

Madam, I would like to forward these papers to you. I seek your protection. I would like to forward these facts to you so that you may take necessary action.

About other Members' reservations regarding denigration of Parliament etc. etc. by an individual, I am not concerned with that. I am concerned with the violation of what the country has laid down.

Regarding the RBI, I have a statement to the effect that the Government is already in the knowledge of what has happened. This is a sad reflection of the state of affairs that despite knowing this, it is silent? Why is it silent? If we do not take action, we are accessories to the crime, we are party to the crime.

Madam, may I forward these papers to you?

SHRI A. G. KULKARNI; You forward by post. *(Interruptions)*

#### THE CONSTITUTION (FIFTY-NINTH AMENDMENT) BILL, 1988

THE DEPUTY CHAIRMAN; Mr. Buta Singh,

SHRI PARVATHANENI UPENDRA (Andhra Pradesh); We oppose the introduction. We have given notice.

SHRI DIPEN GHOSH (West Bengal); I have objection to the introduction of the Bill.

SHRI ALADI ARUNA *plias* V. ARUNACHALAM (Tamil Nadu); We oppose the introduction of the Bill. *(Interruptions)*

THE DEPUTY CHAIRMAN; Mr. Buta Singh. They have to oppose, yes after you introduce.

Why are you shouting? Please wait. After he seeks permission to move the motion for introduction, I will allow you. Why don't you follow the procedure. *(Interruptions)*

He is seeking leave of the House to introduce it. You don't know the rule. Please sit down.

I am going according to the rule. Don't come in my way now please. I will not allow all these things. Order please. Yes, Mr. Buta Singh.

THE MINISTER OF HOME AFFAIRS (SHRI BUTA SINGH); Madam, I beg to move for leave to introduce a Bill further to amend the Constitution of India. *(Interruptions)*.

*The question was proposed.*

THE DEPUTY CHAIRMAN; Mr. Advani, I am giving you permission.

Why are you shouting? You are un-ri!y creating disturbance in the House. *(Interruptions)*

I am sorry, I am very sorry the hon. Members do not know the procedure of the House. I am allowing Mr. Advani. He has given notice for opposing.

SHRI PARVATHANENI UPENDRA; We have also given notice. *(Interruptions)*

THE DEPUTY CHAIRMAN; Please sit down. I am not allowing all this.

SHRI PARVATHANENI UPENDRA; We want to oppose. We have given notice. All of us should be permitted.

THE DEPUTY CHAIRMAN; No. *(Interruptions)* I am on my legs. Please sit down. I will tell you why. *(Interruptions)* I know that. I have received notice from about 14 or 15 Members. That notice has been received. But then I would like to point out to you, the Practice and Procedure of Parliament by M. L. Kaul and S. L. Shaktiher at page 469 mentions; "By convention, the motion for introduction .."

SHRI ALADI ARUNA *alhs* V. ARUNACHALAM; What convention? *(Interruptions)*

THE DEPUTY CHAIRMAN; I am sorry, you don't know.

SHRI SATYA PRAKASH MALA-VIYA (Uttar Pradesh): You are going to murder democracy.

SHRI DIPEN GHOSH: You are going to preside over liquidation of democracy.

THE DEPUTY CHAIRMAN: I am sorry you are not allowing the Chair to speak. *(Interruptions)* Please sit down. I am only pointing out to you the procedure which is followed in Parliament. *(Interruptions)* Why are you not listening to me? Let me complete. It is a very sorry state of affairs. *(Interruptions)* \*\* It will not go on record. *(Interruptions)* \*\* Whatever is being said is not going on record. Now, I will speak only after you keep quiet. *(Interruptions)* Please be quiet. "By convention the motion for introduction. ..." *(Interruptions)* Please listen to me. Why are you so impatient?

SHRI DIPEN GHOSH: There cannot be any convention to kill democracy.

THE DEPUTY CHAIRMAN: You are not allowing me to speak. What can I do? Please sit down. Please bear with me. There have been occasions when motions for introduction of Government Bills were opposed in the House. The Member, who wishes to oppose, must write in advance before the commencement of the sitting. *(Interruptions)* Why are you interrupting the Chair? I am sorry to say this. *(Interruptions)* ... before the commencement of the sitting to the Secretary-General. If two or more Members write, the Speaker calls the Members whose intimation was received first in point of time. On one occasion, the Speaker has also permitted a Member other than the Member who opposed the motion for introduction to speak. But now we cannot allow all the Members to speak.

SEVERAL HON. MEMBERS: Why?

THE DEPUTY CHAIRMAN: That is what the convention is. *(Interruptions)*

SHRI ALADI ARUNA alias V. ARUNACHALAM: It is an amendment

to the Constitution. So, an opportunity should be given to all the leaders of the Party.

SHRI DIPEN GHOSH: Since the matter is very vital, all of us should be allowed to speak on this.

THE DEPUTY CHAIRMAN: Please, you are not allowing me to complete. What type of democracy do you believe in? You are not allowing the Chair also to speak. *(Interruptions)*

SHRIMATI REMUKA CHOUDHURY (Aidhra Pradesh): You are not allowing our Constitutional right of freedom to speak.

THE DEPUTY CHAIRMAN: Further, the motion for leave to introduce the Preventive Detention (Continuance) Bill, 1957 had been opposed in the House by a Member. The Speaker allowed another Member as a special case ... *(Interruptions)*

SHRI PARVATHANENI UPENDRA: When two can be allowed, why not 14?

THE DEPUTY CHAIRMAN: ... to make a brief statement in support of the first Member. That is the position.

SHRI PARVATHANENI UPENDRA: You have the discretion to allow. 14 can be allowed, fourteen also can be allowed. *(Interruptions)*

SHRI DIPEN GHOSH: I am an elected Member. I have a right to speak. You cannot deny me the right to speak.

PROF. C. LAKSHMANNA (Andhra Pradesh): Madam, I am on a point of order.

THE DEPUTY CHAIRMAN: Mr. Advani, I am allowing you to speak.

SHRI DIPEN GHOSH: You have to give us the right to speak.

SHRI PARVATHANENI UPENDRA: Let this be settled first before he speaks. All those who have given notice must be permitted to speak. *(Interruptions)*

\*\*Not recorded.

We have complied with the rule's. We have given advance notice.

" SHRI ALADI ARUNA *alias* V. ARUNACHALAM; Madam, it is not an amendment to the ordinary law. It is an amendment to the Constitution.

SHRI JAGESH DESAI (Maharashtra): Madam, according to rule 67 of the Rules of Procedure and Conduct of Business in the Council of States, it says "If a motion for leave to introduce a Bill is opposed, the Chairman after permitting, if he thinks fit, a brief explanatory statement from the Member who moves and from the Member who opposes the motion, may, without further debate, put the question...." Therefore, debate is not at all allowed. Only one Member should be allowed.. (Interruptions) ...

SHRI PARVATHANENI UPLINDRA: Member means Member. You have not given the notice ... (Interruptions) ...

SHRI LAL K. ADVANT (Madhya Pradesh); Madam, may I make a submission? (Interruptions).

SHRI A. G. KULKARNI (Maharashtra): Madam, Mr. Advani is my friend. (Interruptions).

SHRI V. GOPALSAMY (Tamil Nadu): J&t, Kulkarni, we cannot keep quiet ■ democracy is being murdered before our own eyes. It is our right to oppose the very introduction of this pernicious Bill. ... (Interruptions)...

THE DEPUTY CHAIRMAN; See, the hon. Members will have full opportunity to participate in the discussion... (Interruptions)!...

SOME HON. MEMBERS: No, no. We want to oppose the introduction of the Bill itself... (Interruptions)...

THE DEPUTY CHAIRMAN: You can give your views at that time. (Interruptions)... There is no convention that 14 Members should speak at the time of introduction. There is a convention and at the most one Member can speak... (Interruptions) ...

SHRI M. S. GURUPADASWAMY (Karnataka); It is a black Bill. We want to oppose it tooth and nail.

THE DEPUTY CHAIRMAN; I have allowed Mr. Advani.

SHRI- ALADI ARUNA *alias* V. ARUNACHALAM: Madam, I am on a point of order. The point of order is... (Interruptions)...

DR. (SHRIMATI) NAIMA HEP-TULLA (Maharashtra): Madam, I am on a point of order.

THE DEPUTY CHAIRMAN; You can go ahead.

SHRI SATYA PRAKASH MALAVIYA: Mr. Chitta Basu is on a point of order from the very beginning (Interruptions)..

SHRI CHITTA BASU (West Bengal): I am on a point of order. ... (Interruptions) ...

DR. (SHRIMATI) NAJMA HEP-TULLA; ... (Interruptions).. Madam, at the introduction of the Bill, they cannot discuss ... (Interruptions). ... the merit of the Bill. Only they can discuss whether this House is competent enough to discuss the Bill. The merit of the Bill will be discussed after the Bill is admitted. The only ground is whether this House is competent to discuss this Bill or not.

