee and Shri Amarprosad Chakraborty.]

*The question was proposed.*

Sir, this is another Emergency clause which should go.

MR. CHAIRMAN: The question is:

59. "That at pages 11 and 12, for clause 41, the following clause be substituted, namely:—

'41. Article 359 of the Constitution shall be omitted'."

*The motion was negatived.*

Clause 42—Amendment of article 368

MR. CHAIRMAN: We shall now take up clause 42. There is one amendment, amendment No. 60 by Shri Bhupesh Gupta.

SHRI BHUPESH GUPTA; Sir, I beg to move:

60. "That at page 12, for clause 42, the following clause be substituted, namely:—

'42. Article 360 of the Constitution shall be omitted'."

[The amendment also stood in the names of Shri Kalyan Roy, Shri Bir Chandra Deb Burman, Shri Bhola Prasad, Shri Lakshmana Mahapatro, Shri P. Ramamurti, Shri Harkishan Singh Surjeet, Shri Viswanatha Menon, Shrimati Kanak Mukherjee, Prof. Sourendra Bhattacharjee and Shri Amarprosad Chakraborty.]

1 *The amendment also stood in the names of Shri Kalyan Roy, Shri Bir*

Sir, this is the last of the Emergency clauses which should also go.

*The question was proposed.*

MR. CHAIRMAN: The question is:

60. "That at page 12, for clause 42, the following clause shall be substituted, namely:—

'42. Article 360 of the Constitution shall be omitted'."

*The motion was negatived.*

MR. CHAIRMAN: Now, clause 43. There are no amendments.

Clause. 44:—Amendment of article 366

SHRI S. K. VAISHAMPAYEN: Sir, I do not move my Amendment No. 61.

PROF. SOURENDRA BHATTACHARJEE: Sir, I move:

62. "That at page 13, lines 6 and 7, for the words 'in which there is equal respect for all religions; and',

[Prof. Sourendra Bhattacharjee]

the words 'in which the State administration as such is not identified with any particular religions denomination and there is equal respect for all religions; and' be substituted."

69. "That at page 13, line 10, after the words 'political and economic', the words 'and in which there is public social ownership of all means of production, distribution and exchange through the State and through cooperative or collective forms of social organisation' be inserted."

(The amendments also stood in the name of Shri Amarprosad Chakra-borty)

SHRI BHUPESH GUPTA; Sir, I move:

63. "That at page 13, lines 6 and 7, for the words 'there is equal respect for all religions; and' the words 'all citizens irrespective of their religious beliefs or not shall have equal rights and opportunities; and' be substituted."

66. "That at page 13, for lines 8 to 10, the following be substituted, namely: —

'(2) the expression "REPUBLIC" as qualified by the expression "SOCIALIST" means a republic in which there shall be social ownership of all means of production, distribution and exchange, and there shall be freedom from all forms of exploitation, social, political and economic.'

(The amendments also stood in the names of Shri Kalyan Roy, Shri Bir Chandra Deb Burman, Shri Bhola Prasad and Shri Lakshmana Mahapatro.)

SHRI SYED SHAHEBULLAH (West Bengal); Sir, I move:

64. "That at page 13, lines 6-7, for the words 'there is equal respect for all religions', the words 'there is equal respect for right to belief in, and practice of, any religion, and freedom to pursue one's faith' be substituted."

(The amendment also stood in filename of Shri Nageshwar Prasad Shahi)

SHRI VTURASOLI MARAN: Sir, I move:

65. "That at page 13, line 7, after the word 'and' the words 'a republic which shall make no law respecting an establishment of religion or prohibiting the free exercise thereof, where neither any religious test shall be required as a qualification for any office nor any discrimination shall be made on grounds of religion and' be inserted."

SHRI [C. V. RAGHUNATHA REDDY : Sir I move :

67. "That at page 13, for lines 8 to 10, the following be substituted, namely: —

'(2) The expression 'REPUBLIC' as qualified by the expression 'SOCIALIST' means a Republic in which the means of production and distribution and financial institutions are owned and controlled by the State, and all forms of exploitation, social, political and economic for private benefit are eliminated and a society based on the principles of scientific socialism is created.'

(The amendment also stood in the name of Shri Mulka Govinda Reddy.)

SHRI P. RAMAMURTI: Sir, I move:

68. "That at page 13, line 10, after the words 'political and economic' the words 'and in which there is public ownership of all means of production, distribution and exchange' be inserted."

(The amendment also stood in the names of Shri Harkishan Singh Surjeet, Shri Viswanatha Menon and Shrimati Kanak Mukherjee.)

The questions were put and the motions were negatived.

MR. CHAIRMAN: The question is:

"That clause 44 stand part of the Bill."

*The House divided.*

MR. CHAIRMAN: Ayes—86; Noes— 198.

AYES.—86 Advani, Shri  
Lai K. Asthana, Shri K. B. Bagaitkar, Shri  
Sadasiw Baleshwar Dayal, Shri Bhabhda,  
Shri Harishanker Bhagat, Shri Ganapat  
Hiralal Bhandari, Shri Sunder Singh  
Bhattacharjee, Prof. Scurendra  
Bhattacharya, Shri G. C. Chakraborty, Shri  
Amarprosad Chatterjee, Shri Pranab  
Chaurasia, Shri Shivdayal Singh Dinesh  
Singh, Shri Gupta, Shri Ram Lakhan  
Prasad Hegde, Shri Ramakrishna Jagbir  
Singh, Shri Jain, Shri Dharamchand  
Jamuna Devi, Shrimati Janardhanam, Shri  
A. P. Jha, Shri Shiva Chandra Joshi, Shri  
Jagannath Rao Joshi, Shri Jagdish  
Kadershah, Shri M. Kakati, Shri Robin  
Khan, Shri Ghayoor Ali Khobragade, Shri  
Bhaurao Devaji  
Krishna, Shri M. R.  
Krishnan, Shri E. R.  
Krishnan, Shri U. R.  
Kunjachen, Shri P. K. Lakhan Singh, Shri  
Lakshmanan, Shri G. Lot ha, Shri  
Khyotno Mahanti, Shri Bhairab Chandra  
Mahavir, Dr. Bhai Majhi, Shri Dhaneswar  
Mallick, Shri Harekrushna Maran, Shri  
Murasoli Mathur, Shri Jagdisn Prasad  
Menon, Shri Viswanatha Mishra, Shri  
Kalraj Mohanty, Shri Surendra Mohinder  
Kaur, Shrirr.Eiti

Morarka, Shri R- R-  
Mukherjee, Shrimati Kanak  
Munusamy, Shri V. P.  
Muthu, Dr. (Shrimati) Sathiavahi  
Naidu, Shri N. P, Chsngalraya  
Narendra Singh, Shri  
Nigam, Shri Ladli Mohan  
Nizam-ud-D,in, Shri Syed.  
Oza, Shri Ghanshyambhai  
Parbhu Singh, Shri  
Paril^i, Prof. Ramlal  
Patel, Shri Manubhai  
Pathak, Shri Ananda  
Pattanayak, Shri Bhabari Charaa  
Poddar, Shri R. K.  
Pradhan, Shri Patitpaban  
Prem Manohar, Shri  
Raj an, Shri Pattiam  
Rameshwar Singh, Shri  
Ray, Shri Rabi  
Razack, Shrimati Noorjehan  
Reddy, Shri B. Satyanarayan  
Reddy, Shri R. Narasimha  
Samad, Shri Golandaz Mohammedhu-sian  
A.  
Saring, Shri Leonard Soloman Sarup  
Singh, Dr. Schamnad, Shri Hamid Ali  
Sezhiyan, Shri Era Shahi, Shri  
Nageshwar Prasad Shanti Bhushan,  
Shri Sharma, Shri Ajit Kumar Siddhu,  
Dr. M. M. S, Singh, Shri J. K. P. N.  
Singh, Shri Ng. Tompok Singh, Shri  
Shiva Nar.dan Sinha, Dr. Ramkripal  
Sujan Singh, Shri Surendra Mohan,  
Shri Swu, Shri Scato Tama, Shri  
Ratan Varma, Shri Mahadeo Prasat  
Venka, Shri V. Warjri, Shri Alexander

## NOES—88

Adivareloar, Shrimati Sushila  
 Shankar Alva, Shrimati Margaret Amarjit  
 Kaur, Shrimati Amla, Shri Tirath Ram  
 Anandam, Shri M. Anjiah, Shri T. Antulay,  
 Shri A. R. Arif, Shri Mohammed Usman  
 Balram Das, Shri Banerjee, Shri Jaharlal Bansi  
 Lai, Shri Barman, Shri Prasenjit Basavaraj,  
 Shri H. R. Bhagwan Din, Shri Bhim Raj, Shri  
 Bhola Prasad, Shri Bose, Shrimati Pratima  
 Chandrasekher, Shrimati Maragatham  
 Chattopadhyaya, Prof. D. P. Chaudhari, Shri  
 N. P. Das, Shri Bipinpal Deb Burman, Shri Bir  
 Chandra Desai, Shri R. M  
 Deshmukh, Shri Bapuraoji Marotraoji  
 Dhulap, Shri Krishnarao Narayan Dinesh  
 Chandra, Shri Swami  
 Dutt, Dr. V. P.  
 Dwivedi, Shri Devendra Nath  
 Gadgil, Shri Vithal  
 Goswami, Shri Dinesh  
 Goswami, Shri Sriman Prafulla  
 Gupta, Shri Bhupesh  
 Gupta, Shri Gurudev  
 Habibullah, Shrimati Hamida  
 Imam, Shrimati Aziza  
 Jha, Shri Kamalnath  
 Joshi, Shri Krishna Nand  
 Joshi, Shrimati Kumudben Manishan-  
 ker Kalaniya, Shri Ibrahim  
 Kamble, Prof. N. M. Kameshwar  
 Singh, Shri Kesri, Shri Sitaram  
 Khan, Shri Khurshed Alam Khan,  
 Shri Maqsood Ali Khan, Shrimati  
 Ushi  
 Khaparde, Shrimati Saroj  
 Kumaran, Shri S.

Kureel, Sri Piar, Lall urf Piare Lall Talib  
 Lokesh Chandra, Dr.  
 Madhavm, Shri K. K.  
 Mahapalro, Shri Lakshmana  
 Mahida, Shri Harisinh Bhagubava  
 Makwana, Shri Yogendra  
 Manher, Shri Bhag-atram  
 Maurya Shri Buddha Priya  
 Mehrotia, Shri Prakash  
 Menon, Shrimati Leela Damodara.  
 Mishra, Shri Mahendra Mohan  
 Mittal, Shri Sat Paul  
 Mondal, Shri Ahmad Hossain  
 Moopanan, Shri G. K.  
 Mukherjee, Shri Pranab Naidu, Shri  
 N. P. Chengalraya  
 Naik, Siri L. R.  
 Pande, Shri Bishambhar Natb  
 Patil, Siri Deorao Rai,  
 Shri Kalp Nath  
 Raju, Siri V. B  
 Ranga Prof. N. G.  
 Rao, Shri V. C. Kesava  
 Ratan Kumari, Shrimati  
 Reddy, Shri K. V. Raghunatho  
 Reddy, Shri Mulka Govinda  
 Roshan Lai, Shri  
 Roy, Shri Kalyan  
 Sahu, Siri Santosh Kumar  
 Saleem, Shri Mohammad Yunus  
 SatchidE nanda, Shri  
 Shahedtllah, Shri Syed  
 Sharma, Shri Anant Prasad  
 Sharma, Shri Kishan Lai  
 Sharma, Shri Yogendra Shastri,  
 Shri Bhola Paswan Singh, Shri  
 Bishma Narain Singh, Shrimati  
 Pratibha Sinha, Shri indradeep  
 Sisodia, Shri Sawaisingh Soni,  
 Shrimati Ambika Sultan, Shrimati  
 Maimoona Sultan Singh, Shri Totu,  
 Shri Gian Chand Triloki Singh, Shri  
 Tripath, Shri Kamlapati

Vaishampayan, Shri S K. Venigalla  
Satyanarayana, Shri Venkatrao, Shri  
Chadalavada Verma, Shri Shrikant Yadav,  
Shri Ramanand Yadav, Shri Shyam Lai  
Zakaria, Dr. Rafiq

*The motion was not 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.*

Clause 45.—Amendment of article 368

SHRI B. N. BANERJEE; It appears that both the Congress Parties will turn down this clause. Therefore, what is the need of wasting the time of the House by moving the amendments?

SHRI BHUPESH GUPTA: No, that we cannot accept.

SHRI K. V. RAGHUNATHA RED-DY: Sir, I move;

71. "That at page 13, for lines 17 and 18, the following be substituted, namely: —

'(i) impairing the secular, demo  
cratic or socialist character of the  
Constitution or any of the objec  
tives of the Preamble'."

75. "That at page 13, for lines 19 and 20, the following be substituted, namely: —

'(ii) abridging or taking away the rights of citizens under Part III, except right to practise any profession or to carry on any occupation, trade or business, occurring in clause (g), of Article 19 for achieving any of the objectives mentioned in the Preamble or Directive Principles or for strengthening secular, democratic and socialist character of the Republic'."

80. "That at page 13, after line 25, the following be inserted, namely: —

'(v) altering the parliamentary system as contained in the Constitution and the responsibility of the

Council of Ministers to the Parliament and the multiple political party system'."

*(The amendments also stood in the name of Shri Mulka Govinda Reddy)*

MR. CHAIRMAN: Amendments Nos. 72, 85 and 88—not moved.

SHRI P. RAMAMURTI: Sir, I move:

73. "That at page 13, line 17 after the word 'democratic' the words 'or federal' be inserted."

*(The amendment also stood in the \ names of Shri Harkishan Singh Sur-jeet, Shri Viswanatha Menon, Shri-mati Kanak Mauherjee, and Shri Murasoli Mar an) The question was proposed SHRI DINESH GOSWAMI: Sir, I move:*

74. "That at page 13, line 17, before the word 'secular' the words 'socialist or' be inserted."

*(The amendment also stood in the names of Shri Devendra Nath Divoiedi and Shrimati Ambika Soni)*

76. "That at page 13, after line 23, the following be inserted, namely: —

'(iii) compromising the egalitarian character of this constitution; or'." SHRI DEVENDRA NATH DWIVEDI: Sir, I move:

77. "That at page 13, line 24, after the word 'judiciary' the words 'and power of judicial review' be inserted."

78. "That at page 13, after line 25, the following be inserted, namely: —

'(v) changing the Parliamentary system of Government; or

'(vi) changing the basis of Federalism; or\*.

*(The amendments also stood in the name of Shrimati Ambika Soni)*

SHRI P. RAMAMURTI: Sir, I move:

79. "That at page 13, after line 25, the following be inserted, namely: —

[Shri P. Ramamurti]

'(v) altering or impairing or affecting or abrogating the Parliamentary and Republican system of Government under this Constitution; or

(vi) affecting or abrogating the principle of collective responsibility of the Council of Ministers to the House of the People; or'."

(The amendment also stood in the names of Shri Harkishan Singh Surjeet, Shri Viswanatha Menon and Shrimati Kanak Mukherjee.)

SHRI BHUPESH GUPTA: Sir., I move.

81. "That at page 13, after line 25, the following be inserted, namely:—

'(V) imparting or weakening in any manner the Cabinet-responsible-Parliamentary system under this Constitution; or

(vi) impairing or weakening the principle of collective responsibility of the Council of Ministers to the House of the People; or'."

(The amendment also stood in the names of Shri Kalyan Roy, Shri Bir Chandra Deb Burman, Shri Bhola Prasad and Shri Lakshmana Mahapatra.)

MR. CHAIRMAN; Amendments Nos. 82 and 83—not moved.

SHRI MURASOLI MARAN: Sir I move:

84. "That at page 13,—

(i) in line 40, after the word 'poll' the words 'in each State' be inserted; and

(ii) in line 42, after the word 'poll' the words 'in each State' be inserted."

SHRI B. N. BANERJEE; I am not moving amendment No. 86. Sir, I move only amendment No. 87.

87. "That at page 14, after line 4, the following be inserted, namely—

'(7) An amendment of the Constitution approved by the People of India at a referendum under clause (4) and made in accordance with the other provisions of this article shall not be called in question in any court.'

cordance with the other provisions of this article shall not be called in question in any court.'

I reserve my right to speak on my amendment No. 87.

*The questions were proposed.*

SHRI K. V. RAGHUNATHA REEDY; I fully appreciate the feelings of my colleagues here.

MR. CHAIRMAN; The reporters are not hearing anything. Order please. They cannot take down. Order please.

SHRI K. V. RAGHUNATHA REEDY: MR. Chairman, Sir, (Interruption) If you do not want to hear my speech I can stop—this clause goes to the basic problem of the Indian Constitution and some of the basic features of the Indian Constitution for the purpose of protecting a democratic institution and also not to allow any change in the objectives mentioned in the preamble of the Constitution and the parliamentary system and the Cabinet system sought in the Preamble by any Constitutional amendment. For that there must be some guarantee. And that guarantee can only be the people of India.

We have seen in recent years how the Constitution has been amended, sometimes rightly, sometimes wrongly, very often wrongly, and the only way in which this malpractice can be prevented is to go back to the people of India as the Preamble itself says:— "We, THE PEOPLE OF INDIA

HEREBY ADOPT, ENACT AND GIVE TO OURSELVES THIS CONSTITUTION."

I note the Parliament that has given a Constitution, but it is the people of India who have given the Constitution to themselves. And if the people of India are not supreme and if sovereignty does not rest in the people of India what is the use of a Parliament and, therefore, the Parliament cannot be accepted by the people. Therefore, ultimately, it is the people who will have to decide in what manner the basic features of the



Constitution have to be adopted. The Parliament cannot do so. Therefore, Sir, as an additional guarantee, apart from the provisions that are contained in the Constitution, there are basic matter- considered in the democratic institutions such as democratic processes, the character of the country's economy. The Parliament itself is the creature of this Constitution. If the Parliament has got the right to dissolve itself, the Parliament has got the right to demolish itself within the framework of the Constitution and the people would not tolerate such a situation. If a mad person comes to power and wants to demolish the political system and the Cabinet, the Government and the responsibility of the Cabinet to this Parliament and the very democratic institution called Parliament itself, in such a case if the Parliament becomes a captive Parliament and becomes a victim of such a manipulation, then the people of India alone can be a guarantee to save such a situation under such circumstances. I do not suggest that for all the procedural matters the Parliament must go to the people. But on all basic matters Parliament must go to the people for their sanction. Therefore, the sovereignty rests with the people and they must give the sanction before a drastic change is made in the Constitution. This will be additional guarantee so that any mad man does not run amuck as far as the Constitution is concerned. Therefore, I whole-heartedly support the referendum clause.