SHRI CHITTA BASU: I am on a point of order,

SHRI ALADI ARUNA *alias* V. ARUNACHALAM; I have on a point of order.

SHRI CHITTA BASU: Madam, I draw your attention to rule 67 of the Rules of Procedure and Conduct of Business in the Council of States which provides very clearly "if a motion for leave to introduce a Bill is opposed, the Chairman after permitting, if he thinks fit, a brief explanatory statement from the Member who moves and from the Member who opposes the motion, may without further debate, put the question." Now, I am a Member of this House. I have given a notice under rule 67... (Interruptions).. I am a Member of this House and I am to conduct myself in accordance with the rules and procedures, Here it is not a question of

[Shri China Basu] convention. You have read out something by your convention but the convention cannot take away my right, a fundamental right as a Member of this House.

SHRI N. K. P. SALVE (Maharashtra): Is he opposing Mr. Advani? What is he talking? My question is; Is he opposing Mr. Advani? . . . (Interruptions). . . . The Member who is opposing the rule . . . (Interruptions).. correctly. We have no objection. They can raise any number of rules. What is his contention?

SHRI DIPEN GHOSH; Madam Deputy Chairman, I am on a point order. (/»- (Interruptions).

SHRI CHITTA BASU: I have not yet completed. (Interruptions).

SHRI N. K. P. SALVE; I want to submit on that point of order. (Interruptions),

SHRI CHITTA BASU; Madam, you allowed me to put my point of order (Interruptions).

THE DEPUTY CHAIRMAN; There are conventions and there are rules... (Interruptions).

SHRI V. GOPALSAMY; The very existence of democracy is in danger. (Interruptions) ...

SHRI ALADI ARUNA *alias* V. ARU-NACHALAM: Madam Deputy Chairman, what was the practice in the past must be followed in this case also. When the Medical Council Bill was introduced, I was allowed to oppose. At the same time, leaders of the other political parties were also allowed to oppose the introduction of the Medical Council Bill. Such convention, such practice should be followed in the Constitution amendment. When you have given an opportunity in the case of an amendment to the ordinary law, what is wrong or unfair on your part to allow the leaders of the political parties on the amendment to the Constitution? It is quite essential. (Interruptions).

THE DEPUTY CHAIRMAN: You can ask for a vote and you can vote against the introduction. (Interruptions).

SHRI ALADI ARUNA *alias* V. ARU-NACHALAM: Is it not necessary to follow the practice in the House? What is the practice? (Interruptions).

SHRI CHITTA BASU: Madam Deputy-Chairman, Let me be first allowed to complete.

SHRI DIPEN GHOSH; Madam, you first listen to my point of order.

THE DEPUTY CHAIRMAN; I have allowed you, Mr. Basu. Now, I am asking you to sit down

SHRI CHITTA BASU; Madam, you have not allowed me. (Interruptions)-

SHRI DIPEN GHOSH; Madam, I have another point of order.

SHRI CHITTA BASU; Let me complete my point of order, (Interruptions).

SHRI DIPEN GHOSH; Madam, is there any convention to deny a Member to raise a point of order? (Interruptions).

SHRI SATYA PRAKASH MALA-VIYA; Let him conclude, Madam. (Interruptions).

THE DEPUTY CHAIRMAN; All right. Mr. Bhagat, I will allow Mr. Chitta Basu to complete because he says, he has not completed what he had to say. So, please let me allow.

SHRI CHITTA BASU; Madam Deputy Chairman, my point of order was that the Chair has got no right to prevent me from opposing the move of introduction because I have given by notice under Rule 67. This is my first submission. My second point of order is ..... (Interruptions) It comes under one point of order. Now you look at the proviso part of Rule 67. "That where a motion is opposed on the ground that the Bill initiates legislation outside the legislative competence of this Council, the Chairman may permit a full discussion thereon." I say, and allow me to say for this House, I think, it is not politically or constitutionally proper to allow this motion to be introduced. Therefore, on that constitutional competence, the House should be allowed to discuss it in detail. Therefore, these are the two

point of orders. Please dispose of them first.

THE DEPUTY CHAIRMAN; Only the Parliament is competent to pass the legislation and it is within the competence of the Parliament only. You are misreading the Constitution. I overrule your objection.

THE MINISTER OF PARLIAMENTARY AFFAIRS AND THE MINISTER OF INFORMATION AND BROADCASTING (SHRI H. K. L. BHAGAT): Madam, I am on a point of order. *(Interruptions)*. I am speaking on a point of order. I think a Member who gives notice under Section 67 to oppose any Bill, to oppose introduction of any Bill, he can oppose it. I am supporting, to an extent, this point of order. He can oppose it and make a brief statement and with that, the matter ends. You cannot have a double debate. *(Interruptions)* Discuss it on merit here and there on any technical ground. *(Interruptions)* In case you are going to oppose on the ground of legislative competency, well, this Chair has already ruled, very correctly, that this House is competent to pass a Constitutional Amendment Bill. Therefore, on that ground, there cannot be a debate. But a Member, who has given a notice of opposition, can make his say briefly. *(Interruptions)*

SHRI DIPEN GHOSH: Madam Deputy Chairman, I am on a point of order. *(Interruptions)*

SHRI PARVATHANENI UPENDRA; Madam, you have ruled that a Member who gave a notice of opposition would be allowed. As far as I am concerned, I am that Member. You cannot deny me a chance. *(Interruptions)*

SHRI DIPEN GHOSH; I want to raise a point of order. *(Interruptions)*

SHRI N. K. P. SALVE: I think, Ma-Jam, this view is correct that after the motion for introduction is moved, if difference Members, on different grounds, are going to oppose... *(Interruptions)*

SHRI ALADI ARUNA *alias* V. ARUNACHALAM: That is a different matter.

SHRI N. K. P. SALVE; That is what the letter and the spirit of the rule is, Madam. *(Interruptions)* If a Member opposes, Madam... *(Interruptions)* If different Members oppose, then it will become a discussion on the same point, five Members are going to oppose, then it will become a debate. *(Interruptions)* Listen. A debate is not permitted. What is permitted by the rule is, a Member who opposes the Motion may have his say. Then the Chair will, without further debate, put the question. *(Interruptions)* Mr. Bhagat is absolutely right when he says that if a Member opposes, he must have a right to speak, make a brief statement. But \*\*> on the same point, ten people... *(Interruptions)* That is my interpretation. To the extent it suits... *(Interruptions)* We do not want any proceedings in the House ... *(Interruptions)* Will you please sit down? *(Interruptions)* We do not want any proceedings in the House outside the purview of the rule. This is my interpretation, I am submitting for your consideration. *(Interruptions)* To the extent it suits them, they accept it. The moment my interpretation does not suit them, they are not willing to accept it. *(Interruptions)* I want to submit that Mr. Bhagat is absolutely right that Members who have given notice... *(Interruptions)*

THE DEPUTY CHAIRMAN; What rule 67 says is;

"If a motion for leave to introduce a Bill is opposed, the Chairman, after permitting,"

To oppose, not to make a statement. Only to oppose by saying that they want to oppose... *(Interruptions)* Listen. *(Interruptions)* I am making it clear. *(Interruptions)*

"..the Chairman, after permitting, if he thinks fit, a brief explanatory statement from the member who moves and from the member who opposes..."

So, the Member who opposes can make a statement if the Chairman thinks fit to allow him to make it... *(Interruptions)*

SHRI M. S. GURUPADASWAMY; You are misreading. You can think and decide only after hearing us. Not otherwise. *(Interruptions)*

THE DEPUTY CHAIRMAN; For finding out what is fit, I have tried to find out what is the practice and procedure of Parliament and therefore, I have read it out. I won't read it out again to you. One member or at the most another to support him. .  
(Interruptions)

SHRI PARVATHANENI UPENDRA:  
How do you pick up that Member, on what basis? (Interruptions)

THE DEPUTY CHAIRMAN; I will tell you. (Interruptions) I shall give permission to the Member from whom I received a notice first in point of time and I can, if I think fit... (Interruptions) It is not necessary to allow him. He will be allowed only if the Chair thinks fit. Only then can I allow him to make a statement. That is the rule. Therefore, I am allowing Mr. Advani because it is he from whom I received the notice first in point of time. Secondly,...

SHRI LAL K. ADVANI; May I make a submission on this point...

SHRI M. S. GURUPADASWAMY;  
We cannot give up our right because of your ruling.

SHRI PARVATHANENI UPENDRA; We have got our own right. One Member cannot deputise for another Member.

THE DEPUTY CHAIRMAN; Please let me complete. I want to say there are 14 to 15 different leaders for different political parties who want to put on record their opposition also and I have received 14 to 15 notices. If you want for the sake of recording your opposition, I can read out the names and say that these Members also are opposing it...

SEVERAL HON. MEMBERS; No, no.

SHRI PARVATHANENI UPENDRA;  
It is not a favour to be done to us.