It has been said that it is very difficult to have referendum in this country. If a turbulent country like Italy can have referendum in certain matters and if the people can exercise their vote and decide the fate of the Government and the Parliament, it is impossible to imagine, rather farcical to imagine, that the people of India cannot take a wise decision on matters concerning them in all basic matters regarding the Constitution.

SHRI P. RAMAMURTI: Sir, I do not want to argue the question. I have argued enough... (*Interruption*) I have got a right to speak. I do not want to argue this question. I have already talked about it yesterday. The only point that I want to make is that it is a very unfortunate position that in the consultations which took place between the leaders of all the parties— at that time the Congress Party was a united party; it was represented by Shri Kamalapati Tripathi, by Mr. Chavan and Dr. Syed Ahmad. All the three of them were present—after a good deal of discussion we persuaded them to accept the position. And after having accepted they did not raise the question again. They could have called a meeting and said that they had no second thoughts. They never did such a thing. This is the way in which this party has behaved. Therefore, whether any trust can be placed in that party which does not honour its own thing is a thing to be considered.

(Interruptions)

SHRI B. N. BANERJEE: Sir, my amendment is very simple. I have said that when you are associating the people with the Constitutional amendment process, you have my support. But I insist on the amendment because my support is conditional on the acceptance of this amendment, namely, that an amendment of the Constitution approved by the people of India at a referendum and made in accordance with the provisions of the article shall not be questioned in any court of law. Sir, I want our honesty to be tested, whether we consider the wisdom of the court superior to the wisdom of Parliament—and ratified by the State Legislatures and approved by the people, whom we are supposed to represent; and we loudly say that the sovereignty rests with the people. Sir, I do not accept the statement of the Law Minister that this is implicit in the article. Sir, we are not fools.

श्री कल्प नाथ राव : सभापति महोदय हमें एक बात कहनी है। वक्त मिनट। श्री राममूर्ति जी ने कहा है कि कांग्रेस पार्टी ने उस समय

[श्री कल्प नाथ राय]

समर्पण किया। मैं बताना चाहता हूँ कि जनरल कांग्रेस ने इस बात को नहीं माना है और फिर क्यों पिछली बातें करते हैं। अभी पी० राममूर्ति की पार्टी ने इस भ्रष्टाचार के मामले में समर्थन किया था हम लोगों का और फिर दो दिन के बाद जनता पार्टी के खमचे बनकर उधर मिल गये और भ्रष्टाचार की जांच नहीं हो सकी।

श्री कमला पति त्रिपाठी : श्रीमन्, राममूर्ति जी ने कुछ बातें कही हैं। उनको पता नहीं है कि इस बात का कि कांग्रेस में इस पर काफी बड़ा विरोध रहा है। हमारी पार्टी में, बकिंग कमेटी में इस पर काफी बहस हुई है। हममें बहुत से लोग रिफरेंडम के खिलाफ थे। अब भी जो कांग्रेस एस है उसमें बहुत से लोग, मान्यवर, रिफरेंडम के खिलाफ हैं। बहुत से लोग पक्ष में हैं जैसे रचनाय रेडी पक्ष में है और बहुत से लोग खिलाफ हैं। हम लोग इसके खिलाफ थे और हमारी पार्टी घलग हुई। तब हमने निश्चित किया कि हम मुखालफत करेंगे, हमने मुखालफत की। मुझे खेद है कि इस बात का कि राममूर्ति जैसे सीनियर श्वासी इस तरह का आक्षेप, इतनी बड़ी पार्टी के ऊपर लगाते हैं, जिसका कि प्रमुख रोल विरोधी दल में है। हम बैठे हुए हैं और यह गलत बातें कहते हैं।

SHRI BHUPESH GUPTA: Sir, I do not wish to go into the details. The only thing is that, while supporting referendum, I want to lay stress on the fact that the Cabinet-cwm-Parliamentary system should also be covered under it. That is my amendment. And the principle of collective responsibility of the Council of Ministers to the House of the People, should also be enshrined as one issue on which referendum will have to be sought. These are the two things. As far as the other things are concerned, I do not wish to say much. I would not enter into any controversy. The only thing I can say is that the referendum item was written by Shri Y. B. Chavan in his own hand-writing—those are past things—to the Prime Minister at the meeting with the Opposition leaders. We thought that we had come to an agreement. But people are liable to change their views. They changed their views. Let us take it as it is. But, Sir, I would like the Government to accept the Cabinet-cwm-Parliamentary system as a point of referendum like the question of secular and democratic character of the State. Sir, in Ceylon,

changes have taken place suddenly— from the Parliamentary system to the Presidential system. Here everybody knows that there are people in the Government who stand for the Presidential system. Mr. Charan Singh, even after becoming the Minister, gave an interview and told that he preferred the presidential system. Mrs. J Chandrawati, the Janata Party leader, made a public statement that she wants the presidential system. We want protection. We want Parliament-cum-Cabinet system to be protected, and also we want collective responsibility of the Council of Ministers to the House of the People protected.

SHRI MURASOLI MARAN: My amendment is to make the amendment process rigid by making every State to have a say in this process. According to my amendment, the referendum should have a majority in every one of the States. That means, a Muslim majority State like Jammu & Kashmir can repel an imposition of the religion of the majority of the States of India. In the same way, Sir, a State like Tamil Nadu can repel the measures to impose Hindi language. That is why, Sir, according to that principle, I want to give a veto power to every one of the States. Then only you can clear the doubts and fears of the South Indians.

SHRI DINESH GOSWAMI: Mr. Ramajmurti made a point regarding the statement taken by my party during the consultation. It is not a very healthy precedent to bring to the notice of the House the discussions that took place outside. Mr. Chavan is not a Member of this House. It is improper on his part to take the name of Mr. Chavan. His party could have raised it in the other House; and Mr. Chavan could have replied to the point.

So far as our party is concerned, this question of referendum was discussed threadbare in the working committee, in the executive committee and in the general body, and then we went with a proposal to the GOT-

Government asking it to delink the question of referendum from this Bill, and after delinking it, to bring a separate Bill, many of the lacunae to which Members have expressed their views. Therefore, Sir, I think, on behalf of my party I should set the record straight. I have pointed out various lacunae. The Janata Party considers that if the secularism and the democratic characters are impaired, there should be a referendum, and if the socialist character is impaired, they are not for a referendum. My point is that the egalitarian character of the Constitution in the present context of the Indian economy, with 80 per cent of the people living below the poverty line, the most important concept, the most important criteria to ask for a referendum, and the thing which should be safeguarded is that no Government can touch the egalitarian character of the Constitution. Sir, we also have technical difficulties. I am not going into the details. Mr. Shanti Bhushan knows that the eminent jurist, Justice Mathews, has written an article in Hindi where he has shown the entire fallacy of the amendment. Shri Shanti Bhushan has brought before the House. As time does not permit; I am not going for a detailed discussion on it. I thought that I should say this to put the record straight.

SHRI SHANTI BHUSHAN.- I have nothing to say because I have already said enough so far as this question of referendum is concerned,

MR. CHAIRMAN: The question is:

71. "That at page 13, for lines 17 and 18, the following be substituted, namely:—

"(i) impairing the secular, democratic or socialist character of the Constitution or any of the objectives of the Preamble'."

75. "That at page 13, for lines 19 and 20, the following be substituted, namely:—

'(ii) abridging or taking away the rights of citizen\* under I

Part HI, except right to practise any profession or to carry on any occupation, trade or business, occurring in clause (g), of Article 19 for achieving any of the objectives mentioned in the secular, democratic and socialist character of the Republic'."

80. "That at page 13, after line 25, the following be inserted, namely:—

\* (v) altering the parliamentary system as contained in the Constitution and the responsibility of the Council of Ministers to the Parliament and the multiple political party system'."

The motions were negatived.

MR. CHAIRMAN: The question is:

73. "That at page 13, line 17, after the word 'democratic' the words 'or federal' be inserted."

The motion was negatived.

MR. CHAIRMAN: The question is:

74. "That at page 13, line 17, before the word 'secular' the words 'socialist or be inserted.'"

76. "That at page 13, after line 23, the following be inserted, namely:—

'(iii) compromising the egalitarian character of this Constitution; or'."

The motions were negatived. MR.

CHAIRMAN: The question is:

77. "That at page 13, line 24, after the word 'judiciary' the words 'and power of judicial review' be inserted."

78. "That at page 13, after line 25, the following be inserted, namely:—

'(v) changing the Parliamentary system of Government; or

(vi) changing the basis of Federalism; or'."

The motions were negatived.

MR. CHAIRMAN: The question is:

79. "That at page 13, after line 25, the following be inserted, namely: —

'(v) altering or impairing or affecting or abrogating the Parliamentary and Republican system of Government under this Constitution; or

(vi) affecting or abrogating the principle of collective responsibility of the Council of Ministers to the House of the People; or"

*The motions were negatived.*

MR. CHAIRMAN: The question is:

81. "That at page 13, after line 25 the following be inserted, namely: —

'(v) impairing or weakening in any manner the Cabinet-aim-Parliamentary system under this Constitution; or

(vi) impairing or weakening the principle of collective responsibility of the Council of Ministers to the House of the People; or"

*The motion was negatived.*

MR. CHAIRMAN: The question is:

84. "That at page 13,—

(i) in line 40, after the words 'poll' the words 'in each State' be inserted; and

(ii) in line 42, after the word 'poll' the words 'in each State' be inserted."

*The motion was negatived.*

MR. CHAIRMAN: Amendment No 87. Mr. Banerjee, are you pressing it?

SHRI B. N. BANERJEE: Yes.

MR. CHAIRMAN: The question is:

87. "That at page 14, after line 4, the following be inserted, namely: —

'(7) An amendment of the Constitution approved by the People of India at a referendum under clause (4) and made in

accordance with the other provisions of this article shall be called in question in a court "

Those in favour may please say "Aye".

SOME HON. MEMBERS: Aye.

MR. CHAIRMAN: Those against may please say "No".

SOME HON. MEMBERS: No.

MR. CHAIRMAN: I think that "Noes" have it...

SHRI B. N. BANERJEE: The "Ayes" have it. I want a division, Sir, even one Member is entitled to call for a division and you will have to order a division. Let me see how many respect the judgment of the people, how many respect the wisdom of the people. And let it be recorded.

MR. CHAIRMAN: Mr. Banerjee, now the slight difficulty is, the machine...

SHRI B. N. BANERJEE: I know it. I want to have it recorded as to how many believe in the wisdom of the court in preference to the wishes of the people.

MR. CHAIRMAN: I will take voice vote.

SHRI B. N. BANERJEE: I press for a division. You have to order a division under the rules.

MR. CHAIRMAN: The only difficulty is, after two votings, we will have to go to the Lobby and take all the trouble. Therefore, I am asking if I take voice vote, will you agree?

SHRI B. N. BANERJEE: Sir, if the House wishes that there should be no division, as one who has served the House for many years, I would not press for it.

*The motion was negatived.*

MR. CHAIRMAN: Now, the question is;

"That clause 45 stand part of the Bill".

*The Rouse divided,*

MR. CHAIRMAN; Ayes—91; Ndes—

AYES—91 dvani Shri  
Lai K-sthana, Shri K. B. agaitkar, Shri  
Sadasiv aleshwar Dayal, Shri tiabhda,  
Shri Harishanker dagat, Shri Ganapat  
Hirala^ handari, Shri Sunder Singh  
tiattacharjee, Prof. Sourendra  
nattacharya, Shri G. C. hola Prasad,  
Shri hakraborty, Shri Amarprosad  
hatterjee, Shri Pranab haurasia, Shri  
Shivdayal Singh eb Burman, Shri Bir  
Chandra inesh Singh, Shri upta, Shri  
Bhupesh upta, Shri Ram Lakhan  
Prasad egde, Shri Rarr.akrishna agbir  
Singh, Shri amuna Devi, Shrimati la,  
Shri Shiva Chandra jshi, Shri  
Jagannath Rao  
ashi, Shri Jagdish  
akati, Shri Robin  
han, Shri Ghayoor Ali  
Jian, Prof. Rasheeduddin  
ihobragade, Shri Bhaurao Devaji  
Irishna, Shri M. R.  
Irishman, Shri U. R.  
[umaran, Shri S.  
lunjachen, Shri P. K.  
.akhan Singh, Shri  
akshmanan, Shri G.  
,otha, Shri Khyomo  
lahanti, Shri Bhairab Chandra  
lahapatro, Shri Lakshmana  
lahavir, Dr. Bhai  
Jajhi, Shri Dhanes^ar

Mallick, Shri Harekrushna  
Mar an, Shri Murasoli  
Mathur, Shri Jagdish Prasad  
Menon, Shri Viswanatha  
Mishra, Shri Kalraj  
Mohanty, Shri Surendra  
Mohinder Kaur, Shrimati  
Morarka, Shri R. R.  
Mukherjee, Shrimati Kanak  
Munusamy, Shri V. P.  
Naidu, Shri N. P. Chengalraya  
Narendra Singh, Shri  
Nigam, Shri Ladli Mohan  
Nizam-ud-Din, Shri Syed  
Muthu Dr. (Shrimati) Sathiavan  
Oza Shri Ghanshyambhai  
Parbhu Singh, Shri  
Parikh, Prof. Ramlal  
Patel, Shri Manubhai  
Pathak, Shri Ananda  
Pattanayak, Shri Bhabani Charan  
Poddar, Shri R. K.  
Pradhan, Shri Patitpaban  
Prem Manohar, Shri  
Raj an, Shri Pattiam  
Ramamurti, Shri P.  
Rameshwar Singh, Shri  
Ray, Shri Rabi  
Reddy, Shri B. Satyanarayan  
Reddy, Shri K. V. Raghunatha  
Samad, Shri Golandaz Mohammed-  
husian A. Saring, Shri Leonard  
Soloman Sarup Singh, Dr. Sezhiyan>  
Shri Era Shahedullah, Shri Syed Shahi,  
Shri Nageshwar Prasad Shanti Bhushan,  
Shri Sharma, Shri Ajit Kumar Sharma,  
Shri Yogendra Siddhu, Dr. M. M. S.  
Singh, Shri J. K. P. N.

Singh, Shri Ng. Tompok Singh, Shri  
Shiva Nandan Sinha, Shri Indradeep  
Sinha, Dr. Ramkripal Sujan Singh, Shri  
Surendra Mohan, Shri Surjeet, Shri  
Harkishan Singh

Swu, Shri Scato

Tame, Shri Ratan

Varma, Shri Mahadeo Prasad

Venka, Shri V.

Warjrij Shri Alexander

NOES—86

.Adivarekar, Shrimati Sushila Shankar

.Alva, Shrimati Margaret

Amarjit Kaur, Shrimati

Amla, Shri Tirath Ra<sub>m</sub>

Anandam, Shri M.

Anjiah, Shri T.

Antulay, Shri A. R.

Arii, Shri Mohammed Usman

Balram Das, Shri

Banerjee, Shri Jaharlal

Barman, Shri Prasenjit

Basavaraj, Shri H. R.

Bhagwan Din, Shri

Bhim Raj, Shri

Bose, Shrimati Pratima

Chandrasekhar, Shrimati Maragatham

Chattopadhyaya, Prof. D. P.

Das, Shri Bipinpal

Desai, Shri R. M.

Deshmukh, Shri Bapuraoji Marotraoji

Dhulap, Shri Krishnarao Narayan

Dinesh Chandra, Shri Swami

Dutt, Dr. V. P.

Dwivedi, Shri Devendra Nath

Gadgil, Shri Vithai

Goswami, Shri Dinesh

Goswami, Shri Sriman Prafulla

Gupta, Shri Gurudev

HabibuHah, Shrimati Hamida

Imam, Shrimati Aziza Jha, Shri

Kamalnath Joshi, Shri Krishna

Nand

Joshi, Shrimati Kumudben Manishan-ker

Kalaniya, Shri Ibrahim

Kamble, Prof. N. M.

Kameshwar Singh, Shri

Kesri, Shri Sitaram

Khan, Shri Khurshed Alam

Khan, Shri Maqsood Ali

Khan, Shrimati Ushi

Khaparde, Shrimati Saroj

Kureel, Shri Piare Lall *urf* Piare Lai

Talib Lokesh Chandra, Dr. Madhavan, Shri

K. K. Mahida, Shri Harisinh Bhagubava

Makwana, Shri Yogendra Manhar, Shri

Bhapatram Maurya, Shri Buddha Priya

Mehrotra, Shri Prakash Menon, Shrimati

Leela Damodara Mishra, Shri Mahendra

Mohan Mittal, Shri Sat Paul Mondal, Shri

Ahmad Hossain Mooponar, Shri G. K.

Mukherjee, Shri Pranab Naik, Shri L. R.

Nanda, Shri Narasingha Prasad Pande,

Shri Bishambhar Nath Patil, Shri Deorao

Rai, Shri Kalp Nath Raju, Shri V. B.

Ranga, Prof. N. G. Rao, Shri V. C.

Kesava Ratan Kumari, Shrimati Reddy,

Shri Mulka Govinda Roshan Lai, Shri

Sahu, Shri Santosh Kumar Saleem, Shri

Mohammad Yunus Satchidananda, Shri

Sharma, Shri Anant Prasad Sharma, Shri

Kishan Lai Shastri, Shri Bhola Paswan

Singh, Shri Bhishma Narain Singh,

Shrimati Pratibha

Sisodia, Shri Sawaisingh Soni, Shrimati Ambika Sultan, Shrimati Maimoona Sultan Singh, Shri Totu, Sri Gian Chand Triloki Singh, Shri Tripathi, Shri Kamlapati Vaishampayan, Shri S. K. Venigalla Satyanarayana, Shri Venkatrao, Shri Chadalavada Yadav, Shri Ramanand Yadav, Shri ShyHm Lai

*The motion was not 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.*

MR. CHAIRMAN: We will now go to the next clause Clause 46. There are no amendments to this Clause. So we proceed to Clause 47.

*Clause 47—Amendment of the Seventh Schedule*

MR. CHAIRMAN: There are 11 amendments. Mr. Vaishampayan, are you moving your amendments, 89, 93 and 98?

SHRI S. K. VAISHAMPAYEN (Maharashtra): No, Sir, I am not moving them.

MR. CHAIRMAN: Amendment Nos. 92 and 96 in the name of Shri Pranab Mukherjee. These are negative amendments. Then, amendments Nos. 94 and 97 in the name of Mr. Dwivedi...

SHRI DEVENDRA NATH DWIVEDI; No, Sir, I am not moving them.

MR. CHAIRMAN; Mr. P. Rama-murti, are you moving your amendments?

SHRI P. RAMAMURTI: Sir, I move:

90. "That at page 14, after line 19, the following be inserted, namely:—

'(iia) for entry 3, the following entry shall be substituted, namely:—

"3. Administration of justice; constitution and organisation of all courts except the Supreme Court and the High Courts; Officers and servants of the High Courts; procedure in rent and revenue courts; fees taken in all courts except the Supreme Court." "

95. "That at page 14, for lines 32 to 38, the following be substituted, namely: —

'(i) entry 11A shall be omitted.' "

*(The amendments also stood in the names of Shri Harkishan Singh Surjeet, Shri Vishwanatha Menon and Shrimati Kanak Mukherjee.)*

SHRI BHUPESH GUPTA: Sir, I move:

91. "That at page 14, lines 20 to 24 be deleted."

*(The amendments also stood in the names of Shri Kalyan Roy, Shri Bir Chandra Deb Burman, Shri Bhola Prasad, Shri Lakshmana Mahapatro, Shri Devendra Nath Dwivedi, Shrimati Ambitalka Soni, Shrimati Leela Damo-dara Menon and Shri Jaharlal Banerjee.)*

SHRI JAHARLAL BANERJEE (West Bengal): Sir, I move;

99. "That at page 14, for line 42, the following be substituted, namely: —

'25. Education, including universities, subject to the provisions of entries 63, 64, 65 and 66 of List I; vocational and technical training of labour.' "

*(The amendments also stood in the names of Shri Devendra Nath Dwivedi, Shrimati Ambika Soni and Shrimati Leela Damodara Menon.)*

SHRI SHANTI BHUSHAN; Sir, I move:

104. "That at page 14, lines 28, 29 and 30 be deleted."

105. "That at page 14, lines 32 to 38 be deleted."

*The questions were proposed.*

MR. CHAIRMAN: The question is:

90. "That at page 14, after line 19, the following be inserted, namely:—

(ii) for entry 3, the following entry shall be substituted, namely:—

"3. Administration of justice; constitution and organisation of all courts except the Supreme Court and the High Courts; Officers and servants of the High Courts; procedure in rent and revenue courts, fees taken in all courts except the Supreme Court".

*The motion was negated.*

MR. CHAIRMAN: The question is:

95. "That at page 14, for lines 32 to 38, the following be substituted, namely:—

(i) entry 11A shall be omitted."

*The motion was negated. 9 P.M.*

SHRI BHUPESH GUPTA: On this amendment I want division. I want education to remain in the Concurrent List.

SHRI P. RAMAMURTI: The original amendment is that education should be taken away from the Concurrent List. Therefore, Bhupesh can oppose it.

SHRI SHANTI BHUSHAN: In this clause, apart from education and forest, there are other changes also. So far as education and forest are concerned, if amendments 92 and 96 are taken together, that will serve the purpose.

SHRI BHUPESH GUPTA: They cannot be taken together. I want education to remain in the Concurrent List and I want forest in the State List.

SHRI PRANAB MUKHERJEE: Amendments 92 and 96 are negative amendments.

SHRI SHANTI BHUSHAN: It is not merely confined to education and forest. There are other things such as deployment of police force, army, etc. All these are in clause 47. You have to have your amendment voted.

SHRI PRANAB MUKHERJEE: Amendments 92 and 96 are to delete clause 47.

SHRI SHANTI BHUSHAN: No.

MR. CHAIRMAN: Shall I put 92 and 96 together to vote?

SHRI DINESH SINGH (Uttar Pradesh) : Voice vote will do.

SHRI BHUPESH GUPTA: What about 91? What you say is not clear. This is not a negative amendment. I do not want deletion of the whole thing. Amendment 91 should be separately put to vote. You are confusing the whole thing. I do not know why this confusion. Clause 47 speaks of List I and List II. All these things are there. We are not asking for the deletion of the entire clause. We are asking "Education, including universities, subject to the provisions of entries 63, 64, 65 and 66 of List I and entry 25 of List III" to be deleted. That particular clause should go.

SHRI B. N. BANERJEE: You have to put Bhupesh Babu's amendment first and then Shri Pranab Mukherjee's amendments.

MR. CHAIRMAN: The question is:

91. "That at page 14 lines 20 to 24 be deleted."

*The motion was negated.*

SHRI PRANAB MUKHERJEE: My amendment No. 92 should be separately put to vote.



MR. CHAIRMAN: Now I put amendment No. 92 of Mr. Pranab Mukherje<sub>e</sub> to vote.

The question is:

92. "That at page i4, lines 20 to 27 b<sub>e</sub> deleted."

*The motion was negatived.*

SHRI BHUPESH GUPTA: It cannot be done like that. I protest against it. I protest against it because it deals with "Forests". I am prepared to vote for "Education" to be in the Concurrent List. But I am not prepared to vote for "Forests" being in the Concurrent List. Therefore, I have been suggesting that amendment No. 91 should be put to vote first and separately.

MR. CHAIRMAN: I have already put it to vote.

SHRI BHUPESH GUPTA: You cannot do like that. You cannot just force me to accept something which I do not want "Forests" I wanted in the State List and I wanted "Education" to be retained i<sub>n</sub> the Concurrent List. I have been saying it again and again. I do not know how you say that it should be together. You see the amendment; the lines are like that. I cannot understand this and we cannot vote for it.

*(Interruptions)*

SHRI P. RAMAMURTI: I think you want a Division on that, Mr. Bhupesh Gupta. But it has been put to vote.

*(Interruptions)*

SHRI DINESH SINGH: All that Mr. Bhupesh Gupta wants is a Division only.

SHRI P. RAMAMURTI: Sir, amendment No. 91 has been put to vote. But Mr. Bhupesh Gupta wants a Division.

SHRI BHUPESH GUPTA: Yes, I want a Division.

SOME HON. MEMBERS: All right.

MR. CHAIRMAN: Once again I am putting amendment No. 91 to vote.

The question is;

91. "That at page 14, lines 20 to 24 be deleted."

*The House divided.*

MR. CHAIRMAN: Ayes—13; Noes—156.

AYES—13 Bhola Prasad, Shri Deb Burman Shri Bir Chandra Dhulap, Shri Krishnarao Narayan Gupta, Shri Bhupesh Khan, Prof. Rasheeduddin Kumaran, Shri S. Mahapatro, Shri Lakshmana Muthu, Dr. (Shrimati) Sathiavani Ramamurti, Shri P. Reddy, Shri K. V. Raghunatha Sharma, Shri Yogendra Sinha, Shri Indradeep Vai>hampayen, Shri S. K.

NOES 156 Adivarekar, Shrimati Sushila Shankar Advani, Shri Lai K. Alva, Shrimati Margaret Amarjit Kaur, Shrimati Amla, Shri Tirath Ram Anandam, Shri M. Anjiah, Shri T. Antulay, Shri A. R. Arif, Shri Mohammed Usman Asthana, Shri K. B. Baleshwar Dayal, Shri Balram Das, Shri Banerjee, Shri Jaharlal Barman, Shri Prasenjit Basavaraj, Shri H. R. Bhabhda, Shri Harishanker Bhagat, Shri Ganapat Hiralal Bhagwan Din, Shri

Bhandari, Shri Sunder Singh  
 Bhattacharjee, Prof. Sourendra  
 Bhattacharya, Shri G. C. Bhim Raj,  
 Shri Bose, Shrinati Pratima  
 Chakraboity, Shri Amarprosad  
 Chandrasekhar, Shrimati Maragatham  
 Chatterjef, Shri Pranab Chattopadhyaya,  
 Prof. D. P. Das, Shri Bipinpal  
 Desai, Sh. fi R. M. Bapuraoji Marotraoji  
 Deshmukh, Shri Bapuraoji Marotraoji  
 Dinesh Chandra, Shri Swami  
 Dinesh Singh, Shri  
 Dutt, Dr. V. P.  
 Dwivedi, Shri Devendra Nath  
 Gadgil, Shri Vithal  
 Goswami, Shri Srimal, prafulla  
 Gupta, Shri Gurudev  
 Gupta, Shri Ram Lakhan Prasad  
 Habibullah, Shrimati Hamida  
 Hegde, Shri Ramakrishna  
 Imam, Shrimati Aziza  
 Jagbir Singh, Shri  
 Jamuna Devi, Shrimati  
 Jha, Shri Kamalnath  
 Jha, Shri Shiva Chandra  
 Joshi, Shri Jagannath Rao  
 Joshi, Shri Jagdish  
 Joshi, Shri Krishna Nand  
 Joshi, Shrimati Kumudben Manishan-ker.  
 Kakati, Shri Robin Kalaniya, Shri  
 Ibrahim Kamble, Prof. N. M. Kesri,  
 Shri Sitaram Khan, Shri Ghayoor  
 Ali Khan, Shri Khurshed Alam  
 Khan Shri Maqsood Ali Khan,  
 Shrimati Ushi

Khaparde, Shrimati Saroj Khobragade, Shri  
 Bhaurao Devaji Krishna, Shri M. R.  
 Krishnan, Shri U. R. Kunjachen, Shri P. K.  
 Kureel, Shri Piare Lall urf Piare Lall

Talib

Lakhan Singh, Shri Lakshmanan, Shri G.  
 Lokesh Chandra, Dr. Lotha, Shri Khyomo  
 Madhavan, Shri K. K. Mahanti, Shri  
 Bhairab Chandra Mahavir, Dr. Bhai Mahida,  
 Shri Harisinh Bhagubava Makwana, Shri  
 Yogendra Mallick, Shri Harekrushna Manhar,  
 Shri Bhagatram Maran, Shri Murasoli  
 Mathur, Shri Jagdish Prasad Maurya, Shri  
 Buddha Priya Mehrotra, Shri Prakash  
 Menon, Shrimati Leela Damodara Menon,  
 Shri Viswanatha Mishra Shri Kalraj Mishra,  
 Shri Mahendra Mohan Mittal, Shri Sat Paul  
 Mohanty, Shri Surendra Mohinder Kaur,  
 Shrimati Mondal, Shri Ahmad Hossain  
 Moopnar, Shri G. K. Morarka, Shri R. R.  
 Mukherjee, Shrimati Kanak Mukherjee, Shri  
 Pranab Munusamy, Shri V. P. Naidu, Shri  
 N. P. Chengalraya N;ik, Shri L. R.

Nanda, Shri Narasingha Prasad Narendra  
 Singh, Shri Nigam, Shri Ladli Mohan  
 Nizam-ud-Din, Shri Syed Oza, Shri  
 Ghanshyambhai Parbhu Singh, Shri

Parikh, Prof Ramlal  
 Palel, Shri Manubhai  
 Pathak, Shri Ananda  
 Patil, Shri Deorao  
 Pattanayak, Shri Bhabani Charan  
 Poddar, Shri R. K.  
 Pradhan, Shri Patitpaban  
 Prem Manohar, Shri  
 Rai, Shri Kalp Nath  
 Rajan, Shri Pattiam  
 Raju, Shri V. B.  
 Rameshwar Singh, Shri  
 Rao, Shri V. C. Kesava  
 Ratan Kumari Shrimati  
 Ray, Shri Rabi  
 Reddy, Shri B. Satyanarayan  
 Reddy, Shri R. Narasimha  
 Roshan Lai. Shri  
 Sahu, Shri Santosh Kumar  
 Saleem, Shri Mohammad Yunus  
 Samad, Shri Golandaz Mohammed-  
 husian A.  
 Saring, Shri Leonard Soloman  
 Sarup Singh, Dr.  
 Satchidananda, Shri  
 Schamnad, Shri Hamid Ali  
 Sezhiyan, Shri Era  
 Shahedullah, Shri Syed  
 Shahi, Shri Nageshwar Prasad  
 Shanti Bhushan, Shri Sfrarma, Shri  
 Agit Kumar Sharma. Shri Anant  
 Prasad Sharma. Shri Kishan Lai  
 Shastri, Shri Bhola Paswan Sidhu, Dr.  
 M.M.S. Singh, Shri Bhishma Narain  
 Singh, Shri J. K. P. N. Singh, Shri Ng.  
 Tompok Singh, Shrimati Pratibha  
 Singh, Shri Shiva Nandan Sinha. Dr.  
 Ramkripal Soni, Shrimati Ambika  
 Sujan Singh, Shri

Sultan, Shrimati Maimoona Sultan  
 Singh, Shri Surendra Mohan, Shri  
 Surjeet, Shri Harkishan Singh Swu,  
 Shri Scato Tama, Shri Ratan Totu, Shri  
 Gian Chand Triloki Singh, Shri  
 Tripathi, Shri Kamlapati Varma, Shri  
 Mahadeo Prasad VenigalTa  
 Satyanarayana, Shri Venka, Shri V.  
 Venkatrao, Shri Chadalavada Warjri,  
 Shri Alexander Yadav, Shri Ramanand

*The motion was negatived.*

MR. CHAIRMAN: I would like to draw  
 your attention to one thing.

SHRI DINESH SINGH: Sir, there is one point  
 now. There is one point in amendment No. 91.  
 According to that, "Education" would have  
 been in the Concurrent List. Now that it J has  
 been voted down, how can it be raised again in  
 amendment No. 92? (Interruptions)

SHRI P. RAMAMURTI: I wish to point out  
 that the House has already decided on it.  
*(Interruptions)*. The \ House has already  
 decided that Education must be in the State  
 List. It has rejected the amendment. The House  
 has decided it. Therefore, you cannot put it to  
 vote again. You have to separate that. You  
 cannot vote again on the question of  
 "Education". You can separate "Forests" from  
 that and I can understand it.

(Interruptions)

SHRI B. N. BANERJEE: Sir, let us put  
 our heads together. (Interruptions). Hon.  
 Members of the Congress (I) have made a  
 mistake. The only way he can recover from  
 that is to move at once for recession of the  
 decision on the previous amendment and  
 even vote for Mr. Bhupesh Gupta's

[Shri B. N Banerjee]

amendment and amend Mr. Pranab Mukherjee's clause by deleting reference to lines 21 to 24. That is the only way.

SHRI BIPINPAL DAS: Sir, we have decided to vote against clause 47 as a whole.

*(Interruptions)*

SHRI PRANAB MUKHERJEE: We are going to oppose clause 47 in toto.  
*(Interruptions)*

MR. CHAIRMAN: May I know from the honourable Members whether I can go to the clause itself instead of the amendments?

SOME HON. MEMBERS: Yes.

SHRI SHANTI BHUSHAN: Sir, I would like to submit that even though there might be a little embarrassment, etc., technically, the amendments which have been moved by Shri Pranab Mukherjee can still be moved and still be put to vote because the amendments are more comprehensive. If one amendment is more comprehensive than the amendment which has been negated, it can be put to vote. The mere fact that one amendment has been negated does mean that it cannot be done. It is not identical and it is of a different nature. So, Sir, Mr. Mukherjee's amendments can still be put to vote. That is my submission.

*(Interruptions)*

SHRI ANANT PRASAD SHARMA: Put clause 47 to vote.

*(Interruptions)*

SHRI PRANAB MUKHERJEE: Sir, I am not pressing my amendment. I am requesting the Chair to put clause 47 to vote.

SHRI SHANTI BHUSHAN: Before the hon. Members decide as to what they want to do, let me indicate the implications of the total defeat of clause 47. For instance, clause (a)

says: in List I—Union List, entry 2A ( shall be omitted. What is 2A? Entry 2A in the Union List reads thus:

"Deployment of any armed force of the Union or any other force subject to the control of the Union or any contingent or unit thereof in any State in aid of the civil power; powers, jurisdiction, privileges and liabilities of the members of such forces while on such deployment."

Now, let the hon. Members decide...

SHRI PRANAB MUKHERJEE: We know it and in my speech I supported that the Central Government should have this power.

SHRI SHANTI BHUSHAN: Then that is different. But my amendments which I have moved have to be taken into consideration. May I indicate what they are?

SHRI ANANT PRASAD SHARMA: If clause 47 is voted down, where is the question of explaining your amendments?

SHRI SHANTI BHUSHAN: Before that amendments to clause 47 have to be taken into consideration first. These two amendments I have moved for the reason because one of the clauses of the Bill has been turned down by this House. That relates to clause 35 and clause 35 relates to Administrative Tribunals in Part XIVA of the Constitution. This is sought to be deleted by this Bill. Now it remains. Clause (1) of article 323A gives exclusive power to the Union to set up Administrative Tribunals in regard to services either of the Union or the States. If that is retained, this consequential amendment is necessary because these Entries were consistent with the amendment. Now this provision is retained and this cannot be in the Concurrent List. By this article the power to set up administrative tribunals in regard to services of the

Union as well as the services of the State is exclusively assigned to the Union. I think the hon. Members will now appreciate the implications of the total defeat of clause 47. After / all, Constitutional Amendment is a serious thing. It should not be that outside this House people of this country have a feeling that something has been done by this House which is not consistent. You can take any decision but whatever decision you take, do it appropriately in the Constitution in a consistent manner, so that the provisions of the Constitution may not conflict with each other. Therefore, I would appeal to the hon. Members that in their excitement and emotion, they may not do something which may bring discredit to the House as a whole, which may make people say that this august body has made an amendment which does not make any sense, that one part is omitted and the other part is retained, something which is not consistent.

SHRI A. R. ANTULAY: You should not have moved your amendments at all.