SHRI V. GOPALSAMY; it is our fundamental right to make our statement and oppose.

THE DEPUTY CHAIRMAN; I am allowing you to record your opposition. That can satisfy your purpose; otherwise, there would have been 14 speeches...

SHRI PARVATHANENI UPENDRA;  
We have to give our reasons.

SHRI V. GOPALSAMY; We have to make our submissions.

THE DEPUTY CHAIRMAN; There cannot be a debate at the time of introduction. That is not the convention, that is not the practice. Therefore, I can only allow one Member who has given me notice first in point of time.

SHRI ATAL BIHARI VAJPAYEE  
(Madhya Pradesh); No, no. You can call one Member from each party.

SHRI V. GOPALSAMY; Everyone must be given a chance. Mr. Advani cannot represent my party and myself.

SHRI PARVATHANENI UPENDRA;  
He may oppose it from a certain angle. I may oppose it from a different angle.

SHRI DIPEN GHOSH; We have got different points of view.

THE DEPUTY CHAIRMAN; If there are fifty Members wanting to speak, I cannot give opportunity to fifty Members. That will be abuse of the rule.

SHRI PARVATHANENI UPENDRA;  
Whoever has given notice should be given an opportunity.

THE DEPUTY CHAIRMAN; Please sit down. Now Mr. Advani, please proceed to speak on your notice.

SHRI LAL K. ADVANI; I want to make a submission.

THE DEPUTY CHAIRMAN; But only on your notice.

SHRI ALADI ARUNA alias V. ARUNACHALAM; It is a policy of divide and rule.

SHRI V. GOPALSAMY; It is an ugly fascist method. We cannot keep quiet.

SHRI ALADI ARUNA alias V. ARUNACHALAM; This is a very basic question they are going to introduce.

THE DEPUTY CHAIRMAN; Please start, Mr. Advani.

SHRI V. GOPALSAMY: We should know whether we will be permitted or not.

SHRI M. S. GURUPADASWAMY: You are changing the conventions of the House.

THE DEPUTY CHAIRMAN: I am not changing; you are now changing the convention. I am not changing the convention.

SHRI ALADI ARUNA *alias* V. ARUNACHALAM: In the introduction of the Medical Bill all the leaders were allowed. You are violating that practice.

SHRI H. K. L. BHAGAT: They cannot speak on merits. But give them a chance if they want to oppose. Let them make brief statements.

SHRI N. K. P. SALVE: One Member from each group, as suggested by Mr. Vajpayee.

SHRI H. K. L. BHAGAT: That is there? If on technical grounds they want to oppose, let them speak.

SHRI DIPEN GHOSH: On a Point of order. . .

SHRI NIRMAL CHATTERJEE (West Bengal): On a point of order. . .

THE DEPUTY CHAIRMAN: I am allowing Mr. Dipen Ghosh to raise his point of order.

SHRI DIPEN GHOSH: My point of order, first of all, is that if you had allowed that convention, by that convention, the right of individually and independently elected Members to raise their objection to, to oppose, the Bill, at the stage of introduction of the Bill, be taken away. There is no scope under Rule 67 to restrict the number of Members opposing the Bill at the stage of introduction. This is the first part of my objection.

The second thing, Madam, is that what you read out with regard to Rule 67 is bound by the proviso----- (Interruptions)

It is bound by the proviso. Suppose my opposition is on the question of com-

petence. If I want to oppose the introduction of this Bill on the question of competence, then I must be allowed to be heard. I must be allowed to be heard and then you can say whether this is within the competence of this House or not. Naturally, the provision here is if the opposition is on the competence question, then the Chairman may permit a full discussion on the issue... (Interruptions) ... It says, "...provided that where a motion is opposed on the ground that the Bill initiates legislation outside the competence of the Council the Chairman may permit a full discussion there."

SOME HON. MEMBERS: No, No.... (Interruptions), . .

SHRI JAGESH DESAI: No..... (Interruptions)....

SHRI DIPEN GHOSH: I know the meaning of "initiates", Mr. Jagesh Desai. . . (Interruptions) ... I know the meaning of the words in English better than anybody else on that side. . . (Interruptions)... Don't try to interrupt me. . . (Interruptions). . . I am on my legs on permission from the Chair and I am not going to yield. . . (Interruptions) ... I am on my legs on being permitted by the Chair and, therefore, I am not going to yield and I am not yielding. . . (Inter-rupit.r.n.i). . . I am not going to yield and I am not yield... (Interruptions) ... I will not yield. . . (Interruptions). . . I know the meaning of the word, "may" and "shall" and here the meaning of both the words is the same: I know that. . . (Interruptions). . .

THE DEPUTY CHAIRMAN: Mr. Ghosh. I am finding out a via media now. . . (Interruptions) . . . I am finding out a via media now. Please wait.

SHRI DIPEN GHOSH: Please let me complete.

THE DEPUTY CHAIRMAN: I have allowed you and I have followed what you have finally say. I am trying to find out a via media and, as a special dispensation, I will allow each Member to speak for one minute. . . (Interruptions).

SHRI PARVATHANENI UPENDRA: Why one minute? You say, "to make a brief statement." What is one minute? ... (Interruptions) ...

THE DEPUTY CHAIRMAN: Then again it will become a big thing ... (Interruptions) ...

SHRI M. S. GURUPADASWAMY: Are we being favoured here? ... (Interruptions) ... Are we being favoured with something here? ... (Interruptions) ... No, no. ... (Interruptions) ...

THE DEPUTY CHAIRMAN: It seems to be a brief statement. So, please make it very brief. Now, Mr. Advani. ... (Interruptions) ...

SHRI NIRMAL CHATTERJEE: On a point of order, Madam.

THE DEPUTY CHAIRMAN: What is the point of order now when I have allowed every Member? ... (Interruptions) ...

SHRI NIRMAL CHATTERJEE: I am on a point of order, Madam. ... (Interruptions) ... Advaniji, please sit down. I am on a point of order.

THE DEPUTY CHAIRMAN: No, point of order. I am not allowing any... (Interruptions) ... Now I am allowing the Members to speak for some time. Why do you want to raise a point of order?

SHRI NIRMAL CHATTERJEE: My point of order is very simple. I heard you referring to Kaul and Shakti. I wanted to remind you that in the traditions of this House, previously reference used to be made to ... (Interruptions) ... May's Parliamentary Practice. There was a stage when the House considered that this was no longer to be followed as it was followed earlier. Subsequently, we started referring to Kaul and Shakti. My point is that if anybody has gone through Kaul and Shakti, he will notice that it mentions "with special reference to the Lok Sabha... I want to make a mention now here that many of the conventions in the Rajya Sabha are very much different from that of the Lok

Sabha. Therefore, in any such 1.00 p.m. case when you make a reference to Kaul and Shakti, if you take into account the special conventions of the Rajya Sabha, and this particular case as you have kindly agreed also, despite that quotation. ... (Interruptions). We should go by the rigid conventions which would be guided by the Rules as quoted.

THE DEPUTY CHAIRMAN: There is no point of order. Yes, Mr. Advani.

SHRI LAL K. ADVANI: Madam Deputy Chairman, I rise to oppose the introduction of the Constitution (Fifty-Ninth Amendment) Bill, 1988, because I regard the Bill as a devious device to achieve three sinister objectives not mentioned in the Statement of Objects and Reasons. The Statement of Objects and Reasons, after the first two paragraphs, concludes by saying:

"As the proposed amendments are only for the purpose of curbing the terrorist activities in the State of Punjab more effectively. ..."

As if effective control has been evaded and now they want to curb it more effectively.

Madam, my submission is that going through the entire Bill and going through the various statements made from the Government side, my feeling is that the real objectives are three. Firstly, the Government of India wants to use the situation in Punjab as an excuse to promulgate an emergency in the whole country. (Interruptions).

SHRI H. K. L. BHAGAT: Madam, Mr. Advani has started speaking on the merits of the Bill. (Interruptions).

SHRI LAL K. ADVANI: I will make a brief statement. I am limited to make a brief statement and I will make it brief.

SHRI H. K. L. BHAGAT: No, on merits.

SHRI LAL K. ADVANI: Let me say that if I were to question the legislative competence, then you will have to allow



a full debate. I am not questioning the legislative competence of this House. My submission is that I am opposing it. Under the Rules I am permitted, I am empowered, I am entitled, to make a brief statement showing why I am opposed to it.

SHRI H. K. L. BHAGAT: But I want only to correct it, that the Bill is meant for Punjab only; it is not for the whole country.

SHRI LAL K. ADVANI: Since the Minister has said this, I would like to read out one of the clauses of the Bill. If he had not contradicted me, I would not have done this now. In the beginning it says:

"Notwithstanding anything in the Constitution. . ."

SHRI BUTA SINGH: Just a minute. I have no objection to Advaniji speaking on the merits of the Bill. But let it be introduced. But he is starting the debate right now. It is highly politically motivated. As just now pointed out by Shri H. K. L. Bhagat, this measure is specifically meant, explicitly mentioned in the Bill, it is meant only and only for Punjab. And Mr. Advani is trying to create political confusion out of it.

SHRI LAL K. ADVANI: I will read out:

"If the President is satisfied that a grave emergency exists whereby the security of India or of any part of the territory thereof is threatened, whether by war or external aggression or armed rebellion, he may, by Proclamation, make a declaration to that effect in respect of the whole of India or of such part of the territory thereof as may be specified in the Proclamation or of such part of the territory thereof as may be specified in the proclamation."

So -a declaration may be made in respect of the whole of India. (*Interruption*). I would not have made a reference to it if I had not been interrupted by the two senior Ministers.

DR. (SHRIMATI) NAJMA HEPTUL-LA; How can you discuss the merits of it?

Let it be introduced first. Then only can you say anything on it.

SHRI V. GOPALSAMY: The very introduction itself is nothing but murder of democracy.

SHRI LAL K. ADVANI: My second objection is this. Today the country is fully posted with what is going on in Punjab. They are aware that four years have passed since the last election promise of the Government but they have failed completely in Punjab. And this knowledge has come because of the press. My contention is that through this Bill they want to gag the press of the country so far as Punjab is concerned. They want to impose censorship on the press so that the people do not know what is happening in Punjab. . .

SHRI BUTA SINGH: This is not only incorrect but absurd also.

SHRI DIPEN GHOSH: You did it in the past. What about 1975? What happened in 1975?

SHRI V. GOPALSAMY: The introduction itself is absurd and atrocious and sinister.

SHRI LAL K. ADVANI: My third objection which is strongest objection is this. I would like to appeal to the conscience of the Members sitting there. . .

SHRI V. GOPALSAMY: Their conscience has already been sold out, Mr. Advani.

THE MINISTER OF STATE IN THE MINISTRY OF LAW AND JUSTICE. (SHRI HANS RAJ BHARDWAJ): No, out conscience is not sold.

SHRI LAL K. ADVANI: The Constitution as it stands today is the result of a consensus among the entire Opposition and the Government in 1979. Mind you, this consensus was a very healthy consensus because we had passed through the nightmare of the emergency experience and after that we who were then in the Government sat with the Opposition which was then the Congress Party and told them that this was the experience. Where do we arrive at now? Here is a situation

[Shri Lai K. Advani]

in which the Attorney General told the Supreme Court there was <sup>no</sup> recourse to *habeas-corpus*; that if a person is shot dead inside the jail, even then no one could go to <sup>a</sup> court of law. the A.G. said "I feel sorry about it. But under the Constitution under Article 352 and Article 358 as framed today all fundamental rights stand suspended and, therefore, no one can appeal to the court." It was then that the Congr&ss Party whose leader at that time was Mrs. Indir<sup>a</sup> Gandhi, whose leader in the other House was Mr. Chavan, whose leader i<sup>n</sup> this House was Mr. Kamalapati Tripathi, agreed to this amendment that under no circumstances Articles 21 and 20 shall be suspended. This was the agreement arrived at. It was a wide consensus, full consensus, and with unanimity we adopted Article 359 which said—that is very crucial and that is the most important point:—

"Where a Proclamation of Emer-miy by order declar<sup>e</sup> that the right to move any court for t<sup>h</sup>e enforcement of such of th<sup>e</sup> rights conferred 'by Part III except Articles 20 and 21. . . ."

—Article 21 gives to me the right to life, the right to liberty. Today what is proposed-is, in sub-section (1) of Clause 359A the new Article says:—

in article 359, for the words and figu-es 'articles 20 anj 21', at both the places where they occur, th<sup>e</sup> word and figures 'article 20' shall be substituted."

t means Article 21 which gives me the right to life and the right to liberty is sought to be taken away during Emergency. I am opposed to it, whether in Punjab or anywhere in 'he country.

Therefore I would like to conclude' my statement sayinr. :hat today the problem in Punjab is not inadequacy of powers, the problem in Punjab is not inadequacy of legal powers or Constitutional powers, it is each of perspective and lack of will. I have with me here a list of 22 various laws that we have passed during the past few years. I would not like to read them out. But I would only remind the Home Minister that one and <sup>a</sup> half years back

when you came to the Hous<sup>e</sup> even after all these laws, and told the House: 'The Government experience concerning the problem of terrorism and anti-national activities and evidence coming to the Gov-ernment suggest that it is not merely a matter of internal disturbance, but there are force<sup>s</sup> from beyond the borders which are behind such activities." And, there-tore, he argued, unless you authorise us under article 249 of the Consitution to create a security belt there,, we cannot deal with the situation." He said that "it is not merely an internal disturbance." Madam, I am sure, the Government re-members that though my other colleagues of the opposition did not agree, other par-, did not agree, my party suported 'he Government at that time. What has the Government done? It has failed to do so. And my charge is that all these moves basically arise from political expediency. They are not honest moves.

Therefore, Madam, I would plead with the Government not to hustle this matter. At that rime you had carried on an elaborate exercise with the Opposition. You had called the Opposition. Mr. Buta Singh <sup>s</sup>at with the Opposition. My own amendment which I felt you should accept, you accepted it. This time, all of a sudden, on Friday evening when most members of the Hous<sup>e</sup> had gone, Mr. But\* Singh sends notice that a Bill will be introduced at 5 p.m. on a non-official day (*Interruptions*)

SHRI V. GOPALSAMY: Cowardice.

SHRI LAL K. ADVANI: Does it not indicate th» Government's own guilt complex? Does it not betray the Government's deviousnessn Therefore. I call this a devious devices to achieve three sinister objectives not a' all mentioned in this Bill, not at all mentioned in the Statement of Ob-and Reasons. These are devices with which the country cannot compromise and this Parliament also should not compromise. Thank you, Madam

SHRI DIPEN GHOSH: Madam Deputy Chairman, I ,rise to oppose this Bill at the introduction level. While completely en-dorsing what my colleague, Mr. Advani,

has stated in opposing this Bill at the introduction stage, I want to remind Mr. Buta Singh... Let Mr. Panigrahi complete his meeting. (*Interruptions*)

THE DEPUTY CHAIRMAN: You proceed.

SHRI DIPEN GHOSH: Is it an internal discussion?"

SHRI PARVATHANENI UPENDRA: He was beaten up by the police. *Probably* he is complaining to Mr. Buta Singh.

SHRI DIPEN GHOSH: Madam Deputy Chairman, I am not going to repeat what my learned colleague, Mr. Advani, has stated. But I only want to remind Mr. Buta Singh that every time when the Government thought of taking certain measures to tackle the terrorist or the problem arising out of terrorist activities in Punjab, the Government had taken a meeting with the leaders of all the Opposition parties and groups in Parliament and discussed the matter and tried to arrive at a consensus or tried to devise certain measures which could be acceptable to all parties and groups in our country because all parties and groups were opposed to terrorist activities in Punjab. Even when I am my legs to oppose this Bill at the introduction level, only yesterday three of our comrades had been killed by the terrorists in Punjab. For that, I am very much eager, I am very much interested, I am very much concerned, to see that Punjab is restored back to normalcy. But here when the Government wants to seek extra power...

SHRI NEPALDEV BHATTACHARIEE (West Bengal): Madam, Mr. Kalpnai Rai is sleeping. It is a point or order

SHRI V. GOPALSAMY: Madam, we are hearing the snoring. He is sleeping. (*Interruptions*).

THE DEPUTY CHAIRMAN: He is in deep contemplation because of the opposition which has deepened. He is thinking very seriously.

SHRI A. G. KULKARNI: He is not sleeping. He is just thinking.

SHRI V. GOPALSAMY: Madam, it is our duty to bring it to your notice. (*Interruptions*).

SHRI DIPEN GHOSH: Did you not participate in the Dandi March?