SHRI SHANTI BHUSHAN: Clause 35 was brought before us for deleting Part XIV-A. If part XIV-A had to be deleted, then certain amendments were also required in the entire because in that case this item could be put in the Concurrent List and it was "being put in the Concurrent List, namely, that the administrative tribunals could be set up either by the States or the Union. Now that you have retained Part IV-A, which provides that these administrative tribunals have to be created only by the Union, whether they relate to the services of the States or of the Union, then the entries must be consistent with the main body of the Constitutional provision. Therefore, the entries have to be rearranged. That is why a consequential amendment has to be moved.

SHRI PRANAB MUKHERJEE: I would like to ask for one clarification. Now, what would be the position if

clause 47 is voted down and Part XIV-A is retained? Then we go to the entire position of the Forty-second Amendment. Therefore, if Part XIV-A is retained and if clause 47 is voted down, then the proposition of consequential changes which you are contemplating would not arise.

SHRI SHANTI BHUSHAN: I won't pre-suppose. These amendments have to be put to vote first.

SHRI PRANAB MUKHERJEE: That I know, but the anomaly which you contemplate will not arise because we will arrive exactly at the position which obtained before these amending provisions were suggested because Part XIV-A remains.

SHRI ANANT PRASAD SHARMA: Therefore, clause 47 should be put to vote.

SHRI SHANTI BHUSHAN: I am pressing my amendments. Let them be put to vote.

SHRI BHUPESH GUPTA: I suggest that Mr. Pranab Mukherjee, with your permission, can move his amendment. Whereas I have covered lines 20 to 24, he can cover now lines 25 to 27. He can do that with your permission.

SHRI PRANAB MUKHERJEE: I have clearly explained my views. I am not going to make any addition or Amendment to it.

MR. CHAIRMAN: The question is:

99. " That at page 14, for line 42, the following be substituted namely.—

'25. Education including universities, subject to the provisions of entries 63, 64, 65 and 66 of List I; vocational and technical training of labour.' "

*The motion was negatived.*

MR. CHAIRMAN: The question is:

104. "That at page 14, lines 28, 29 and 30 be deleted."

105. "That at page 14, lines 32 to 38 be deleted."

*The House divided.*

MR, CHAIRMAN; Ayes—88; Noes—

84

Ayes—88

Advani, Shri Lai K.  
 Asthana, Shri K. B.  
 Bagaiikar, Shri Sadasiv  
 Baleshwar Dayal, Shri  
 Bhabhda, Shri Harishanker  
 Bhagat, Shri Ganapat Hiralal  
 Bhandari, Shri Sunder Singh  
 Bhattacharjee, Prof. Sourendra  
 Bhattacharya, Shri G. C.  
 Chakraborty, Shri Amarprosad  
 Chatterjee, Shri Pranab  
 Dinesh Singh, Shri  
 Gupta, Shri Ram Lakhan Prasad  
 Hegcie, Shri Ramkrishna  
 Jagbir Singh, Shri  
 Jain, Shri Dharamchand  
 Jamuna Devi, Shrimati  
 Janardhanam, Shri A. P.  
 Jha, Shri Shiva Chandra  
 Joshi, Shri Jaganath Rao  
 Joshi, Shri Jagdish  
 Kadershah, Shri M.  
 Kakati, Shri Robin  
 Khan, Shri Ghayoor Ali  
 Khobragade, Shri Bhaurao Devaji  
 Krishna, Shri M. R.  
 Krishnan, Shri E. R.  
 Krishnan, Shri U. R.  
 Kunjaehen, Shri P. K.  
 Lakhan Singh, Shri  
 Lakshmanan, Shri G.  
 Lotha, Shri Khyomo  
 Mahanti, Shri Bhairab Chandra  
 Mahavir, Dr. Bhai

Majhi, ghri Dhaneswar  
 Mallick, Shri Harekrushna  
 Maran, Shri Murasoli  
 Mathur, Shri Jagdish Prasad  
 Menon, Shri Viswanatha  
 Mishra, Shri KaTraj  
 Mohanty, Shri Surendra  
 Mohinder Kaur, Shrimati  
 Morarka, Shri R. R.  
 Mukherjee, Shrimati Kanak  
 Munusamy, Shri V. P.  
 Muthu Dr. (Shrimati) Sathivani:  
 Naidu, Shri N. P. Chengalraya  
 Narendra Singh, Shri  
 Nigam, Shri Ladli Mohan  
 Nizam-ud-din, Shri Syed  
 Oza, Shri Ghanshyambhai  
 Prabhu Singh, Shri  
 Parikh, Prof. Ramlal  
 Patel, Shri Manubhai  
 Pathak, Shri Ananda  
 Pattanayak, shri Bhabani Charani  
 Poddar, Shri R. K.  
 Pradhan, Shri Patitpaban  
 Prem Manohar, Shri  
 Raj an, Shri Pattiam  
 Ramamurti, Shri P-  
 Rameshwar Singh, Shri  
 Ray, Shri R'abi  
 Razack, Shrimati Noorjehan  
 Reddy, Shri B. Satyanarayan  
 Reddy, Shri R. Narasimha  
 Sahaya, Shri Dayanand  
 Samad, Shri Golandaz Mohammedhu-  
 sian A.  
 Saring, Shri Leonard Soloman  
 Sarup Singh, Dr.  
 Sezhiyan, Shri Era  
 Shahedullah, Shri Syed  
 Shahi, Shri Nageshwar Prasad  
 Shanti Bhushan, Shri  
 Sharma Shri A jit Kumar  
 Siddhu, Dr. M. M. S.

Singh, Shri J. K. P. N. Singh, Shri Ng. Tompok Singh, Shri Shiva Nandan sinha, Dr Ramkripal Sujan Singh, Shri Surendra Mohan, Shri Surjeet, Shri Harkishan Singh 3wu, Shri Scato Tama, Shri Ratan V'arma, Shri Mahadeo Prasad ^enka, Shri V. Warjri, Shri Alexander

## NOES—84

Adivarekar, Shrimati Sushila Shankar Alva, Shrimati Margaret Amarjit Kaur, Shrimati Amla, Shri Tirath Ram Anandam, Shri M. Anjiah, Shri T. Antulay, Shri A. R. Arif, Shri Mohammed Usman Balram Das, Shri Banerjee, Shri Jaharlal Barman, Shri Prasenjit Basavaraj, Shri H. R. Bhagwan Din, Shri Bhi<sub>m</sub> Raj, Shri Bose, Shrimati Pratima Chandrasekhar, Shrimati Maragatham Chattopadhyaya, Prof. D. P. Das, Shri Bipinpal Desai, Shri R. M. Deshmukh, Shri Bapuraoji Marotraoji Dhulap, Shri Krishnarao Narayan Dinesh Chandra, Shri Swami Dutt, Dr. V. P. Dwivedi, Shri Devendra Nath Gadgil, Shri Vithal Goswami, Shri Dinesh Gupta, Shri Gurudev Habibullah, Shrimati Hamida Imam, Shrimati Aziza

Jha, Shri Kamalnath Joshi, Shri Krishna Nand Joshi, Shrimati Kumudbe<sub>n</sub> Manishan-ker

Kalaniya, Shri Ibrahim Kamble, Prof. N. M. Kameshwar Singh, shri Kesri, Shri Sitaram Khan, Shri Khurshed Alam Khan, Shri Maqsood AH Khan, shrimati Ushi Khaparde, Shrimati Saroj Kureel, Shri Piare Lall *urf* Piare Lall Talib

Lokesh Chandra, Dr.

Madhavan, Shri K. K.

Mahida, Shri Harisinh Bhaguba<sup>^</sup>

Makwana, Shri Yogendra

Manhar, Shri Bhagatram

Maurya, Shri Buddha Priya

Mehrotra, Shri Prakash

Menon, Shrimati Leela Damodara-

Mishra, Shri Mahendra Mohan

Mittal, Shri Sat Paul

Mondal, Shri Ahmad Hossain

Moopnar, Shri G. K.

Mukherjee, Shri Pranab

Naik, Shri L. K.

Nanda, Shri Narasingha Prasad

Pande, Shri Bishambhar Nath

Patil, Shri Deorao

Rai, Shri Kalp Nath

Ranga, Prof. N. G.

Rao, Shri V. C. Kesava

Ratan Kumari, Shrimati

Reddy, Shri Mulka Govinda

R'oshan Lai, Shri

Sahu, Shri Santosh Kumar

Saleem, Shri Mohammad Yunus

Satchidananda, Shri

Sharma, Shri Anant Prasad

Sharma, Shri Kishan Lai

Shastri, Shri Bhola Paswan

Singh, Shri Bhisma Narain Singh, Shrimati Pratibha Sinha, Shri Indradeep Sisodia, Sfcrl Sawaisingh Soni, Shrimati Ambilca Sultan, Shrimati Maimoona Sultan Singh. Shri Totu, Shri Gian Chand Tripathi, gfcrl Kamlapati Vaishampayen, Shri S. K. "Venigalla Satyanarayana, Shri Venkatrao, Shri Chadalavada Yadav, Shri Ramanand Yadav, Shri Syam Lai

*The motion was adopted.*

MR. CHAIRMAN: I now put amended clause 47 to vote.

The question is:

"That clause 47, as amended, stand part of the Bill."

*The House divided.* Mr. Chairman: Ayes—91; Noes—87

AYES—91 Advani, Shri Lai K. Asthana, Shri K. B. Bagaitkar, Shri Sadasiv Baleshwar Dayal, Shri Bhabhda. Shri Harishanker Bhagat, shri Ganapat Hiralal Bhandari, Shri Sunder Singh Bhattacharjee, Prof. Sourendra Bhattacharya, Shri G. C. Chakraborty, Shri Amarprosad Chatterjee, Shri Pranab Dinesh Singh, Shri Gupta, Shri Bhupesh Gupta, Shri Ram Laxhan Prasad Hegde, Shri Ramakrishna Jagbir Singh, Shri Jain, Shri Dharamchand Jamuna Devi, Shrimati Janardhanam, Shri A. P. Jha, shri Shiva Chandra

Amended Bill 1978  
Joshi, Shri Jagannathrao

300

Joshi, Shri Jagdish  
Kadershah, Shri M.  
Kakati, Shri Robin  
Khan, Shri Ghayoor Ali  
Khobragade, Shri Bhaurao Devaji  
Krishna, Shri M. R.  
Krishnan, Shri E. R.  
Krishnan, Shri U. R.  
Kunjachen, Shri P. K.  
Lakhan Singh, Shri  
Lakshmanan, Shri G.  
Lotha, Shri Khyomo  
Mahanti, Shri Bhairab Chandra  
Mahavir, Dr. Bhai  
Majhi, Shri Dhaneeswar  
Mallick, Shri Harekrushna  
Maran, Shri Murasoli  
Mathur, Shri Jagdish Prasad  
Menon, Shri Viswanatha  
Mishra, Shri Kalraj  
Mohanty, Shri Surendra  
Mohinder Kaur, Shiimati  
Morarka, Shri R. R.  
Mukherjee, Shrimati Kanak (West Bengal)  
Munusamy, Shri V. P.  
Muthu, Dr. (Shrimati) Sathiavani  
Naidu, Shri N. P. Chengalraya  
Narendra Singh, Shri  
Nigam, Shri Ladli Mohan  
Nizam-ud-din, Shri Syed  
Oza, Shri Ghanshyambhai  
Parbhu Singh, Shri  
Parikh, Prof. Ramlal  
Patel, Shri Manubhai  
Pathak, shri Ananda  
Pattanayak, Shri Bhabani Charan  
Poddar, Shri R. K.  
Pradhan, Shri Patitpaban  
Prem Manohar, Shri  
Raj an, Shri Pattiam  
Ramamurti, Shri P.



Rameshwar Singh, Shri  
 Ray, Shri Rabi  
 Razack, Shrimati Noorjehan  
 Reddy, Shri B. Satyanarayan  
 Reddy, Shri K. V. Raghunatha  
 Reddy, Shri R. Narasimha  
 Sahaya, Shri Dayanand  
 Samad, Shri Golandaz Mohammedhusian A. Saring, Shri Leonard Soloman Samp Singh, Dr. Schamnad, Shri Hamid AH Sezhayan, Shri Era Shahedullah, Shri syed Shahi, Shri Nageshwar Prasad Shanti Bhushan, Shri Sharrna, Shri Ajit Kumar Siddhu, Dr. M. M. S. Singh, Shri J. K. P. N. Singh, Shri Ng. Tompok Singh, Shri Shiva Nandan Sinha, Dr. Ramkripal Sujan Singh, Shri Surendra Mohan, Shri Surjeet, Shri Harikrishan Singh Swu, Shri scato Tama, Shri Ratan  
 Varma, Shri Mahadeo Prasad  
 Venka, Shri V. Warjri, Shri  
 Alexander

NOES—87 Adivarekar, Shrimati Sushila Shankar Alva, Shrimati Margaret Amarjit Kaur, Shrimati Amla, Shri Tirath Ram Anandam, Shri M. Anjiah, Shri T. Antulay, Shri A. R. Arii, Shri Mohammed Usman Balram Das, Shri Banerjee, Shri Jaharlal Barman, Shri Prasenjit

Basavaraj, Shri H. R.  
 Bhagwan Din, Shri  
 Bhim Raj, Shri  
 Bose, Shrimati Pratima  
 Chandrasekhar, Shrimati Maragatham  
 Chattopadhyaya, Prof. D. P.  
 Das, Shri Bipinpal  
 Desai, Shri R. M.  
 Deshmukh, Shri Bapuraoji Marotraoji  
 Dhulap, Shri Krishnarao Narayan  
 Dinesh Chandra, Shri Swami  
 Dutt, Dr. V. P.  
 Dwivdi, Shri Devendra Nath  
 Gadgil, Shri Vithal  
 Goswami, Shri Dinesh  
 Goswami, Shri Sriman Prafulla  
 Gupta, Shri Gurudev  
 HabibulTah, Shrimati Hamida  
 Jha, Shri Kamalnath  
 Joshi, Shri Krishna Nand  
 Joshi, Shrimati Kumudben Manishan-ker  
 Kalaniya, Shri Ibrahim  
 Kamble, Prof. N. M.  
 Kameshwar Singh, Shri  
 Kesri, Shri Sitaram  
 Khan, Shri Khurshed Alam  
 Khan, Shri Maqsood Ali  
 Khan, Prof. Rasheeduddin  
 ,  
 Khan, Shrimati Ushi  
 Khaparde, Shrimati Saroj  
 KureeJ, Shri Piar<sub>e</sub> Lall urf Piare Lall Talib  
 Lokesh Chandra, Dr.  
 Madhavan, Shri K. K.  
 Mahida, Shri Harisinh Bhagubava  
 Makwana, Shri Yogendra  
 Manhar, Shri Bhagatram  
 Maurya, Shri Buddha Priya

Mehrotra. Shri Prakash  
Menon, Shrimati Leela Damodara

Mishra, Shri Mahendra Mohan Mittal,  
Shri Sat Paul Mondal, Shri Ahmed  
Hossain Moopnar, Shri G. K.  
Mukherjee, Shri Pranab Naik, Shri L. R-  
Nanda, Shri Narasingha Prasad Pande,  
Shri Bishambhar Nath Patil, Shri Deorao  
Rai, Shri Kalp Nath Raju, Shri V. B.  
Kanga, Prof. N. G. Rao, Shri V. C.  
Kesava Ratan Kumari, Shrimati Reddy,  
Shri Mufka Govinda Roshan Lai, Shri  
Sahu, Shri Santosh Kumar Saleem, Shri  
Mohammad Yunus Satchidananda, Shri  
Sharma, Shri Anant Prasad Sharma, Shri  
Kishan Lai Sharma, Shri Yogendra  
Shastri, Shri Bhola Paswan Singh, Shri  
Bhishma Narain Singh, Shrimati  
Pratibha Sisodia, Shri Sawaisingh Soni,  
Shrimati Ambika Sultan, Shrimati  
Maimoona Sultan Singh, Shri Totu, Shri  
Gian Chand Triloki Singh, Shri Tripathi,  
Shri Kamalapati Vaishampayan, Shri S.  
K. Venigalla Satyanarayana, Shri  
Venkatrao, Shri Chadalavada Yadav,  
Shri Ramanand Yadav, Shri Shyam Lai

*The motion was not 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.*

MR. CHAIRMAN: Now we go to the next  
clause 48. There is one amendment No. 100  
by Shri P. Ramamurti.

SHRI P. RAMAMURTI: I am not moving.

Clause 49—*Amendment of the Constitution  
(Forty-second Amendment) Act, 1976.*

MR. CHAIRMAN: Clause 49. There are  
two amendments Nos. 101 by Shri V. B. Raju  
and 102 by Shri Bhupesh Gupta.

SHRI V. B. RAJU: Sir, I move :

101. "That at page 15, line 4, the  
figures '19 and 32' be *deleted*."

SHRI BHUPESH GUPTA: Sir, I move:

102. "That at page 15, line 4, the  
figures '21 and 34' be *deZeted*."

*(The amendment also stood in the names of  
Shri Kalyan Roy, Shri Bir Chandra Deb  
Burman, Shri Bhola Prasad and Shri  
Lakshmana Maha-ptro.)*

*The questions were put and the  
motions were negatived.*

MR. CHAIRMAN: The question is:

"That clause 6 stand part of the Bill."

*The House divided.*

MR. CHAIRMAN: Ayes—181; Noes—  
Nil

AYES—181

Adivarekar, Shrimati Sushila  
Shankar Advani, Shri Lai K. Alva,  
Shrimati Margaret Amarjit Kaur, Shrimati  
Amla, Shri Tirath Ram Anandam, Shri M.  
Anjiah, Shri T. Antulay, Shri A. R.

Arif, Shri Mohammad Usman Asthana, Shri K. B. Bagaitkar, Shri Sadasiv Baleshwar Dayal, Shri I'Balram Das, Shri Banerjee, Shri B. N. Banerjee, Shri Jaharlal Barman, Shri Prasenjit Basavaraj. Shri H. R. Bhabhda, Shri Harishanker Bhagat, Shri Ganpat Hiralal Bhagwan Din, Shri Bhandari, Shri Sunder Singh Bhattacharjee, Prof. Sourendra Bhattacharya, Shri G. C. Bholu Prasad, Shri Bose, Shrimati Pratima Chakravorty, Shri Amarprosad Cfrandrasekhar, Shrimati Maragatham Chatterjee, Shri Pranab Chattopadhyaya, Prof. D. P. Das, Shri Bipinpal Deb Burman, Shri Eir Chandra Desai, Shri R. M.