Madam, Deputy Chairman, even when the Government had intended to assume powers under article 249, we opposed it. The Government had taken a meeting, in fact, two meetings, with the Leaders of the Opposition Parties and groups, consulted them when we opposed. Afterwards, of course, they brought out and we opposed her also. But after that, last time, on the last occasion, the Prime Minister himself, and Mr. Buta Singh were present in the meeting in Prime Minister's office. I was present, and perhaps Mr. Buta Singh would recollect, who suggested action, a joint action plan for tackling the Punjab situation. Mr. Advani was also present there in that meeting. All agreed. But it was not implemented. So, I am opposing this Bill at the introduction stage, as this Minister withdraw this Bill. Because this Bill has wider ramifications and serious consequences on the rights of the people of our country. Even if it is in Punjab, articles 19, 20, and 21, all will remain suspended for the people of Punjab, not simply of the terrorists. Rights of all people and institutions will also remain curtailed. They will also remain suspended. So do not press for introducing this draconian law, draconian Bill. Withdraw it. Convene a meeting of all the Opposition parties and groups. Take them into confidence and let us have a joint action plan to tackle the problems of Punjab and Mr. Advani has pointed out rightly that it is not a mere problem of law and order, that it is not merely a problem of inadequacy of Governmental powers or legal powers to tackle terrorism. As many as 22 Acts were passed. You have assumed extra powers under article 249. Yet you could not contain the acts of terrorism in Punjab. Now you propose to take powers to declare partial emergency in the State of Punjab. It can be extended to other parts of the country, as well as the whole of the country. It is

[Shri Dipen Ghosh]

not a question of simply restriction of declaring emergency to a particular part. The purpose of this Bill as it is, is not only to seek powers to impose emergency in a part of the country. In article 352 what are the grounds on which emergency can be declared? In the Forty-Fourth Amendment which was passed by Parliament, the grounds were made specific in respect of certain items. (*Time bell rings*). So, now the idea is to modify the grounds, to rather dilute the grounds. The situation arising out of internal disturbance that has been sought to be incorporated, the position which was prior to the Forty-Fourth Amendment. And that is why not only in the State of Punjab but in the whole country a new concept about the grounds for imposition of emergency has been proposed to be given, which will have greater and wider ramifications on the rights and liberties of the people of our country. There is no hurry. It is not that if you don't pass it today, tomorrow Punjab will go out of your hands. Even if you pass it today, we would be waking up tomorrow again to find the same news that 10—12 or 20 persons have been killed in Punjab. So, there is no hurry. But I can understand your hurry in the matter because there will be biennial elections for the Rajya Sabha and you may lose the two-thirds majority.

THE MINISTER OF STATE IN THE MINISTRY OF PARLIAMENTARY AFFAIRS (SHRI M. M. JACOB): Madam, you allowed only one minute to speak.

SHRI DIPEN GHOSH: Many Members will go away to their States to file nominations, and you will not have the required presence,

SHRI BUTA SINGH: The House knows our interest for the country. And we have full faith in the House

SHRI DIPEN GHOSH: But what is the hurry except that compulsion to pass it today? That is why I appeal to Mr. Buta Singh\* through you, to withdraw it and keep it in abeyance, hold the meeting with leaders of opposition parties and

groups, discuss the matter, take them into confidence and have a joint action plan to tackle the problem of terrorism in Punjab.

SHRI N. E. BALARAM (Kerala): I rise to oppose the introduction of this Bill. Of course I agree with the opinions expressed by my colleagues. I do not find any need for bringing in a new legislation. Secondly, bringing in an amendment to the Constitution should not be treated in a light way, according to me. It must require some serious development or situation. But according to this Bill, what they want is more powers to meet the situation created by terrorism in Punjab. As my friends have already stated, enough powers are already given; rather, it is more than enough, to meet the situation. I remember the speech made by the Home Minister that Punjab Assembly must be dissolved, and he promised that if Punjab is taken over by the Central Government, the situation will improve, and that the Government there was very weak and could not meet situation and if we give sufficient powers to the Government, they will be able to meet the situation. I would like to ask the Home Minister whether it is not a fact that after the administration was taken over by the Centre, the situation has still deteriorated. Of course, there was an impression created that there was some improvement. But for the last 3-4 months, the situation has become bad. Why is it so? I remember, there used to be occasions when the Prime Minister would himself take the initiative to discuss such a situation with the opposition parties. We would have consultations for several hours and come to conclusion unanimously. But now, when the situation has become worse, why can't you have consultations with us before bringing in such a drastic measure? They could not have consulted us. Basically we differ on one question. If you think that this Bill suppresses the terrorist activities / ties in Punjab I can tell you that you are wrong, you will not succeed unless you find a political solution in Punjab. I know, even for finding a political solution they are not depending upon the secular, demo-

cratic forces in Punjab. You are privately talking to the people who are against national unity and integrity in Punjab. You are trying to bring them back into the national mainstream. You want to implement more sinister measures there. So, I am totally opposed to the introduction of the Bill. This will never improve the situation in Punjab, it will make the situation further worse.

SHRI PARVATHANENI UPENDRA: Madam Deputy Chairman, this Bill comes as a *dandamarch* after the simulated Dandi march. That is my view. Today even without an emergency, Ministers are being beaten and the police is giving a natural colour to the Dandi march. *(Interruptions)*. Madam, I oppose the introduction of the Bill. It is all mockery. *(Interruptions)*.

SHRI PAWAN KUMAR BANSAL (Punjab): You would never realise the importance of Dandi march. *(Interruptions)*.

SHRI PARVATHANENI UPENDRA: Every Gandhi cannot become Mahatma Gandhi, don't worry.

SHRI BUTA SINGH: I take objection to this. I seriously propose that this should be expunged from the proceedings because this was the base of our freedom movement. Let this be expunged. We will continue to relieve our ancient past, our freedom struggle and nobody should be allowed to play with it so lightly in this manner. I

SHRI PARVATHANENI UPENDRA: We are not here to support every action of yours. Madam, I oppose the introduction of the Bill.

SHRI ALADI ARUNA *alias* V. ARUNACHALAM: We want to see the Chaura Chauri also.

SHRI PARVATHANENI UPENDRA: Madam Deputy Chairman, I oppose the introduction of the Bill on 6 grounds. One is it is very inopportune, inopportune because the Government started the process of finding a political solution having treated this problem so long as a mere law and order problem. Whatever it is, they

have released certain persons and the process of political solution has begun and this Bill will reverse the whole process. Then there is no urgency for this. I do not know why even MPs had to be called back, who had gone abroad in a parliamentary delegation. I do not see any urgency, it could wait for a few days *(Inicrptions)*.

THE DEPUTY CHAIRMAN: Order, order.

SHRI PARVATHANENI UPENDRA: Unfortunately they have taken only the members of the Congress Party, but I don't object to that. But there was no need to call them back. You could have waited for a few more days. *(Interruptions)* Will you please stop disturbing me? Otherwise, I will take two hours, *(interruptions)*. You go to your seat.

SHRIMATI IAYANTHI NATARAJAN (Tamil Nadu): He has no business to control me like this.

SHRI PARVATHANENI UPENDRA: If you have to interrupt me, you go back to your seat and then interrupt me.

THE DEPUTY CHAIRMAN: Don't shout. If you have any objection, you ask the Chair for direction. Why are you directly directing her? ..He is requesting you, through the Chair, not to interrupt.

SHRIMATI IAYANTHI NATARAJAN: I resent it Madam. I will not be controlled by him.

SHRI NIRMAL CHATTERJEE: He is simply drawing your attention to the fact that you must go to your own seat before interrupting.

SHRIMATI JAYANTHI NATARAJAN: You should tell your own Members, not me. I resent it.

THE DEPUTY CHAIRMAN: No noise please. Why are you inviting trouble for yourself?

SHRI PARVATHANENI UPENDRA: I am not inviting trouble. She takes pleasure in interrupting me always.

SHRI SATYA PRAKASH MALAVIYA: It is already 1.30 We should adjourn for lunch now.

THE DEPUTY CHAIRMAN: Let his speech be over. (*Interruptions*).

SHRI PARVATHANENI UPENDRA-  
Will you control her, Madam? She is having a running commentary. It is very unfortunate. I am being intimidated by a woman.

The second ground on which I oppose . . .  
how can I continue like this?

THE DEPUTY CHAIRMAN: No cross-talking, please, Mr. Upendra only will speak. None else will speak.

SHRI PARVATHANENI UPENDRA: The second ground on which I oppose its introduction is that this Bill is totally unnecessary because it will be an admission of the failure of the political leadership in this country to find a solution to the Punjab problem. By resorting to this extreme step the Government and the political leadership in this country are admitting that they are incapable of finding a solution in the normal circumstances, it also shows the bankruptcy of the policies of this Government in regard to Punjab all these years. There are enough powers, as Mr. Advani has already pointed out. We have passed, since 1983, several Acts relating to Punjab, including the Special Courts and the Terrorists and Disruptive Activities Prevention Act which has been amended thrice in this House itself. You have taken powers by amending Art. 249 also. You have taken special powers. You have imposed President's rule twice—in 1983 and again in 1987. All these measures have failed and assumption of powers under this Bill is not going to help you either.

The third ground Madam is, this Bill will contravene, will go against the basic structure of the Constitution as interpreted in the Kesvanand Bharati case by taking away the powers under Art. 21. Taking away the right to life and liberty of the citizen it will go against the basic character of the Constitution and this will be subject to litigation also.

My fourth objection, Madam, is that this is completely authoritarian and arbitrary.

It will give authoritarian and arbitrary powers to the Government to interfere with the normal life of a vast number of citizens.

The fifth ground is as Mr. Advani has pointed out, though the aims and objects of the Bill indicate that it is confined to Punjab, the tenor and language of the Bill indicate that it can be extended to any part of the country and all these powers can be exercised anywhere else which is not desirable. And it will impose a censorship on the Press, I do not know whether the incidents will come down or increase but it will only result in blacking out news from the newspapers and keeping back information from the public. It will be worse because we have had one experience during the Emergency. That did not help.