Deshmukh, Shri Bapuraoji Marotraoji Dhulap, Shri Krishnarao Narayan Dinesh Chandra, Shri Swami Dinesh Singh, Shri Dutt, Dr. V. P.

Dwivedi, Shri Devendra Nath Gadgil, Shri Vithal Goswami, Shri Dinesh Goswami, Shri Sriman Prafulla Gupta, Shri Gurudev Gupta, Shri Ram Lakkhan Prasad Habibullah, Shrimati Hamida Hegde, Shri Ramakrishna Imam, Shrimati Aziza Jagbir Singh, Shri Jain, Shri Dharamchand Jamuna Devi, Shrimati Janardhan Shri A. P. Jha, Shri Kamlanath Jha, Shri Shiva Chandra

Joshi, Shri Jagannathrao

Joshi, Shri Jagdish

Joshi, Shri Krishna Nand

Joshi, Shrimati Kumudben Manishanker

Kadershah, Shri M.

Kakati, Shri Robin

Kalaniya, Shri Ibrahim

Kamble, Prof. N. M.

Kameshwar Singh, Shri

Kesri, Shri Sitaram

Khan, Shri Ghayoor Ali

Khan, Shri Khurshed Alam

Khan, Shri Maqsood Ali

Khan, Prof. Rasheeduddin

Khan, Shrimati Ushi

Khaparde, Shrimati Saroj

Khobragade, Shri Bhaurao Devaji

Krishna, Shri M. R.

Krishnan, Shri E. R.

Krishnan, Shri U. R.

Kumaran, Shri S.

Kunjachen, Shri P. K.

Kureel, Shri Piare Lall *urf* Piare Lai! Talib

Lakhan Singh, Shri

Lakshmanan, Shri G.

Lokesh Chandra, Dr.

Lotha, Shri Khyomo

Madhavan, Shri K. K.

Mahanti, Shri Bhairab Chandra

Mahapatro, Shri Lakshmana

Mahavir, Dr. Bhai

Mahida, Shri Harisinh Bhagubava Majhi,

Shri Dhaneswar Makwana, Shri Yogendra

Mallick, Shri Harekrushna Manhar, Shri

Bhagatram Maran, Shri Murasoli Mathur, Shri

Jagdish Prasad Maurya, Shri Buddha Priya

Mehrotra, Shri Prakash Menon, Shrimati

Leela Damodara Menon, Shri Viswanatha

Mishra, Shri Kalraj  
 Mishra, Shri Mahendra Mohan  
 Mittal, Shri Sat Paul  
 Mohanty, Shri Surendra  
 Mohinder Kaur, Shrimati  
 Mondal, Shri Ahmad Hossain  
 Moopnar, Shri G. K.  
 Morarka, Shri R. R.  
 Mukherjee, Shrimati Kanak  
 Mukherjee, Shri Pranab  
 Munusamy, Shri V. P.  
 Muthu, Dr. (Shrimati) Sathiavani  
 Naidu, Shri N. P. Chengalraya  
 Naik, Shri L. R.  
 Nanda, Shri Narasingha Prasad  
 Narendra Singh, Shri  
 Nigam, Shri Ladli Mchan  
 Nizam-ud-Din, Shri Syed  
 Oza, Shri Ghanshyambhai  
 Pande, Shri Bishambar Nath  
 Prabhu Singh, Shri  
 Parikh, Prof. Ramlal  
 Patel, Shri Manubhni  
 Pathak, Shri Ananda  
 Patil, Shri Deorao  
 Pattanayak, Shri Bhabani Charan Poddar,  
 Shri R. K. Pradhan, Shri Patitpaban Prem  
 Manohar, Shri Rai. Shri Kalp Nath Raj  
 an, Shri Pattiam  
 Raju, Shri V. B.  
 Rameshwar Singh, Shri  
 Ranga, Prof. N. G.  
 Rao, Shri V. C. Kesava Ratan  
 Kumari, Shrimati  
 Ray, Shri Rabi  
 Razack, Shrimati Noorjehan  
 Reddy, Shri B. Satyanarayan  
 Reddy, Shri K. V. Raghunatha  
 Reddy, Shri Mulka Govinda

Reddy, Shri R. Narasimha  
 Roshan Lai, Shri  
 Roy, Shri Kalyan  
 Sahaya, Shri Dayanarid  
 Sahu, Shri Santosh Kumar  
 Saleem, Shri Mohammad Yunus  
 Samad, Shri Golandaz Mohammedhu-sian  
 A.  
 Saring, Shri Leonard Soloman  
 Sarup Singh, Dr.  
 Satchidananda, Shri  
 Schamnad, Shri Himid Ali  
 Sezhiyan, Shri Era  
 Shahedullah, Shri Syed  
 Shahi, Shri Nageshwar Prasad  
 Shanti Bhushan, Shri  
 Sharma, Shri A jit Kumar  
 Sharma, Shri Anant Prasad  
 Sharma, Shri Kishan Lai  
 Sharma, Shri Yogendra  
 Shastri, Shri Bhola Paswan  
 Siddhu, Dr. M. M. S.  
 Singh, Shri Bhishma Narain  
 Singh, Shri J. K. P. N.  
 Singh, Shri Ng. Tompok  
 Singh, Shrimati Pratibha  
 Singh, Shri Shiva Nandan  
 Sinha, Shri Indradeep  
 Sinha, Dr. Ramkripal  
 Soni, Shrimati Ambika  
 Sujjan Singh, Shri  
 Sultan, Shrimati Maimoona  
 Sulta, Singh, Shri  
 Surendra Mohan, Shri  
 Surjeet, Shri Harikishan Singh  
 Swu, Shri Scato  
 Tama, Shri Ratan  
 Totu, Shri Gian Chand  
 Trilok Singh, Shri  
 Tripathi, Shri Kamalapati  
 Vaishampayan, Shri S. K.  
 Varma, Shri Mahadeo Prasad  
 Venigalla Satyanarayana, Shri

Venka, Shri V. Venkatrao, Shri Chadalavada Warjri, Shri Alexander Yadav, Shri Ramanand

NOES—Nil.

*The motion was 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.*

*Clause 6 was added to the Bill.*

SHRI SHANTI BHUSHAN: May I have your permission to move a consequential amendment? Now that Article 31 has been deleted by adoption of clause 6, reference to Article 31 in Article 31C is inappropriate. Therefore, I am moving amendment No. 103:

103. "That at page 3 after line 4, the following new clause be inserted, namely:—

—

"7A. In Article 31C in the Constitution for the words and figures "Article 14, Article 19 or Article 31" the words and figures "Article 14 or 19" shall be substituted."

SHRI B. N. BANERJEE : On a point of order, Sir. I am not opposing that amendment, the new clause proposed by the Law Minister, but this is not the stage. You have got to adopt all other clause and then the new clause can be taken. That is the practice.

SHRI K. K. MADHAVAN: The hon. Law Minister has presented a consequential amendment No. 103. I may point out that an amendment like this has to apply to Article 31A also because there is a mention there also.

MR. CHAIRMAN: May I now put to vote clauses 2, 4, 5, 7, 7A, 10 to 34, 36, 37, 40 to 43, 46, 48, 49, Clause 1, the Enacting Formula and the Title.

SHRI DINESH GOSWAMI: So far as clause 34 is concerned, there are two amendments. You have to consider ; them. After clause 31 you did not consider because clause 31 was not amended.

MR. CHAIRMAN : We can consider clause 34 just now and then we will put all the clauses together.

*Clause 34:—Insertion of new Chapter IV in Part XII.*

SHRI V. B. RAJU: Sir, I move:

37. "That at page 8, for lines 23 and 24, the following be substituted, namely:—

'300A. (1) No person shall be deprived of his property save by authority of law.

(2) No property shall be compulsorily acquired or requisitioned save for a public purpose and save by authority of a law which provides for acquisition or requisitioning of the property for an amount which may be fixed by such law or which may be determined in accordance with such principles and given in such manner as may be specified in such law; and no such law shall be called in question in any court on the ground that the amount so fixed or determined is not adequate or that the whole or any part of such amount is to be given otherwise than in cash.' "

SHRI DINESH GOSWAMI: Sir, I move :

38. "That at page 8, line 23, article 300A be renumbered as clause (1) thereof and after clause (1) as so renumbered, the following be inserted, namely:—

'Provided that notwithstanding anything contained in Part III of the Constitution, if any property is compulsorily acquired or requisitioned for an amount fixed by law on which may be determined in accordance with such principles and given in such manner as may be prescribed in such law; no such law shall be called in question in any court on the ground that the amount so fixed or determined is not adequate or that the whole or any part of such amount is to be given otherwise

than in cash or that such law is void on the ground that it is inconsistent with or takes away or abridges any of the rights conferred by Article 14, or Article 19(1) (g).

(2) No such law as is referred to in clause 300A(1) made by a legislature of a State shall have effect unless such law, having been reserved for the consideration of the President has received his assent."

*(The amendment also stood in the names of Shri Devendra Nath Dwivedi and Shri Narasingha Prasad Nandu).*

*The questions were put and the motions were negatived.*

MR. CHAIRMAN : I now put all the clauses to vote. The question is:

"That Clauses 2, 4, 5, 7, 7A, 10 to 34, 36, 37, 40 to 43, 46, 48, 49, Clause 1, the Enacting Formula and the Title stand part of the Bill."

*The House divided.*

MR. CHAIRMAN: Ayes—185; Noes—Nil

AYES—185

Adivarekar, Shrimati Sushila Shankar Shankar

Advani, Shri Lai K. Alva, Shrimati Margaret Amarjit Kaur, Shrimati Amla, Shri Tirath Ram Anandam, Shri M. Anjiah, Shri T. Antulay, Shri A. R. Arif, Shri Mohammed Usman, Asthana, Shri K. B. Bagaitkur, Shri Sadasiv Baleshwar Dayal, Shri Balra.n Das, Shri Ban 2rje.f, Shri B. N. Bansrje,e, Shri Jaharlal Barman, Shri Prasenjit Basavaiaj, Shri H. R

Bhabhda, Shri Hanshanker Bhagat, Shri Ganpat Hiralal Bhagwan Din, Shri Bhandari, Shri Sunder Singh Bhattacharjee, Prof. Sourendra Bhattacharya, Shri G C. Bhim Raj, Shri Bhola Prasad, Shri Bose, Shrimati Pratima Chakraborty, Shri Amarprosad Chandrasekhar, Shrimati Maragatham

Chatterjee, Shri Pranab

Chattopadhyaya, Prof. D. P.

Das, Shri Bipinpal

Deb Burman, Shri Bir Chandra

Desai, Shri R. M.

Deshmukh, Shri Bapuraoji Marotraoji

Dhulap, Shri Krishnarao Narayan

Dinesh Chandra, Shri Swami

Dinesh Singh, Shri

Dutt, Dr. V. P.

Dwivedi, Shri Devendra Nath

Gadgil, Shri Vithal

Goswami, Shri Dinesh

Goswami, Shri Sriman Prafulla

Gupta, Shri Bhupesh

Gupta, Shri Gurudev

Gupta, Shri Ram Lakha<sub>n</sub> Prasad

Habibullah, Shrimati Hamida

Hegde, Shri Ramakrishna

Imam, Shrimati Aziza

Jagbir Singh, Shri

Jain, Shri Dharamchand

Jamuna Devi, Shrimati

Janardhan Shri A. P.

Jha, Shri Kamlanath

Jha, Shri Shiva Chandra

Joshi, Shri Jagannathrao

Joshi, Shri Jagdish

Joshi, Shri Krishna Nand

Joshi, Shrimati Kumudben Manishan-kar

Kadershah, Shri M.

Kakati, Shri Robin  
Kalaniya, Shri Ibrahim  
Kamble, Prof. N. M.  
Kameshwar Singh, Shri  
Kesri, Shri Sitaram  
Khan, Shri Ghayoor Ali  
Khan, Shri Khurshad Alam  
Khan, Shri Maqsood Ali  
Khan, Prof. Rasheeduddin  
Khan, Shrimati Ushi  
Khaparde, Shrimati Saroj  
Khobragade, Shri Bhaurao Devaji  
Krishna, Shri M. R.  
Krishnan, Shri E. R.  
Krishnan, Shri U. R.  
Kumaran, Shri S.  
Kunjachen, Shri P. K.  
Kureel, Shri Piare Lall *ur* Piare Lall Talib  
Lakhan Singh, Shri Lakshmanan, Shri G.  
Lokesh Chandra, Dr. Lotha, Shri  
Khyomo Madhavan, Shri K. K Mahanti,  
Shri Bhairab Chandra Mahapatro, Shri  
Lakshmana Mahavir, Dr. Bhai Mahida,  
Shri Harisinh Bhagubava Majhi, Shri  
Dhaneswar, Makwana, Shri Yogendra  
Mallick, Shri Harekrushna Manhar, Shri  
Bhagatram Maran, Shri Murasoli Mathur,  
Shri Jagdish Prasad Maurya, Shri Buddha  
Priya Mehrotra, Shri Prakash Menon,  
Shrimati Leela Damodara Menon, Shri  
Viswanatha Mishra, Shri Kalraj Mishra,  
Shri Mahendra Mohan  
Mittal, Shri Sat Paul  
Mohanty, Shri Surendra  
Mohinder Kaur, Shrimati

Mondal, Shri Ahmad Hossain  
Moopnar, Shri G. K  
Morarka, Shri R. R. Mukherjee,  
Shrimati Kanak  
Mukherjee, Shri Pranab Munusamy, Shri V. P.  
Muthu, Dr. (Shrimati) Sathiavani Naidu,  
Shri N. P. Chengalraya. Naik, Shri L. R.  
Nanda, Shri Narasingha Prasad Narendra  
Singh, Shri Nigam, Shri Ladli Mohan Nizam-  
ud-Din, Shri Syed Oza, Shri Ghanshyambhai  
Pande, Shri Bishambar Nath Parbhu Singh,  
Shri Parikh, Prof. Ramlal Patel, Shri  
Manubhai Pathak, Shri Ananda Patil, Shri  
Deorao Pattanayak, Shri Bhabani Charan  
Poddar, Shri R. K. Pradhan, Shri Patitpaban  
Prem Manohar, Shri Rai, Shri Kalp Nath  
Rajan, Shri Pattiam Raju, Shri V. B.  
Ramamurti, Shri P. Rameshwar Singh, Shri  
Ranga, Prof. N. G. Rao, Shri V. C. Kesava  
Ratan Kumari, Shrimati Ray, Shri Rabi  
Razack, Shrimati Noorjehan Reddy, Shri B.  
Satyanarayan Reddy, Shri K. V. Raghunatha  
Reddy, Shri Mulka Govinda Roshan Lai, Shri  
Roy, Shri Kalyan Sahaya, Shri Dayanand  
Sahu, Shri Santosh Kumar Saleem, Shri  
Mohammad Yunus Samad, Shri Golandaz  
Mohammedhu-sian A.

Saring, Shri Leonard Soloman  
 Sarup Singh, Dr.  
 Satchidananda, Shri  
 Schamnad, Shri Hamid Ali  
 Sezhiyan, Shri Era  
 Shahedulillah, Shri Syed  
 Shahi, Shri Nageshwar Prasad  
 Shanti Bhushan, Shri  
 Sharma, Shri Ajit Kumar  
 Sharma, Shri Anant Prasad  
 Sharma, Shri Kishan Lai  
 Sharma, Shri Yogendra  
 Shastri, Shri Bhola Paswan  
 Siddhu, Dr. M. M. S.  
 Singh, Shri Bhishma Narain  
 Singh, Shri J. K. P. N.  
 Singh, Shri Ng. Tompok  
 Singh, Shrimati Pratibha  
 Singh, Shri Shiva Nandan  
 Sinha, Shri Indradeep  
 Sinha, Dr. Ramkripal  
 Sisodia, Shri Sawaisingh  
 Soni, Shrimati Ambika  
 Sujan Singh, Shri  
 Sultan, Shrimati Maimoona  
 Sultana Singh, Shri  
 Surendra Mohan, Shri  
 Surjeet, Shri Harkisaan Singh  
 Swu, Shri Scato  
 Tama, Shri Ratan  
 Totu, Shri Gian Chand  
 Triloki Singh, Shri Tripathi, Shri  
 Kamalapati Vaishampayan, Shri S. K.  
 Varma, Shri Mahadoo Prasad  
 Venigalla Satyanarayanaj Shri  
 Venka, Shri V. Venkatrao, Shri  
 Chadalavada Warjri, Shri Alexander  
 Yadav, Shri Ramanand Yadav, Shri  
 Shyamlal

NOES—Nil *The motion was 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.*

Clause 2, 4, 5, 7, 7A, 10 to 34, 36y 37, 40 to 43, 46, 48, 49, Cloture 1, *the Enacting Formula and the Title were added to the Bill.*

SHRI SHANTI BHUSHAN: Sir I move:

"That the Bill, as amended, be passed."

*The question was proposed.*

MR. CHAIRMAN: I hope nobody is trying to speak on the third reading. Without speeches if you can finish, we can go for dinner.

SHRI SHANTI BHUSHAN: Sir, I am very grateful to the hon. Members and I thank them profusely and I commend that the Bill, as amended, be passed.

MR. CHAIRMAN: The question is:

"That the Bill, as amended, be passed."

*The House divided.*

MR. CHAIRMAN: Ayes—182

Noes—1

AYES—182

Adivarekar, Shrimati Sushila Shankar  
 Advani, Shri Lai K.  
 Alva, Shrimati Margaret  
 Amarjit Kaur, Shrimati  
 Amla, Shri Tirath Ram  
 Anandam, Shri M.  
 Anjiah, Shri T.  
 Antulay, Shri A. R.  
 Arif, Shri Mohammed Usman  
 Asthana, Shri K. B.  
 Bagaitkar, Shri Sadasiv  
 Baleshwar Dayal i  
 Balram Das, Shri  
 Banerjee, Shri B. N.  
 Banerjee, Shri Jaharlal  
 Bansi Lai, Shri  
 Barman, Shri Prasenjit



Basavaraj, Shri H. R. Bhabhda, Shri  
Harishanker Bhagat, Shri Ganapat  
Hiralal Bhagwan Din, Shri Bhandari,  
Shri Sunder Singh Bhattacharjee, Prof.  
Sourendra Bhattacharya, Shri G. C. Bhol  
Prasad, Shri Bose, Shrimati Pratima  
Chakraborty, Shri Amarprosad

Chatterjee, Shri Pranab Chattopadhyaya,  
Prof. D. P. Chaurasia, Shri Shivdayal  
Singh Das, Shri Bipinpal Deb Burman,  
Shri Bir Chandra Desai, Shri R. M.

Deshmukh, Shri Bapuraoji Marotraoji Dhulap,  
Shri Krishnarao Narayan Dinesh Chandra, Shri  
Swami Dinesh Singh, Shri Dutt, Dr. V. P.  
Dwivedi, Shri Devendra Nath Gadgil, Shri  
Vithal Goswami, Shri Dinesh

Goswami, Shri Sriman Prafulla

Gupta, Shri Bhupesh

Gupta, Shri Gurudev

Gupta, Shri Ram Lakhan Prasad

Habibullah, Shrimati Hamila

Hegde, Shri Ramakrishna

Imam, Shrimati Aziza

Jagbir Singh, Shri

Jain, Shri Dharamchand

Jamuna Devi, Shrimati

Janardhanam, Shri A. P.

Jha, Shri Kamalnath

Jha, Shri Shiva Chandra

Joshi, Shri Jagannathrao

Joshi, Shri Jagdish

Joshi, Shri Krishna Nand

Joshi, Shrimati Kumudben Manishan-  
ker Kadershah, Shri M.

Kakati, Shri Robin

Kalaniya, Shri Ibrahim

Kamble, Prof. N. M.

Kameshwar Singh, Shri

Kesri, Shri Sitaram

Khan, Shri Ghayoor Ali

Khan, Shri Khurshed Alam

Khan, Shri Maqsood Ali

Khan, Prof. Rasheeduddin

Khan, Shrimati Ushi

Khaparde, Shrimati Saroj

Khobragade, Shri Bhaurao Devaji j

Krishna, Shri M. R. ! Krishnan, Shri E.

R. Krishnan, Shri U. R.

Kumaran, Shri S.

Kunjachen, Shri P. K.

Kureel, Shri Piare Le.U urf Piare I. all  
Talib

Lakhan Singh, Shri Lakshmanan, Shri G.

Lokesh Chandra, Dr. Lotha, Shri Khyomo

Madhavan, Shri K. K. Mahanti, Shri

Bhairab Chandra Mahapatro, Shri

Lakshmana Mahavir, Dr. Bhai Mahida,

Shri Harisinh Bhagubava Majhi, Shri

Dhaneswar \ Makwana, Shri Yogendra

Maliick, Shri Harekrushna Manhar, Shri

Bhagatram Maran, Shri Murasoli Mathur,

Shri Jagdish Prasad Maurya, Shri Buddha

Priya Mehrotra, Shri Prakash Menon,

Shrimati Leela Damodara Menon, Shri

Viswanatha Mishra, Shri Kalraj Mishra,

Shri Mahendra Mohan Mohanty, Shri

Surendra Mohinder Kaur, Shrimati

Mondal, Shri Ahmad Hossain

Moopanar, Shri G. K.  
 Morarka, Shri R. R.  
 Mukherjee, Shrimati Kanak  
 Mukherjee, Shri Pranab  
 Munusamy, Shri V. P.  
 Muthu, Dr. (Shrimati) Sathiavani  
 Naidu, Shri N. P. Chengalraya  
 Naik, Shri L. R.  
 Nanda, Shri Narasingha Prasad  
 Narendra Singh, Shri  
 Nigam, Shri Ladli Mohan  
 Nizam-ud-Din, Shri Syed  
 Oza, Shri Ghanshyambhai  
 Pande, Shri Bishambhar Nath  
 Parbhu Singh, Shri  
 Parikh, Prof. Ramlal  
 Patel, Shri Manubhai  
 Pathak, Shri Ananda  
 Patil, Shri Deorao  
 Pattanayak, Shri Bhabani Charan  
 Poddar, Shri R. K.  
 Pradhan, Shri Patitpaban  
 Prem Manohar, Shri  
 Rai, Shri Kalp Nath  
 Rajan, Shri Pattiam  
 Raju, Shri V. B.  
 Ramamurti, Shri P.  
 Rameshwar Singh, Shri  
 Ranga, Prof. G.  
 Ray, Shri Rabi  
  
 Razack, Shrimati Noorjehan Reddy, Shri  
 B. Satyanarayin Reddy, Shri K. V.  
 Raghunatha Reddy, Shri Mulka Govinda  
 Reddy, Shri R. Narasimha Roshan Lai,  
 Shri Roy, Shri Kalyan Sahaya, Shri  
 Dayanand  
 Sahu, Shri Santosh Kumar  
 Saleem, Shri Mohammad Yunus  
 Samad, Shri Golandaz Mohammedhu-sian  
 A.

Saring, Shri Leonard Solomon Sarup  
 Singh, Dr. Satchidananda, Shri  
 Sezhiyan, Shri Era Shahedullah, Shri  
 Syed Shahi, Shri Nageshwar Prasad  
 Shanti Bhushan, Shri Sharma, Shri  
 Ajit Kumar Sharma, Shri Anant  
 Prasad Sharma, Shri Kishan Lai  
 Sharma, Shri Yogendra Shastri,  
 Shri Bhola Paswan Siddhu, Dr. M.  
 M. S. Singh, Shri Bhishma Narain  
 Singh, Shri J. K. ? N. Singh, Shri  
 Ng. Tompok Singh, Shrimati  
 Pratibha Singh, Shri Shiva N and an  
 Sinha, Shri Indradeep Sinha, Dr.  
 Ramkripal Sisodia, Shri Sawaisingh  
 Soni, Shrimati Ambika Sujan Singh,  
 Shri Sultan, Shrimati Maimoona  
 Sultan Singh, Shri Surendra Mohan,  
 Shri Surjeet, Shri Harkishan Singh  
 Swu, Shri Scato

Toma, Shri Ratan Totu, Shri Gian  
 Chand Triloki Singh, Shri Tripathi,  
 Shri Kamalapati Vaishampayen, Shri  
 S. K. Varma, Shri Mahadeo Prasad  
 Venigalla Satyanarayana, Shri  
 Venka, Shri V. Venkatrao, Shri  
 Chadalavada Warjri, Shri Alexander  
 Yadav, Shri Ramanand Yadav, Shri  
 Shyam Lai

## NOES—1

<sup>1</sup> Rao, Shri V. C. Kesava

*The motion was 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.*

## MESSAGES FROM THE LOK SABHA (I)

The Press Council Bill, 1978

(II) The Visva-Bharati (Amendment) Bill, 1978

(ni) The Industrial Relations Bill, 1978

(IV) The Hospitals and Educational Institutions (Conditions of Service of Employees and Settlement of Employment Disputes) Bill, 1978

(V) The Employment Security and Miscellaneous

Provisions (Managerial Employees) Bill, 1978.

[The Vice-Chairman (Shri Shyam Lal Yadav) in the Chair.]

SECRETARY-GENERAL: Sir, I have to report to the House the following messages received from the Lok Sabha, signed by the Secretary of the Lok Sabha:—

(I)

"In accordance with the provisions of Rule 120 of the Rules of Procedure and Conduct of Business in Lok Sabha, I am directed to inform you that Lok Sabha, at its sitting held on the 31st August, 1978, agreed without any amendment to the Press Council Bill, 1978, which was passed by Rajya Sabha at its sitting held on the 7th August, 1978."

(II)

"I am directed to inform Rajya Sabha that Lok Sabha, at its sitting held on Thursday, the 31st August, 1978, has adopted the enclosed motion concurring in the recommendation of Rajya Sabha that Lok Sabha do join in the Joint Committee of the Houses on the Visva-Bharati (Amendment) Bill, 1978. The names of the members nominated by Lok Sabha to serve on the said Joint Committee are set out in the motion.

## MOTION

"That this House do concur in the recommendation of Rajya Sabha that the House do join in the Joint Committee of the Houses on the Bill further to amend the Visva-Bharati Act, 1951, made in the motion adopted by Rajya Sabha at its sitting held on the 25th July, 1978 and communicated to this House on the 27th July, 1978 and do resolve that the following 22 members of Lok Sabha be nominated to serve on the said Joint Committee, namely:—

- (1) Shrimati Renuka Devi Bar-kataki
- (2) Shri Bedabrata Barua
- (3) Shri Tridib Chaudhuri
- (4) Shri Dhirendranath Basu
- (5) Shri Rudolph Rodrigues
- (6) Shri C. K. Chandrappan
- (7) Shri Ajitsinh Dabhi
- (8) Shri Raj Krishna Dawn
- (9) Shri V. Kishore Chandra S. Deo

- (10) Shri R. D. Gattani
- (11) Shri Samar Guha
- (12) Shri V. G. Hande
- (13) Shri Nirmal Chandra Jain (14) Shrimati Mohsina Kidwai

- (15) Dr. (Shrimati), Sarojini Mahishi
- (16) Shri P. Rajagopal Naidu
- (17) Shri K. A. Raju
- (18) Shri Ramjiwan Singh

- (19) Dr. Saradish Roy  
 (20) Shri Jagannath Sharma  
 (21) Shri Rajendra Kumar  
       Sharma  
 (22) Shri Pratap Chandra Chun derV

(HI)

"I am directed to inform Rajya Sabha that Lok Sabha, at its sitting held on Thursday, the 31st August, 1978, adopted the annexed motion in regard to the Industrial Relations Bill, 1978.

I am to request that the concurrence of Rajya Sabha in the said motion, and also the names of the members of Rajya Sabha appointed to the Joint Committee, may be communicated to this House.

MOTION

"That the Bill to consolidate and amend the law relating to the registration of trade unions of employees and employers, the rights and liabilities of registered trade unions and settlement of trade union disputes, the conditions of employment of employees, and the investigation and settlement of disputes between employees employed in industrial establishments or undertakings and their employers, and for matters connected therewith or incidental thereto, with a view to promoting healthy industrial relations leading to accelerated economic, development and social justice, be referred to a Joint Committee of the Houses consisting of 33 members, 22 from this House, namely: —

- (1) Shri Citta Basu  
 (2) Shri Dinen Bhattacharya  
 (3) Shri S. R. Damani  
 (4) Shrimati Mrinal Keshav Gore  
 (5) Shri Hukam Chand Kachwai  
 (6) Shri Amrit Nahata  
 (7) Professor P. G. Mavalankar

- (8.) Shri Prasannbhai Mehla  
 (9) Shri B. K. Nair  
 (10) Shri K. S. Narayana  
 (11) Shri K. A. Rajan  
 (12) Shri A. E. T. Barrow

- (13) Shri K. Ramamurthy  
 (14) Shri Ramdas Singh  
 (15) Shri Saugata Roy  
 (16) Shri Ram Dhari Shastri  
 (17) Shri Digvijaya Narain Singh  
 (18) Shri Govind Ram Mird  
 (19) Shri Ugrasen  
 (20) Shri R. Venkataraman  
 (21) Shri C. Venugopal  
 (22) Shri Ravindra Varma and 11

from Rajya Sabha;

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

that the Committee shall make a report to this House by the last day of the first week of December, 1978;

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

that this House do recommend to Rajya Sabha that Rajya Sabha do join the said Joint Committee and communicate to this House the names of 11 members to be appointed by Rajya Sabha to the Joint Committee".

(IV)

"I am directed to inform Rajya Sabha that Lok Sabha, at its sitting held on Thursday, the 31st August, 1978, adopted the annexed motion in regard to the Hospitals and Educational Institutions (Conditions of Service of Employees and Settlement of Employment Disputes) Bill, 1978.

I am to request that the concurrence of Rajya Sabha in the said motion, and also the names of the members of Rajya Sabha appointed to the Joint Committee, may be communicated to this House.

#### MOTION

'That the Bill to consolidate and amend the law relating to the conditions of service of employees employed in hospitals and educational institutions 'with a view to securing the welfare of such employees, and for the investigations and settlement of disputes between such employees and their employers, and for matters connected therewith or incidental thereto be referred to a Joint Committee of the Houses consisting of 33 members, 22 from this House, namely:—

- (1) Shri Chitta Basu'
- (2) Shri Dinen Bhattacharya
- (3) Shri S. R. Damani
- (4) Shrimati Mrinal Keshav Gore
- (5) Shri Hukam Chand Kachwai (G)  
Shri Amrit Nahata
- (7) Professor P. G. Mavalankar (3) Shri  
Prasannbhai Mehta
- (9) Shri B. K. Nair
- (10) Shri K. S. Narayana
- (H) Shri K. A. Raj an
- (12) Shri A. E. T. Barrow
- (13) Shri K. Ramamurthy
- (14) Shri Ramdas Singh
- (15) Shri Saugata Roy
- (16) Shri Ram Dhari Shastri
- (17) Shri Digvijaya Narain Singh
- (18) Shri Govind Ram Miri
- (19) Shri Ugrasen
- (20) Shri R. Venkataraman
- (21) Shri C. Venugopal
- (22) Shri Ravindra Varma

and 11 from Rajya Sabha;

that in order to constitute a sitting of the Joint Committee the quorum

shall be one-third of the total number of members of the Joint Committee;

that the Committee shall make a report to this House, by the last day of the first week of December, 1978;

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

that this House do recommend to Rajya Sabha that Rajya Sabha do join the said Joint Committee and communicate to this House the names of 11 members to be appointed by Rajya Sabha to this Joint Committee'."

(V)

"I am directed to inform Rajya Sabha that Lok Sabha, at its sitting held on Thursday, the 31st August, 1978, adopted the annexed motion in regard to the Employment Security and Miscellaneous Provisions (Managerial Employees) Bill, 1973.

I am to request that the concurrence of Rajya Sabha in the said motion, and also the names of the Members of Rajya Sabha appointed to the Joint Committee, may be communicated to this House.

#### MOTION

'That the Bill to provide for the security of employment to managerial employees, the recovery of amounts payable to such employees by their employers and for matters connected therewith, be referred to a Joint Committee of the Houses consisting of 33 members, 22 from this House, namely:—

- (1) Shri Chitta Basu
- (2) Shri Dinen Bhattacharya
- (3) Shri S. R. Damani
- (4) Shrimati Mrinal Keshav Gore
- (5) Shri Hukam Chand Kachwai

- (6) Shri Amrit Nahata
- (7) Professor P. G. Mavalankar
- (8) Shri Prasannbhai Mehta
- (9) Shri B. K. Nair
- (10) Shri K. S. Narayana
- (11) Shri K. A. Rajan
- (12) Shri A. E. T. Barrow
- (13) Shri K. Ramamurthy
- (14) Shri Ramdas Singh
- (15) Shri Saugata Roy
- (16) Shri Ram Dhari Shastri
- (17) Shri Digvijaya Narain Singh
- (18) Shri Govind Ram Miri
- (19) Shri Ugrasen
- (20) Shri R. Venkataraman
- (21) Shri C. Venugopal
- (22) Shri Ravindra Varma

and 11 from Rajya Sabha;

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

that the Committee shall make a report to this House by the last day of the first week of December, 1978;

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

that this House do recommend to Rajya Sabha do join the said Joint Committee and communicate to this House the names of 11 members to be appointed by Rajya Sabha to the Joint Committee'."

**HALF-AN-HOUR DISCUSSION ON  
POINTS ARISING OUT OF THE  
ANSWER GIVEN IN THE RAJYA  
SABHA ON THE 22ND AUGUST, 1978  
TO UNSTARRED QUESTION**

1999 REGARDING RAIDS AT THE PREMISES OF M/S. PARLE PRIVATE LIMITED

SHRI YOGENDRA MAKWANA (Gujarat): Mr. Vice-Chairman, Sir, I am really very sorry for detaining all the honourable Members of this august House at this late hour, but I am forced to do so as it is a matter of great public importance.

Sir, Shri Kanti Desai is involved in many shady deals and financial scandals. My esteemed colleague, Shri N. K. P. Salve, has moved a resolution which is passed by a majority of this august House for the appointment of a Committee of this House to go into the allegations against the family members of the Prime Minister. Sir, here is one more scandal where huge amounts of public finance are involved. When the premises of Parle group of companies were raided at Bombay and Delhi on the 15th November, 1977 by officers of the Enforcement Directorate, some incriminating documents were found along with some currency etc.

Sir, a part of the incriminating documents, not included in the Panch-nama, seized by the Enforcement Directorate during raids on the office and residence of Dr. Rossi, the Italian business tycoon, and his associates, including Mr. Ramesh Chauhan and Mr. Prakash Chauhan of the Parle Group of companies two month ago, is believed to have been destroyed on an urgent message from New Delhi.

Dr. Rossi, who is considered an expert in foreign exchange manipulations, is a director of many top Indian companies, like the South India Viscose, Ceat Tyres, National Rayon etc.

Raids were conducted at the offices and residences of top Parle business executives, in Bombay and

Delhi along with the raid on Dr. Rossi's office and residence. In Delhi, the offices of Parle and the residence of Miss Khan, the resident representative, were raided. In Bombay, the raided premises include the Eden Hall residence of Mrs. Meenakshi Jashdenwala, sister of Mr. Ramesh Chauhan of Parle Exports, who was killed in the Air India Boeing crash on New Year's day and the residence of Mr. Ramesh Chauhan of Parle Exports and Mr. Prakash Chauhan of Parle Products.

The seizures included certain papers connected with the sale of Bisleri, an Italian aerated water making firm in India which had been promoted by the Italians under the active advice and guidance of Dr. Rossi.

The Company was sold to Mr. Ramesh Chauhan of Parle Exports, Andheri and a huge amount had been transferred to Italy clandestinely with the active help of Dr. Rossi, who is a director of Bisleri.

Sir, Dr. Rossi is understood to have refused to make any statement to the officials at the time of the raid. He was ready to make a statement only to the Prime Minister, Mr. Morarji Desai or the Finance Minister, Mr. H. M. Patel and to nobody else. Sir, the question arises: Did he make a statement now; and if so, before whom and what does it reveal?

It is understood that after the raid, Dr. Rossi met the Prime Minister twice in New Delhi.