My sixth objection is, it is a temporary provision which you are making for two years. This Bill says that the introduction of Art. 359A is only for a period of two years. The Constitution of India is a permanent document and you cannot go on putting very temporary provisions which will last for six months, one year or two years. Even the previous proviso which you have put under Art. 356, which was meant for two years, still remains on the statute book even today. That should have ended in 1985. Extension of President's rule up to two years which was provided in that Constitutional amendment is valid today still on the statute book. It should have gone out of the statute book. Therefore, it brings temporary character to the Indian Constitution which is also not desirable. And because the basic structure of the Constitution is involved, the President should be requested to refer the matter to the Supreme Court under article 143 for its opinion whether this is valid, whether Parliament has the competence to decide on this.

Finally, Madam, this Government is doing a great mistake by acting unilaterally in introducing this Bill without any consultation with the Opposition or with any section or parties involved in the Punjab tangle. I do not know why they could not consult the Opposition parties and others involved here and arrive at a consensus.

This is a national problem. We are all against terrorism. We want peace in Punjab. We want Punjab to prosper. It is not an affair merely of the Congress Party or the Central Government or the Congress Ministers sitting here nor is it Mr. Rajiv Gandhi's personal problem. The whole country should have been taken into confidence. The Opposition parties should have been taken into confidence and a consensus should have been arrived at.

On these grounds Madam, I oppose the introduction of the Bill.

THE DEPUTY CHAIRMAN: Now the House stands adjourned for lunch. We will meet again at 2-30 P.M.

The House then adjourned for lunch at thirty-seven minute's past one of the clock.

The House reassembled after lunch at thirty minute's past two of the clock, The Deputy Chairman in the Chair.

SHRI M. S. GURUPADASWAMY: The Bill that is being brought before us has been objected to by my colleagues on several grounds. I had an occasion to look into the past debates—both the debates of the Constituent Assembly and the debates at the time of the Constitution Amendment introduced by Shri Shanti Bhushan amending this particular Article. After going through these debates one gets an impression that there should be safeguards and protection for the working of our democratic system, and one of the safeguards debated at length was that the Fundamental Rights should not be abridged: Articles 20 and 21, particularly should not be changed at all. They should remain as they are. The rights given to the citizens should not be trampled upon.

I would just take a minute from you to read a small observation made by Shri L. Shanti Bhushan while the Constitution (Forty-fifth Amendment) Bill was being debated in the Rajya Sabha. I quote;

"Sir, the right to live or liberty is sacrosanct. After all, what does the society consist of? For whom does the society exist and for whom does the

Constitution exist? The entire society consists of individual citizens. The whole Constitution is meant for the people which consist of individual citizens. If their right to life or liberty itself could not be sacrosanct if they would not have any kind of right to life or liberty during the period of emergency, the emergency, the country, the democracy etc., would be futile. Therefore, Sir, I\* is being sought to be introduced as an exception in Article 359 that the right to life or liberty guaranteed under Article 21 of the Constitution would not be capable of suspension even during any kind of emergency."

The right to life or liberty shall be regarded as sacred and that is why this proviso is sought to be introduced in article 359.

By this measure the Government seeks to remove article 21. Article 21 deals with right to life and liberty of the citizens. Therefore, it changes the characteristic of the emergency provision apart from the character of the Constitution. This is my first point.

My second point is, these changes sought in the Bill will adversely affect Centre relations. I do not want to go into details. Even during the emergency period powers, the freedom of the States, the rights of the States will be adversely affected by the application of the emergency provisions. The Hon. M. M. M. is bringing a nefarious provision which had been left out in the past (Article 21) in the original Constitution. The expression "internal disturbance" was there earlier. The emergency can be proclaimed whenever the President feels there is threat to security of India, let us say an aggression from outside and armed rebellion. 'Armed rebellion' was introduced in place of 'internal disturbance' during Janata Rule. Now, that is being expanded to cover "internal disturbance". If you take all these expressions, they will cover the entire universe. Nothing is left out. Various aspects are covered. So, my second point is, it changes the basic character of our democratic system itself.

[Shri M. S. Gurupadaswamy]

Lastly, the Government has not made out any case at all as it is being said by other friends for such a change in the Constitution. Already draconian powers have been taken by the Government and in spite of these powers, Punjab continues as a boiling cauldron. There is no guarantee that this change in the Constitution will help the process of normalisation. So, ultimately my contention is, you will be left with draconian emergency powers without any hope of restoring normalcy, peace and tranquillity in Punjab. As it changes the basic character of the Constitution, the basic character of institutions set up by it, I oppose the very introduction of this Bill.

SHRI ALADI ARUNA *alias* V. ARU-NACHALAM: Madam Deputy Chairman, at the outset, I strongly register my protest against the introduction of the Bill. Under the Constitution 59th Amendment Bill, two radical changes have been proposed in our Constitution for the consideration of this House. At present, President's rule can be allowed to continue for three years for two reasons mentioned in the Constitution. But due to the new amendment, President's rule can be continued indefinitely in any part of the country without emergency. So it is a dangerous amendment, it is undemocratic, anti-federal, and it is going to pave the way for disintegration of the country. That is the warning I would like to give in this context. Madam, Article 356 of the Constitution itself is undemocratic and anti-federal. During the Government of India Act of 1935, the same principle was strongly opposed by the Congress in 1935. In the Government of India Act of 1935, there are two sections which deal with the break-down of the Constitution at the State level and at the Central level. At least, the British people were fair enough to introduce the provision with valid principle but conveniently, our founding father did not say anything about the break-down of the constitutional machinery at the Central level but they have dealt with only the State level. It is a colonial way of

controlling the State. That is why, it has been incorporated in our Constitution. If you go through the text and the spirit of Article and compare it with that of 1935 Act, our present Constitution article is more dangerous and colonial in nature. That is why, I oppose this amendment Bill proposed by the Government. Now under Article 352, one more ground has been added for declaration of emergency. Madam, so far, war or external aggression or armed rebellion were considered the grounds for the declaration of emergency. Now internal disturbance has also been included for declaration of emergency. This was totally opposed by the people. It has been rejected by the people. It was misused by the Congress in 1975 and people opposed it. That is why Congress was removed from power in 1977 elections. It is unfortunate that the Government has not learnt from history. It has failed to learn from the past. Now, the Government is taking steps to introduce a clause which was responsible for their downfall from power. That is why, they have failed to learn from history. What is the need of adding the words, 'internal disturbance' as one of the ground for declaration of emergency in any part or in whole of India? The internal disturbances perhaps disturbed the rule of Congress but have never disturbed the integrity and unity of the country because the unity and integrity of the country, it is claimed there is, sound and solid. If it is existing from the days of Ashoka. If that is so, why this Government is afraid of internal disturbance? The Government is afraid of its own disturbance, and not the country's disturbances. Before I conclude my speech, I would like to mention that unfortunately the party in power at the Centre is approaching this Punjab problem in a political way with party interest and not with national interest. When they were in power in Haryana, they would have solved the problem to some extent though not fully by transferring Chandigarh to Punjab. But so far they have not taken any steps. They are approaching this problem with party interest rather than with national interest. Therefore, for their party's sake, in order to create emergency in future, they are amending\* this Constitution and I oppose this Bill tooth and nail.



SARDAR JAGJIT SINGH AURORA (Punjab): Madam Deputy Prime Minister, I oppose the introduction of this Bill. I beg your pardon. (*Interruption*). Anyway, I am always elevating people, I hope you do not mind. (*Interruptions*) Madam Deputy Chairperson, I oppose the introduction of the Constitution (Fifty-ninth Amendment) Bill for the following reasons. First there is no need for it. Second, it goes against the fundamental rights granted in the Constitution. Third, it is anti-people, undemocratic and wholly invidious. Fourth, it will worsen the situation in the Punjab rather than improving it. It is conceived with dishonest intentions of gaining temporary advantage for electoral gains. It is the thin end of the wedge with a view to extend this emergency to the rest of the country if the need arises, if it is being introduced with unholy haste thereby showing that the Government has no proper well-thought-out plan to deal with the real problem. It will kill the political initiative just started. For what reason this is being introduced, I just cannot understand. So I do oppose it.

SHRI TRIDIB CHAUDHURI (West Bengal): Madam, the obvious purpose, the most sinister purpose, of this proposed Bill is that it seeks to restore 'internal disturbance' as one of the causes for the declaration of emergency which was abolished by the Constitutional Amendment Act introduced in the Janata regime. I need not go into the details that have been already dealt with by different non-Members. My only regret is that somehow or other it appears that this Government has failed to learn from the experience of the last one decade or more of the ups and downs in the political fate of the country. Madam, I am reminded of the saying of Lok Nayak late Jayaprakash Narayan when the emergency of 1975, under the old Constitutional Amendment Act, was promulgated and Shri Jayaprakash Narayan and others came to be arrested. He said,

"Vinasakaiva viparita buddhi". And his prophesy came true. In 1977, the Government went to polls and it lost. Again grounds are being prepared for the promulgation of emergency in that fashion. And I am sure that the country will reject the Government that enacts this provision. That is why every lover of democracy, every lover of India, must oppose this Bill and that is what we propose to do here.