Dr. Rossi is a very close friend of Mr. Kantibhai Desai, son of the Prime Minister, from the Permanent Magnet days when they used to meet regularly at Little Hut, in Ritz Bombay. Their friendship has grown since then. Mr. Ramesh Chauhan also is known to be a great friend of the Prime Minister's son and as both his

friends were in hot waters, Mr. Kanti Desai is said to have gone to their rescue.

The result was that Delhi gave immediate instructions that the case should be handled only by a particular officer and other officers and staff should not be told about the details. And as instructed, Mr. Aulakh, an officer of the Enforcement Directorate, is believed to have destroyed the documents which were not included in the Panchnama.

Mr. Kantibhai's son, who is a very close business associate of Dr. Rossi and Mr. Ramesh Chauhan, is also said to have moved in the matter so that the friends could be saved.

It is apparently very clear that the Parle Group of Companies have been given special treatment by the Government of India. The following is a clear example of how the Government has not been taking any action against this Group of Companies in spite of their blatant violation of the Prevention of Food Adulteration Act:—

In answer to a question raised in the Lok Sabha on 27th July, 1978, the Minister of State for Health had stated that letters have been written on 14-6-1978 and again on 27-6-1978 to Delhi Bottling Company Private Limited, New Delhi and their principle, Parle Beverages Private Limited, Bombay asking them to desist from advertising their product 'Thums Up' as a 'refreshing cola', as this violates the Prevention of Food Adulteration Act. It is nearly 24 months since these letters have been written and it is surprising that the Government of India has not followed up these letters with any action. Is it to be taken that the Government of India is soft-peddalling the whole issue for reasons best known to them?

tShri Yogendra Makwana]

Sir, the matter has been taken up by me in the last session of the Rajya Sabha also, when the Minister of State for Finance had confirmed that the product 'Thums Up' did not contain any cola nut extract and, therefore, their declaration to the Excise authorities was correct. But, he, at the same time, had also assured the House that the matter will be referred to the Delhi Administration for taking action against these Companies for cheating the public, under section 420 of the I.P.C. It seems nothing has been done on this so far.

It is pertinent to point out that a private company is allowed to go scot-free irrespective of the assurances by the Ministers of the Government of India and is allowed to carry on its activities without any fear. The Government, instead of taking prompt action, has been going in circles as far as this subject matter is concerned, giving an impression to the Members of Parliament that they are more keen to ignore the whole issue rather than taking action against these firms.

When the Delhi Bottling Company Private Limited and the Parle Beverages Private Limited have themselves given a declaration to the Excise authorities that their product 'Thums Up' does not contain any cola nut extract, why does the Health Ministry, instead of asking them to stop advertising their product as 'Refreshing cola', wait for a reply from them and again rake up the question of the methodology to find out the presence of cola nut extract. It is certainly not the way a Government functions.

Sir, the Government media like the radio and the TV are misused by these companies by advertising their product as 'Refreshing cola', which has been admitted to be a clear violation of the Prevention of Food Adulteration Act by the Health Minister.

Under the circumstances mentioned above, will the Government assure this House that, immediate action against this group of companies will be taken? Will the Government also communicate to the Information and Broadcasting Ministry that they should forthwith stop accepting advertisements of 'Thums Up' so long as it is mentioned as 'Refreshing cola'?

Sir, I have tried to show how the Janata Government favours the Parle group of companies as they have taken a huge amount from them.

Now I come to the raid carried out in November, 1977 by the Enforcement Directorate on this group of companies. Sir, some documents were found during the raid and out of them some were destroyed. However, I have got the photostat copies of the remaining documents with me and they reveal many things.

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV): Kindly be brief. Ask some clarifications, not make a long statement.

SHRI YOGENDRA MAKWANA: I know that you are tired, Sir. But this is a very important issue.

These are the documents. In September, 1969, under an agreement dated the 24th of September, 1969, Mr. Ramesh Chauhan, Managing Director of Parle Exports Private Limited, the then named Parle Bottling Company Private Limited, took over 980 equity shares (per value at Rs. 500 per share) at Re. 1 per share on behalf of the Parle Bottling Company Private Limited (Reference Schedule "A" of the Agreement) and here is the Agreement which I referred to, and the Schedule of the Agreement gives the details of it.

Because you wish that I should finish early, I will not like to read the schedule.



Sir, Mr. Ramesh Chauhan also took over the liability for loans of Rs. 22,37,229 from Indian and foreign banks (Reference Schedule "B" of the Agreement which says about it). As per clause 3 of the Agreement, Rs. 3,15,424 were to be written off out of Rs. 6,20,000 loan by Felice Bisleri and Company, S.P.A. Milano, a foreign company registered in Italy. In view of all this, I would like to put ten specific questions to the honourable Minister:

1. Why has it taken such a long period of 8 months for the Government to decide about action against the companies and their directors?

2. If the prosecution has started how long will it take for the Government to finish the matter? Is the offence not of such nature as to arrest the directors and confiscate the company's assets under COFE-POSA for the illegal remittance violating FERA?

3. Has the Government been able to locate as to where ultimately the remittance went by getting confirmation from the concerned Italian Bank? If not, does the Government propose to make any effort in that direction? But, why so late?

3a. Has the Income Tax Authority reopened the income-tax assessment of Bisleri India Private Limited for the years in which this remittance took place and made demand on the company for the income-tax thereon?

Have any penalties been levied by the income-tax authorities for criminal suppression of the facts of illegal remittance?

4. In the process of investigation of the declared illegal remittance, has the Government been able to locate any other FERA violation? If so, what are they and are they

of the nature of prosecute the culprits? If so, when does the Government propose to take action?

5. When the premises of one of the directors, C. Rossi, was searched did the Government seize any documents evidencing payment of political nature? If yes, to whom were the payments made?

6. Were there investigations of other activities in India of C. Rossi? If yes, how long have the investigations been going on and when are they likely to be completed?

7. After the raid on Bisleri/Parle Premises, were there transfers of unusual nature of key officers in the Enforcement Directorate?

8. Is the Government aware of violations made by Bisleri/Parle Group of Companies and their Directors of other Indian law?

9. Is the Government aware of Parle Company and Ramesh Chauhan, being partners in their Calcutta Franchise viz., Black Diamond Beverages Limited, being involved in a serious excise evasion case discovered by Excise authorities in 1974 of six trucks carrying goods of Gold Spot for sale without payment of excise duty? What is the result of that investigation?

10. Is the Government aware of Parle Group of Companies in Bombay and Delhi having criminally evaded excise to the tune of Rs. 1 crore each by operating the sales through Benami concerns viz., Kismet Private Limited, in Bombay, and All Right Agencies Private Limited, in Delhi, when the excise was on *ad valorem* basis from 1970 to 1976?

These are my ten questions to which I want to know the answers from the honourable Minister.

THE MINISTER OF STATE IN THE MINISTRY OF FINANCE (SHRI SATIOFH AGARWAL): Mr. Vice-Chairman this half-an-hour discussion has arisen out of answers given in reply to Unstarred Question No. 1999 dated the 22nd August, 1978. You will kindly appreciate what the question was:

"(a) Whether it is a fact that raids were conducted by the Enforcement Directorate in the month of November, 1977 in the Delhi and Bombay offices of M/s. Parley Private Limited; and

(b) if so, what documents and other incriminating evidence was seized during these raids and what action Government have taken on the basis thereof?

The reply was like this;

(a) and (b). On 15-11-1977 officers of the Directorate of Enforcement searched the premises of M/s. Bisleri (India) Private Limited, Bombay and M/s. Delhi Bottling Private Limited, New Delhi and some other connected premises as a result of which some documents were seized.

As a result of investigations made so far:

(i) A Show Cause Notice has been issued to M/s. Bisleri (India) Private Limited, Bombay, and its Directors, S/Shri Ramesh J. Chauhan and H.M. Golwala on 2-3-1978 for having utilised foreign exchange amounting to £ 14,336 for a purpose other than the one for which it was acquired-violation of Section 4(3) of the Foreign Exchange Regulation Act, 1947.

(ii) A Show Cause Notice has been issued to Shri Rakesh J. Chauhan On 14th April 1978 for acknowledging a debt of Rs. 2 lakhs thereby creating a contingent right in favour of Dr. C. Rossi to receive a payment-violation of section 5(1) of Foreign Exchange Regulation Act, 1947.

(iii) A Show Cause Notice was issued to Smt. Meenaxi Jasdanwala on 15th December 1977 for acquiring foreign exchange amount to U.A.E. Dirhams 500 without the permission of Reserve Bank of India in violation of Section 8(1) of the Foreign Exchange Regulation Act, 1973.

Smt. Jasdanwala is understood to have died in an air crash on 1st January 1978. The proceedings against her, therefore, abate. The other two cases where show cause notices have been issued are under adjudication. Some other investigations are in progress."

Now, Sir, out of the reply to this Unstarred Question given on 22nd August 1978, the hon. Member gave notice under Rule 60(2) of the Rules of Procedure and Conduct of Business in Rajya Sabha, and he stated before the Chairman that he wished to raise the following questions during the discussion:

(i) The information given in reply to the said question is incomplete and full details are not given.

(ii) Some documents were destroyed after they were seized during the raid, under instructions from Delhi.

(iii) The seizure included certain papers connected with the sale of Bisleri, an Italian aerated water making firm in India in which huge amount had been transferred to Italy clandestinely. He requested that permission may be granted to raise these questions.

Now, Sir, so far as the first question is concerned that the information given in reply to the said question is incomplete and full details are not given. I may be permitted to say that it is denied that the information given was inadequate or incomplete. It had given dates of the search and the premises in Bombay and Delhi which were referred to in the question and the sister concerns. The reply

had also given the details of the show cause notices issued as a result of the investigations made so far mentioning the fact that some other investigations are in progress. There is no question of suppressing any information required in the question as alleged in the explanatory note to the notice given by the hon. Member. It may be noticed that where investigations had been completed and show cause notice issued, the full information regarding these cases had always been furnished to the House. When further investigations in the case are in progress, it may not be in the public interest to disclose the details at present.

Then, Sir, with regard to the second question, namely, that some documents were destroyed after they were seized during the raid under instructions from Delhi, I have to submit that there is no basis for the allegation I made. No seized documents have been destroyed. No instructions on this were issued from Delhi either from the Directorate of Enforcement Head Offices or from the Finance Ministry.

With regard to question No. 3, there is no evidence in the seized documents showing transfer of huge amount in clandestine manner relating to sale of shares of M/s. Bisleri India (Pvt.) Ltd. The ratio of shares held by non-residents and residents has been changed on a number of occasions. Till 1964, it was a 100 per cent Italian company. In 1964, 40 per cent shares were allotted to Indians. Later on 49 per cent shares were given to Indians and only 51 per cent share holdings remained with Italians. On all these occasions increase in shareholdings by the residents was achieved by way of increase in authorised and paid-up capital of the Company.

In January 1968, Ministry of Industrial Development and Company Affairs directed that percentage of nonresident shareholding should be reduced to 49 per cent and the balance

should be allotted to residents. At that time, non-residents held 918 shares and the resident 882 shares of Rs. 500 each.

In October 1968, a reference was made to Reserve Bank of India by Bisleri (India) seeking approval for the sale of 2 per cent shareholdings held by non-residents to Shri R. J. Chauhan of Parle's. This reference was, however, withdrawn in December, 1968, and the directive of the Ministry of Industrial Development and Company Affairs was complied with by allotting only 62 shares to non-residents and 138 shares to residents out of 200 additional shares issued by way of increase in paid-up capital by Rs. 1 lakh. Thus the shareholding of residents became 1020 shares and that of non-residents 930 shares. The price of 62 shares allotted to non-residents has been received in India through the proper authorised banking channels. In 1973 or so, paid-up capital of the Company was further increased to Rs. 12.75 lakhs. All the new shares issued by way of increase in capital to the extent of 2.75 lakhs were allotted to residents. Thus, neither seized documents nor investigations made by Enforcement Directorate show any transfer of funds towards purchase of shareholdings held by non-residents in the manner alleged. Now, Mr. Vice-Chairman, Sir, he has raised several points. It would have been much better if the hon. Member had passed on this information or mentioned these questions in his original notice. In that case, I would have been glad to furnish the whole information to the House. I am the last person to hide any information from the House. But I am sorry I cannot give all the information which he requires now. He has raised 10 questions. Sir, so far as these 10 questions are concerned. I would like to say briefly whatever is possible for me even though he has not given me prior intimation. So far as the first question is concerned as to why 8 months have been

[Shri Satish Agarwal]

taken, I would say that it is a very complicated case. It is such a case that 8 months' period is not too long a period. I had given specific instructions to the Directorate when the original questions were asked in the Rajya Sabha by the hon. Members or in the Lok Sabha by other Members that adjudication should be expedited as far as possible and investigations are in progress. After all, you would very kindly appreciate the total number of pages in all those registers and files comes to more than 4000 pages. Now, all of them have to be looked into and investigations have to be made. Then, of course, if some *prima facie* case is made out, show-cause notice has to be issued. The matter is pending adjudication. Now, regarding some other matters pertaining to Rossi, etc., investigations are already in hand. Regarding the questions whether prosecution has started, why no arrests are made, etc., I would say that no prosecution has been launched so far because in the case of foreign exchange violations prosecutions are adjudicated and if the authorities come to the conclusion that it is a very serious violation that way, then, of course, prosecution is launched. Otherwise, prosecutions are not launched in all cases so far as this type of cases are concerned. So far as the question whether income-tax reopened or not or whether penalty imposed or not, Mr. Vice-Chairman, Sir, you know very well and the House knows very well that I am not dealing directly with this subject. If the hon. Member had furnished this information to me in advance when he gave notice, I would have checked up the matter with the concerned Department and would have been able to furnish this information to the House and satisfied the hon. Member. Now, I am not in a position to say anything. But I think that on the basis of some enforcement investigations, income-tax assessments are not reopened. Now, he has mentioned illegal remittances, foreign ex-

change violations, what action, when action, etc., I leave only one point, No. 5, regarding the search of Rossi, its political nature, etc. He has informed the House about violations by Bisleri, Parleys and Chauhans. He says that they are evading excise duty to the tune of Rs. 1 crore each from 1970 to 1976. So far as this information is concerned, I am very thankful to the hon. Member, I can assure him that if there had been any case of excise evasion by this particular party, I will order a thorough probe into this matter and will see to it that anybody who is evading excise duty is taken to task and he shall be booked definitely. I am not going to spare him that way. I am very thankful to the hon. Member for giving this information to me, though very late. So far as the question of searches at the place of Mr. Rossi is concerned, the hon. Member remarked here that he is very close to X and Y and that he had met the Prime Minister two times. I am too junior a man to comment on that. But so far as my information goes, Dr. Rossi's statement was recorded on the day the search was conducted, A.E., the 15th of November 1977. Probably that is the date. On that very day, his statement was recorded. It runs into several pages. Of course, the statement makes a reference to certain deals which were entered into on behalf of certain high-ups in political life. Now, it will not be appropriate for me and I am not one of those who is going to hit back any political party on political grounds or considerations. So, I am not inclined to disclose all that political information which definitely goes against the party of the hon. Member and which goes in favour of the ruling party. Sir, I am not here to be guided by political considerations. It is a very serious information which is contained in the statement of Mr. Rossi and which casts very serious reflections on the persons there. *(Interruptions)* The hon. Member should have some patience. I am not one of those who is going to make capital out of it. I

do not want to do that. So, I am not , referring to those portions of the ) statement. The matter is still under investigation. So, it will not be fair to the persons referred to in that statement, a solitary statement. Some names were mentioned. Anybody can malign anybody. It may be, Mr. Rossi might have done that. I cannot say. And it may be true, but I cannot say, unless the investigations are completed. Certain names which have figured in the statement of Dr. Rossi are of very high-ups and I do not want to malign them at this stage unless the investigations conclusively prove that they were involved in this scandal. So, I think, the hon. Member will be satisfied with this answer at the moment under the present circumstances. And so far as the narration of all other facts are concerned, I will go through the statement, I will obtain a copy of it and see what action is needed at my level. And I can assure him, through you, Sir, and the whole House that so far as I am concerned, I am not going to spare any tax-evader or any foreign exchange racketeer, howsoever highly placed he may be and whatever high connections he may have. So far as I am there I am charged with a particular duty and I have taken an oath and I will fully discharge my duties that way. I can assure him that way. And that is only sufficient at the moment so far as the matter is concerned.

So far as the report of the Health Ministry is concerned, writing to the Delhi Administration is concerned, I have already written a letter to the Delhi Administration that no case of excise evasion is there. But, of course, they may be cheating the customers by saying that 'Thums Up' contains cola content. That is not a direct question and direct issue. But even then, I assured the House and accordingly I had written a letter to the Delhi Administration taking up the matter with them. And in my Department also, the report from the Chief Chemist has been received. I am also considering a suggestion

whether to amend the notification so as to do away with this mischief. Whatever assurances I have given on the floor of the House, I am trying to fulfil all of them. Action has already started immediately. Rather whenever the file is here, I give the assurance later on and I make an order on the file right in the House. So, I think, the relevant points that I have replied to here are sufficient to satisfy the hon. Member. If any other information he has in this behalf, I shall be grateful to him if he passes on that information to me. And I assure him of my deepest and since-rest consideration of that information, and action will be taken accordingly. Thank you, Sir.

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV): Shri Kalp Nath Rai.

SHRI YOGENDRA MAKWANA: Mr. Vice-Chairman, Sir...

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV): You have already spoken.

SHRI YOGENDRA MAKWANA: It arises out of the reply given by the hon. Minister.

THE VICE CHAIRMAN (SHRI SHYAM LAL YADVA): That is not the procedure. You know it very well. You made your observations and the Minister replied.

SHRI YOGENDRA MAKWANA: I put certain questions and out of that, some points....

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV): No, no. Half-An-Hour discussion does not allow this type of questions.

SHRI YOGENDRA MAKWANA: I have some questions.

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV): May be.

SHRI YOGENDRA MAKWANA: Then, what is the use of my raising the discussion?

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV): You have made your observations, and the Minister has replied already.

SHRI YOGENDRA MAKWANA: Reply is there. Out of that reply, some questions arise.