SHRIMATI BIJOYA CHAKRA-VARTY (Assam): Madam, I oppose the introduction of the Bill, the Constitution (Fifty-ninth Amendment) Bill, 1988. The situation in Punjab is already explosive and this Amendment which is meant to impose emergency in Punjab will make the situation more explosive in the country. Madam, the Constitution is not a static thing. It might be amended. But it should be amended to put the country on the right path. Now, the approach of the Government is negative. By imposing emergency, the Home Minister can achieve nothing for the country or for Punjab. Madam, I have a feeling that this Amendment will simply strangle the voice of freedom and will estrange the people from the Government. I feel that it is an anti-people decision on the part of the Home Minister. I want to ask one question in this regard, if emergency is imposed in Punjab now, then what the next step will be which the Home Minister would like to take. When the Punjab Assembly is kept under animated suspension, then also there is an emergency-like situation in that State. But the Home Minister could not achieve anything. What does he want to get by imposing emergency again? Such type of emergency was imposed in Assam in 1983. The result is that there is a very explosive situation in Assam. There are killings, shootings and rapes. People are maimed for nothing and the rest of the country is completely unaware of what is happening in that State. If emergency is imposed, such things will happen in Punjab also. That is why, I oppose it.

[Shiimati Vijaya Chakravarty]

I want that there should be a political solution of the situation in Punjab. The Home Minister should try to find a political solution of this problem. Thank you.

श्री सत्य प्रकाश मल्लवीय : उपसभापति महोदया, संविधान अनुसूचकों संशोधन विधेयक, 1988 गृह मंत्री जी ने प्रस्तुत किया है इसका विरोध करने के लिए मैं खड़ा हुआ हूँ। पंजाब समस्या का समाधान करने के बहाने से इस संशोधन विधेयक के जरिये न केवल इस देश में जनतंत्र को कैद करने की साजिश की जा रही है बल्कि जो आम नागरिक के अधिकार हैं, बोलने के, घूमने के, लिखने के, पढ़ने के और प्रेस की आजादी उसको भी छीनने की कोशिश की जा रही है। सन् 1978 में जो संविधान में चवालीसवां संशोधन किया गया था उस संशोधन के अनुसार आन्तरिक गड़बड़ी शब्द को हटा दिया गया था और सारा देश जानता है कि आन्तरिक गड़बड़ी के नाम पर 1975 में सारे देश में आपातकाल की घोषणा की गयी थी। जब चुनाव हुए तो इस देश की जनता ने उस आपातकाल के खिलाफ अपनी राय दी थी, वोट दिये थे। यही नहीं जब 1980 में चुनाव हुए तब तत्कालीन प्रधान मंत्री ने चुनाव के पहले जो दौरा शुरू किया था उस समय सारे देश की जनता से माफी मांगी थी आपातकाल लगाने के लिए। आज फिर, 44वां संशोधन संविधान में किया गया था, उसको बदलने की कोशिश की जा रही है। संशोधन जो होने जा रहा है इससे न केवल लोकतंत्र की हत्या है बल्कि हमारा जो सदन है इसकी भी गरिमा को गिराने का प्रयास किया जा रहा है। मैं इसलिए कह रहा हूँ कि हमारा जब संविधान बना था उस संविधान के अन्तर्गत लोक सभा या राज्य सभा का प्रावधान उसमें किया गया था। लोक सभा और राज्य सभा का प्रावधान इसलिए नहीं किया गया था कि जो लोग सत्ता में बैठे होंगे वह लोक सभा या राज्य सभा का प्रयोग या दुरुपयोग

संविधान की हत्या करने, लोगों के अधिकारों की हत्या करने में करेंगे।

जो दीपेन घोष जी ने कहा है मैं उसका पूरी तरह से समर्थन करता हूँ और उसका समर्थन करते हुए आज जो गृह मंत्री जी ने अपना प्रस्ताव रखा है इस विधेयक को प्रस्तुत करने का, वह, उसे वापस ले लें और विपक्ष के नेताओं को बुलाकर, उनके साथ बैठ कर बात करें। पंजाब की समस्या का समाधान हर नागरिक चाहता है। जो प्रधान मंत्री जी बारबार इस बात को दोहराते हैं कि हम सारे देश के विपक्षी दलों का सहयोग चाहते हैं तो वह टकराव की स्थिति क्यों पैदा कर रहे हैं। इसलिए मेरा निवेदन है कि इस प्रस्ताव को वापस लेना चाहिए और जो विपक्ष के नेता हैं, उनकी सलाह और राय लेकर, मानकर चलना चाहिए उनसे बात करनी चाहिए। मैं मानता हूँ कि लोकतंत्र में बहुमत की चलती है, लेकिन बहुमत को अल्पमत की बात पर भी विश्वास करना चाहिए और उनकी बातों पर विचार करना चाहिए। विपक्ष के लोग अगर इसको वापस लेने की राय देते हैं तो यह आपके हित में है। इसलिए क्यों आप सन् 1977 की गलती को फिर दोहरा रहे हैं? भारत की जनता आपको इसके लिए माफ नहीं करेगी। अभी सदन में संविधान की और 22 अन्य कानूनों की चर्चा की गई है। उन कानूनों के जरिए आप पंजाब की समस्या का समाधान नहीं कर पाये हैं तो इस बात की क्या गारण्टी है कि इस संविधान संशोधन के जरिए आप इस समस्या का समाधान कर पाएंगे? इसके पीछे आपकी मंशा और नियत साफ नहीं है, इसलिए मैं इसका विरोध करता हूँ।

THE DEPUTY CHAIRMAN: Now, Mr. Chitta Basu.

SHRI CHITTA BASU: Madam Deputy Chairman, I rise to oppose the Introduction of the propose^ Constitution (Fifty-ninth Amendment) Bill.

Madam, I oppose it primarily for three reasons. Firstly this move is constitutionally mischievous and politically undemocratic and preposterous. Secondly, It is an extraordinarily draconian measure. Thirdly, morally, Madam this measure is reprehensible and repulsive.

Madam, when I rail it constitutionally mischievous, I should be allowed to explain it. By this measure, a mischief is being done to the Constitution which permits the Government and the ruling party which enjoys the majority of the House to impose Emergency by instalments. As we have been seeing or witnessing the scene of budgeting in instalments, we have also to witness now the phenomenon of Emergency being imposed all over the country in instalments now in Punjab, next time in Gujarat and then in Bihar or elsewhere and by this process they are pushing our country towards Emergency. Madam, to me it appears to be a preposterous idea that the basic document of our country, the Constitution of our country, should be bent only to suit the political expediency of a political party which rules at the Centre. Can the Constitution, the basic document, of our country which enshrines our rights be bent to meet the political expediency and the partisan interests of a party? This is a very big moral question and a big Constitutional question and a democratic question in our country now.

Madam, you will be knowing that the words "internal disturbance", which were a part of article 352, were removed in 1978 by the Constitution (Forty-fourth Amendment) and this very obnoxious phrase or expression in the Constitution was abolished. Now the Government wants to bring it back. Madam, we have got shameful experiences of the Emergency days. Many of them may not have the shameful experiences of the Emergency days when the entire country was a prison house and when the voice of democracy was muzzled and when there was nothing but dictator-

ship at work, I am quite in agreement with my honourable colleague, Mr. Advani, when he says that there are at least three sinister motives. But he has not explained them. There are at least three sinister motives behind it, according to him. I do not know what he calls sinister. But, in my view, one of the sinister motives is to re-enact Emergency in our country.

Madam, kindly allow me to explain. I raised this point and you did not allow me to explain it. Therefore, I now crave your indulgence to make a reference to it, to the question of competence of this House. This measure strikes at the very core structure of the democratic structure of the country. So far as the core structure is concerned although it is not left intact but the general agreement is that the core or the basic structure of the Constitution of our country consists, amongst others, of federalism, the right to exercise franchise to elect the Government; independence of the Judiciary and Fundamental Rights. Now, by these measures, at least in my consideration, Madam, the whole or three of these basic characteristics of our Constitution are being assaulted upon. (*Time bell rings*) First, federalism, second, the right to exercise franchise to elect the Government—this is in relation to Punjab and \_\_\_\_\_

THE DEPUTY CHAIRMAN: Please conclude.

SHRI CHITTA BASU: And the fundamental right is also being taken away, I have mentioned that these are some of the basic characteristics of the Constitution which are being assaulted upon by this measure. Therefore, even the question arises whether this House has got the competence to consider that.