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV): Then you put them in some other way. This is not the time. You know very well, and the rules are clear. The Member who raises the discussion has to make his observations. Then the Minister replies. If you want to seek clarifications further, there is the Question Hour in the House. You pass on the information to the other Member. He can ask the questions.

Now, Shri Kalp Nath Rai.

SHRI YAGENDRA MAKWANA: It is unfortunate that you did not allow. There are very important questions.

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV): It is not a question-and-answer session. It is Half-an-Hour discussion.

SHRI YOGENDRA MAKWANA: I wanted a simple clarification. It arises out of the document.

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV): You should have asked it earlier. You had the document earlier. You pass on the information to the hon. Member. He will ask.

श्री कल्पनाथ राय (उत्तर प्रदेश) : उपसभाध्यक्ष महोदय, मैं केवल कुछ प्रश्नों को पूछ कर मंत्री महोदय से जानकारी करना चाहता हूँ कि मैं ने भी इस पार्ले ग्रुप आफ कम्पनीज के सम्बन्ध में समझ में सवाल पूछ थे। मतीश अग्रवाल जी हमारे एक योग्यतम मंत्री हैं और उन को जो भी पत्र लिखे जाते हैं उन का वे उत्तर देते हैं। लेकिन मैं उन से यह जरूर चाहूँगा कि इस बदनाम कम्पनी को जिस ने फारेन एक्सचेंज के बहुत वायलेशंस किये हैं और आप इस बात को अच्छी तरह से जानते हैं कि पार्ले ग्रुप आफ कम्पनीज दिल्ली वाटेलिंग कम्पनी के माध्यम से थम्स अप पेय को बनाती है। लेकिन जिस पेय को बनाने में कोला नट इस्तेमाल होता है उस पर 50 परसेंट एक्साइज ड्यूटी होती है और जिस पेय में कोला नट नहीं होता है उसका 25 परसेंट एक्साइज ड्यूटी होती है। बम्बई हवाई अड्डे पर उतरिये, पूरी बम्बई में थाम्स-अप कम्पनी के द्वारा रिफ्रिजिंग कोला कम्पनी लिखा हुआ है, दिल्ली में भी थाम्स-अप रिफ्रिजिंग

कोला कम्पनी लिखा हुआ है और यह डाइरेक्ट वायलेशंस है एक्साइज ड्यूटी का और 25 परसेंट चोरी थाम्स अप कम्पनी के द्वारा होती है। उन्होंने न केवल एडवर्टाइजमेंट अखबारों में कराया है, इंडियन एक्सप्रेस, टाइम्स आफ इंडिया, हिन्दुस्तान टाइम्स, स्टारबर्न, तब अखबारों में रिफ्रिजिंग कोला का प्रचार कराया गया। यहाँ तक कि रेडियो और टेलिविजन् के माध्यम से, भी इसका प्रचार कराया गया। तो मैं आपसे जानना चाहता हूँ कि जब 25 परसेंट एक्साइज ड्यूटी को चोरी इस पार्ले ग्रुप आफ कम्पनी ने की है तो यदि आपको जानकारी है कि इन्होंने अपने पेय को बेचने के लिए बाजार में रिफ्रिजिंग कोला शब्द का इस्तेमाल किया है तो क्या सरकार जो 25 परसेंट एक्साइज ड्यूटी को चोरी इस कम्पनी ने की है क्या उस पैस को आप एक्सचेंजर से लाने की कृपा करेंगे ?

दूसरी बात यह है कि टैक्स इन्वेज्न् को ब्लेडस्टाइन रिमिटेन्स की फारन एक्सचेंज वायलेशंस की जिकायते इस कम्पनी के खिलाफ बहुत है। मैंने आपको पत्र लिखा था और मुझे यह भी जानकारी हुई कि मेरे पत्र लिखने के बाद आपने इस ग्रुप पर डाइरेक्ट इन्फोर्सेमेंट के माध्यम से इस पर छापा डलवाया था, आपने कड़ी कार्यवाही की थी जिसके कारण बम्बई में आपके और आपके डिपार्टमेंट की बड़ी अच्छी पौहरत हुई। लेकिन अध्यक्ष महोदय, आपके माध्यम से मैं वित्त मंत्री जी ने निवेदन करना चाहता हूँ कि कहा जाता है कि बम्बई में जनता सरकार के कुछ और मंत्री जिनका डाइरेक्ट पार्ले ग्रुप आफ कम्पनीज का सम्बंध है, इन्फोर्से वे आपके विभाग के द्वारा की गई कार्यवाहियों की परवाह नहीं करते हैं और चूँकि जनता सरकार के बहुत से मंत्री लोग हैं, उन लोगों को पार्ले ग्रुप आफ कम्पनीज के माध्यम से साख्तों कपे चुनाव में चन्दे में मिते हैं, उनके डाइरेक्ट उनसे रिस्ते हैं, इन्फोर्से वह पूरी की पूरी कम्पनी प्राइवेटिज्न् हो गई कि हमारे मिनिस्टर्स इतने बड़े-बड़े दोस्त हैं तो फिर कैसे छापा पड़ा ? तो इसके लिए मैं आपको बधाई देना चाहता हूँ कि जो पैस की चोरी है, मेरे पत्र लिखने के पन्द्रह दिन के अन्दर उसके ऊपर आपने छापा डलवाया। मुझ विश्वास है कि आप जैसे योग्य मंत्री इन पार्ले ग्रुप आफ कम्पनीज की धांधलियों के खिलाफ कांफे्ट और टाइम-बाउंड कदम उठाकर आप एक ऐसा उदाहरण प्रस्तुत करें कि जिनको भी 420 का घंघा करने वाली कम्पनियां हैं इस देश के अन्दर वह आपके विभाग के माध्यम से बिल्कुल ठीक हों। यह टैक्स चोरी बन्द करें। फारेन एक्सचेंज वायलेशंस बन्द करें। रेकटियरिंग बन्द करें। हमें विश्वास है कि आप रिफ्रिजिंग कोला शब्द का जो इस्तेमाल इस कम्पनी ने किया है और जब कोला शब्द का इस्तेमाल किया है इस पार्ले कम्पनी ने जो आज बिदेशों में कोला कोला

कम्पनी कायम थी, दिल्ली में जो कम्पनी काम करती थी उस कम्पनी को आपके मंत्री महोदय के माध्यम से, बहुत सी मल्टी-नेशनल कम्पनी जो हिन्दुस्तान में काम करती हैं, मल्टी-नेशनल कारपोरेशन से जो हमारे यहाँ कोका कोला बनता था, उस कोका कोला कम्पनी को बन्द कराने में पार्ले ग्रुप आफ कम्पनी का बहुत बड़ा हाथ है और इन लोगों ने 6 महीने के अन्दर थाम्स ग्रुप पेस को बेचकर मुक्त में करोड़ों रुपया कमाया और जिन लोगों ने कोका कोला कम्पनी को बन्द कराया वही लोग पार्ले ग्रुप आफ कम्पनी के सब से बड़े सपोर्टर हैं और उन्होंने कोका कोला कम्पनी को बन्द कराकर करोड़ों करोड़ रुपया, 8 महीने तक कोई पैसा आया नहीं, कमाया और जिन मंत्रियों ने कोका कोला कम्पनी को बन्द कराया वही मंत्री इस थाम्स-ग्रुप ग्रुप आफ पार्ले कम्पनी के भ्रष्टाचार के पीछे हैं।

मैं आपसे निवेदन करता हूँ कि इस तरह की चोरी करने वालों, विदेशी मुद्रा का उल्लंघन करने वालों, रिपेटरीएशन की धांधली करने वालों और पार्ले जैसी कम्पनियों के खिलाफ आप कड़ी कार्रवाई करें ताकि भविष्य में आने वाले नवम्बर सेशन में हमें फिर शिकायत करने का अवसर न मिले। हमें आशा है नहीं विश्वास भी है कि आप सही कदम उठा कर पार्ले कम्पनी के भ्रष्टाचार को खत्म करने की कोशिश करेंगे। मैं आपका इसके लिए व्यक्तिगत रूप से देश की जनता की तरफ से आभार मानूँगा।

SHRI HARISINH BHAGUBAVA MAHIDA (Gujarat). Certain matters arose out of the discussion. I am just putting it before the House for clarification of the Minister.

Sir, during the search two letters were also found. One was dated 23rd August, 1970, written by Mr. J. M. Chauhan father of Shri Ramesh J. Chauhan to Dr. Rossi of Bisleri Co. of Italy for illegal transfer of money in foreign bank and the other letter is dated 18-10-71 written by Mr. Ramesh Chauhan fo Shri Krishna Murthy of M/s Hyderabad Bottling Private Limited and benami of M/s Ramesh Chauhan to avoid tax. In these letters he has mentioned about three imported filling machines. In 1969 three filling machines were imported from Italy by Parle Company

under the credit facilities for eight years granted by Cogz Italy guaranteed by Reserve Bank of India and counter guaranteed by Bank of India. The machines were imported under Actual Users Licence not transferable for eight years.

These three machines before entering the premises of Parle Co. in Bombay were cleared from the docks and directly sent to Paries Franchise Holders, namely Poonā Bottling Co. at Poonā, Hyderabad Bottling Co. at Hyderabad and Ahmedabad Bottling Co. at Ahemdabad.

During next two years the one at Poonā was transferred to Chandigarh Bottling Co., at Chandigarh and <sup>one</sup> at Ahmedabad transferred to Amrit-sar Bottling Co., at Amritsar.

The credit facilities illegally contained to be enjoyed by Parle Co. and were retained in the books of Parle Company whereas the consideration was recieved in one form or other by Parle Company from the three franchise holders, by Parle Company.

Even depreciation and development rebate reserve have been illegally claimed by Parle Company in the income-tax.

The Government is aware of these facts as it had appeared in the press (Surya Magazine).

[Shri Harisinh Bhagubava Mahida] The Government has not so far taken any action on the same. We would like to know whether the Government would take any action on this or not.

SHRI SATISH AGARWAL; Mr. Vice-Chairman, Sir,...

श्री कल्प नाथ राय : हिन्दी में बोलिये ।

श्री सतीश अग्रवाल : जो अंग्रेजी में बोले हैं उनका अंग्रेजी में जवाब दूंगा और जो हिन्दी में बोले हैं उनका हिन्दी में जवाब दूंगा । मुझे दोनों में बोलने में कोई आपत्ति नहीं है ।

विपक्ष के नेता (श्री कमलापति त्रिपाठी) : पहले इनका हिन्दी में जवाब दीजिए उसके बाद अंग्रेजी में ।

SHRI SATISH AGARWAL; Let. me say just two sentences in English and then I will give him reply in Hindi.

Hon. Member, Mr. Mahida, refered to certain letters written by one Mr. Chauhan somewhere on 23-8-1970 and on 18-10.1971. I have no prior notice of these letters. I do not know what is contained in these letters. I can only say that if these letters throw any light whereby any investigations are necessary and any action can be contemplated.....

SHRI YOGENDRA MAKWANA: During the raid these letters were seized.

SHRI SATISH AGARWAL: The seized documents run in more than 4000 pages. Does hon. Mr. Makwana expect me to look into every page? It would have been more fair to me if you had made a reference in your notice itself about these letters. Now I can assure that all these matters are being looked into, investigations are in progress.

श्रीमन्, कल्प नाथ राय जी ने जो प्रश्न उठाया है उसमें उन्होंने एक बात कही है कि थम्स-अप के नाम से एडवर्टाइजमेंट्स, विज्ञापन दिये जा रहे हैं और सारे देश भर में आकाशवाणी, से, समाचारपत्रों के माध्यम से थम्स-अप का प्रचार करके और जनता को यह बताकर के कि इसमें रेफरेंसिंग कोला है, धोखा दिया जा रहा है । इस सम्बन्ध में कोला कांटेन्ट अग्रर है, कोलानट अग्रर है तो 50 परसेंट इयूटी लगती

है और अग्रर नहीं है तो 25 परसेंट इयूटी लगती है, यह उन्होंने बताया है । उपसभाध्यक्ष जी, आपको ध्यान होगा कि उत्तर प्रदेश का मंगफली बेचने वाला अपनी मंगफली को 'जाड़े की मेवा बादाम' कह कर बेचता है । बादाम तो बेच नहीं सकता मंगफली को ही बादाम कह कर आजकल वह बेचता है । वह उसको बादाम तो कह सकता है, लेकिन बादाम की कीमत नहीं ले सकता है । वह अग्रर गलत बयान कर रहा है, अखबारों में गलत प्रचार कर रहा है तो यह दूसरी बात है । इसमें कोला कांटेन्ट्स नहीं हैं, लेकिन अग्रर वह प्रचार करता है कि इसमें कोला कांटेन्ट्स हैं, यह रिफरेंसिंग कोला है तो यह कस्टमर के साथ या ग्राहक के साथ 420 हो सकती है, धोखाबाजी हो सकती है, उनके साथ लूट-खसोट हो सकती है । उसके लिए यह कह कर कि चूंकि वह प्रचार इस नाम से कर रहा है, इसलिए उनसे 50 परसेन्ट एक्साइज इयूटी ली जाये, उचित नहीं है । और मैं समझता हूँ कि इस स्थिति में उन से 50 परसेंट की एक्साइज इयूटी नहीं ली जा सकती है । पिछली बार सदन में इस प्रकार की बात आई थी तो मैंने इस मामले को दुबारा केमिस्ट के पास भेजकर जांच करवाई थी । जब इन सदन में यह मामला उठा था तो मैंने तुरन्त चीफ केमिस्ट को यह मामला भेजा था । वहाँ से भी यह रिपोर्ट आई है कि इसमें कोला कांटेन्ट्स नहीं हैं, कोला नट्स नहीं हैं । दूसरी बात यह है कि इस प्रकार से यह मामला एक्साइज इयूटी के नोटिफिकेशन में नहीं आता है । इस चीज पर हम विचार कर रहे हैं कि जो कैफीन के बारे में रिपोर्ट आई है और जो यह कहा गया है कि इसमें कोला तो नहीं है, लेकिन कैफीन है, इसलिए क्या इनको नोटिफिकेशन में जोड़ा जा सकता है या नहीं । ऐसी चीज जिसमें कैफीन हो उस पर इयूटी 25 परसेन्ट से ज्यादा होगी और वह 50 परसेन्ट हो या 45 परसेन्ट हो, यह एक अलग चीज है ।

श्री कल्प नाथ राय : कम्पनी वाले तो इसको रिफरेंसिंग कोला कह कर प्रचार कर रहे हैं ।

श्री सतीश अग्रवाल : मैं इस सम्बन्ध में दिल्ली प्रशासन को लिख चुका हूँ । इस मामले पर दिल्ली प्रशासन को कार्यवाही करनी है, हेल्थ विभाग को देखना है और दूसरे विभागों को देखना है । लेकिन जैसा मैं कह चुका हूँ, केवल इस प्रकार के प्रचार के आधार पर 50 परसेन्ट की एक्साइज इयूटी नहीं ली जा सकती है । चूंकि इसकी दो जगहों से जांच करने के बाद यह रिपोर्ट आई है कि इसमें कोला कांटेन्ट्स नहीं हैं, कोला नट्स नहीं हैं, इसलिए कैफीन के आधार पर नोटिफिकेशन में क्या संशोधन किया जा सकता है, इस पर हम विचार कर रहे हैं । लेकिन अभी उसके तहत कार्यवाही नहीं की जा सकती है ।



अन्त में उन्होंने यह बात कही कि उन्होंने मुझे एक पत्र लिखा। यह सही है कि उन्होंने मुझे पत्र लिखा और मैंने उस पर आगे की कार्यवाही करवाई। यह अच्छी बात है। इसी प्रकार से अन्य माननीय सदस्य भी हमको पत्र लिखते हैं और हम उन पर कार्यवाही करते हैं। मैं केवल इतना ही आश्वासन दे सकता हूँ कि इस कम्पनी के सम्बन्ध में आज ही मैंने विभाग को आदेश दिया है कि 31 दिसम्बर, 1978 से पूर्व एडजूडीकेशन के कितने केसेज हैं उनका डिस्पोजल हो जाना चाहिए। जहाँ पर शो-काज नोटिस देने की जरूरत हो वहाँ पर शो-काज नोटिस दिया जाना चाहिए। इस प्रकार के सारे प्रश्न मैंने विभाग के सामने रखे हैं। मैंने यह पूछा है कि कौफोमा के अन्तर्गत अगर कार्यवाही हो सकती थी तो वह क्यों नहीं हुई और अगर कोई दूसरा एक्शन लिया जा सकता था तो वह क्यों नहीं लिया गया? इस प्रकार से जितनी बातें आपके दिमाग में आती हैं वही मेरे दिमाग में भी आती हैं। इस सम्बन्ध में जो गाइडलाइन्स हैं उनके सम्बन्ध में मैंने विभाग से चर्चा की है। अगर हमारी गाइडलाइन्स के अन्तर्गत कोई मामला नहीं आता है तो किसी राजनैतिक आधार पर या चिह्न के आधार पर

किसी को जेल में जबदस्ती भेजने का मैं पक्षपाती नहीं हूँ। मैं माननीय सदस्यों को केवल इतना ही आश्वासन दे सकता हूँ कि इस कम्पनी के द्वारा या इस ग्रुप याफ कम्पनीज के द्वारा किसी प्रकार की कर चोरी या कर वंचना या विदेशी मुद्रा की किसी प्रकार की चोरी, फारेन एक्सचेंज की रेकटियरिंग, टैक्स इवजेशन या इस प्रकार की कोई चीज सामने आएगी तो उनके मनी पहलुओं पर सम्भोरता से विचार किया जाएगा और कार्यवाही शीघ्रातिशीघ्र की जाएगी और एडजूडीकेशन के केसेज के फाइनल होने के बाद अगर आवश्यकता समझी जाएगी तो निश्चित रूप से अदालत में इस प्रकार के लोगों के खिलाफ प्रोसेक्यूशन किया जाएगा। आप इतना भरोसा रखें, इतना ही मैं निवेदन कर सकता हूँ।

उपसभाध्यक्ष (श्री श्याम लाल शाह) : अब सदन की कार्यवाही अनिश्चित काल के लिए स्थगित की जाती है।

The House then adjourned  
sine die at thirty-eight  
minutes past ten of the clock