Lastly, Madam, I think this will be the beginning of another era of auto-

[Shri Chitta Basu]

cracy, dictatorship and burial of democracy (which the Constitution does not permit, which the people do not permit. Madam, this Government has lost its 1984 mandate and the Government has lost its mandate according to the people. Not by the number here, as to bring out such basic change in the structure of our Constitution Mr. Home Minister, you have lost your 1984 mandate. Therefore, you should seek another mandate before you can do it. You have got no moral right whatsoever to bring about this kind of basic change in the character of our Constitution to murder democracy by instalments and finishing the fabric of federalism of our Constitution. (Time bell rings) I want to remind my hon. colleagues to see that this is not only an assault inside the House but also outside the House. I oppose the introduction of the Bill.

SHRI V. GOPAISAMY.- Madam Deputy Chairman if this obnoxious Bill is introduced, today will be a day of shame and sorrow. The very introduction of this Bill is atrocious, disastrous and dangerous, because this will strike at the very roots of democracy. This country cannot forget that terrible onslaught of emergency, those dark days of emergency, when hundreds of thousands of cadres

of political parties were thrust into the dark dungeon cells of prisons. Many had to die. Thousands had to shed their blood. But the people taught a fitting lesson to the then Government. The Government was thrown away. I would like to warn our friends that Madam Gandhi had to tender an apology before the masses for the crimes they committed during the days of the emergency. Madam, today again the authoritarian tendency with vehement arrogance has crept into the minds of the people who are at the helm of affairs of this Government. Therefore, once again they want to crush opposition and strangle the voice of democracy.

This is a Machiavellian technique. Madam, they may force this pernicious Bill with their brute majority in Parliament today. If it is prelude and a fore-warning to crush opposition then I will warn them that this will be a prelude to the revolt of the people against the Government because the people will rise against this legislation, against this dictatorial effort. The people will meet you in the streets inch by inch. The people will fight internal disturbance. (Time bell rings)

Madam, whenever the chances of the Congress Party to capture power are disturbed, that is called internal disturbance. This is their history. This is the history of the Congress Party. Therefore I will request the hon. Home Minister to withdraw this Bill. If it is a prelude or fore-warning of opposition, then tomorrow, on 15% March, will be a day of forewarning to this Government by the progressive and democratic forces of this country. Therefore, I request the Home Minister to withdraw this Bill.

SHRI K. GOPALAN (Kerala): Madam, I rise to oppose the introduction of this Amendment Bill. The manner in which this important piece of legislation is being hushed through is highly objectionable. It touches vital aspects of our Constitution. In such matters, the ruling party and the Government should have taken the entire opposition into confidence and sufficient consultation should have been done earlier. The opposition Members are equally anxious to curb terrorist activities in Punjab. They also want to bring normalcy to Punjab. But, in doing so, the Government is moving in a more harmful way than the terrorists do. They are taking up arms and aiming at shooting down sacred parts of our Constitution. They are taking away the very essence and the spirit of the Constitution. So, I oppose the introduction of this Bill,

SHRI BUTA SINGH: Madam Deputy Chairman, I have listened to the objections raised by the hon. Members to the introduction of this Bill. As a matter of fact, what I have listened to at this stage should have come after you had allowed me to move the Bill for the Consideration of the House. The objections which the hon. Members have raised mainly relate to the merits of the provisions of the Bill. At this juncture I can only say that introduction of a Bill can be opposed by the hon. Members only on two grounds. One is the procedural requirement and the other is the substantive ground as to the legislative competence of this House. I have gone very carefully into the various points—six raised by Shri Upendra, five by Gen. Aurora, as many as seven raised by Shri Advani, three raised by Shri Dipen Ghosh. All of them add to one that they have projected their own political ideology about the emergency. (In, interruptions)!

SHRI DIPEN GHOSH: We are proud that we have a political ideology to defend democracy.

SHRI BUTA SINGH: Madam Deputy Chairman ... (interruptions) May I remind the hon. Members as they have been trying to highlight the provisions of emergency that they are the only Messiahs of democracy in India? If that was so why at all ... (Interruptions)

THE DEPUTY CHAIRMAN: Order, please.

SHRI BUTA SINGH: A simple question I want to put: At the time of the Forty-fourth Amendment, why even the provision of emergency which is there in the Constitution, why was it allowed?

SHRI DIPEN GHOSH: We opposed it.

SHRI BUTA SINGH: Which means that even they felt that in this country a situation can arise whereby

the Government of the day will have to ... (Interruptions)

SHRI NIRMAL CHATTERJEE: He knows that Reagan's agents are present in the ruling party; they can create a situation.

SHRI BUTA SINGH: Which means in principle ... (Interruptions) ... even the leaders who have opposed today the introduction of this Bill have gone on record that in this country there can be a situation where an emergency has to be declared. Now it is a question of assessment....

SHRI DIPEN GHOSH: What is that?

SHRI BUTA SINGH: And the Government's assessment, I will reveal during the course of discussion. This is not the stage. (Interruptions) We can discuss this thing when we come to the merits of the Bill, but not at this stage of introduction, the very fact ... (Interruptions)

SHRI DIPEN GHOSH: You withdraw the Bill.

SHRI BUTA SINGH: The very fact.... (Interruptions)

THE DEPUTY CHAIRMAN: Mr. Dipen Ghosh and Mr. Nirmal Chatterjee, please do not interrupt him. Enough is enough, please. When you spoke, he did not interrupt. Now ^ him also complete whatever he has to say.

SHRI DIPEN GHOSH: He has done enough ...

THE DEPUTY CHAIRMAN: You are interrupting and I am trying to tell you: Please do not interrupt.

SHRI BUTA SINGH: So, Madam, at this stage, I will try to meet only two or three points. It is with haste, according to Gen. Aurora. You remember, in this House, as far as about seven days back, on 7th March I made very clear the intention of the Government in no uncertain terms,

[Shri Buta Singh]

and for the benefit of the hon. Members I am going to read what I said;

"The Government also propose to introduce a Constitution Amendment Bill in the current session of Parliament to facilitate extension of the President's Rule in Punjab as and when necessary. Government have undertaken an examination of article 352 and related provisions of the Constitution in its application to Punjab."

And let me repeat it here hundred times that it is only for Punjab. An impression is sought to be created by the speeches...

SHRI DIPEN GHOSH: What is that?

SHRI BUTA SINGH: . . . that this is for the rest of the country. *(Inter-jections)*

SHRI DIPEN GHOSH: \* \*

THE DEPUTY CHAIRMAN; This interruption will not go on record. No interruptions will go on record.

SHRI BUTA SINGH: it started in this House with the Government very clearly coming to the House that in Punjab we will require it. And, in the provision of the Bill it has been mentioned that it is only for Punjab.

SOME HON. MEMBERS: No, no.

SHRI BUTA SINGH; if the hon. Members have not read the Bill which was supplied to the Members on Friday evening, what can I do? They should do some homework. They come only with pre-conceived notions and they do not go through the papers which have been supplied to them.

SHRI PARVATHANENI UPEN-DRA; Madam, I object to it. How can he say that we have not gone through the Bill?

SHRI BUTA SINGH: You can read it now here in the House. It is only and only for Punjab, and that too only for a limited period. Therefore, . . . Madam, the hon. Members, the hon. leaders of the opposition are trying to create an impression, are trying to create certain impression in the country by raising the bogey of so many things, bringing in the name of the press and civil liberties. You know the emergency conditions. You know the situation in Punjab. You know even today, it is true what Advaniji has said, yes, we have been trying to fight this menace of terrorism in Punjab with all the might. But unfortunately we have not met with the success required but to say that we have failed is also not a correct picture. The picture is that we have been able to contain to a large extent and the people of Punjab deserve the full support of this House. The people of Punjab in spite of last live years' persistent drive of the extremist forces, anti-national forces, have refused to become a party to communal disturbances in Punjab, *(Interruptions)*. And in that process I must recognise and I must appreciate the role played by all the political parties, the CPM, the CPI, the BJP, the Akali Party (one section), the Congress Party, they have played the role in maintaining communal harmony in Punjab. But today I am coming before this august House outside Punjab, external forces and elements within Punjab, which are determined to break up the integrity of Punjab... *(Interruptions)*

THE DEPUTY CHAIRMAN: The House wants to know what is the view of the Government. This is a very important and serious matter. The Hon Members may listen to what the hon. Minister has to say. You are interrupting unnecessarily. Mr Dipen Ghosh, you are every now and then getting up. Mr. Dipen Ghosh will sit down. Mr. Dipen Ghosh will sit down and it will not go on record.

SHRI BUTA SINGH; I am sure the hon. Members who have played a valuable role in Punjab will extend

their full support to the Government in weeding out the terrorism, in fighting out the separatism from Punjab and I have no doubt that this House has always represented the best interests of the nation. It is in this spirit that I come to this House and commend to the House to allow me to introduce this Bill.

THE DEPUTY CHAIRMAN: The question is:

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

*The House divided.*

THE DEPUTY CHAIRMAN: Ayes: 121. Noes: 44.

AYES—121

Abdi, Shri Hashim Raja Allahabadi  
Ahluwalia, Shri S. S.  
Alva, Shrimati Margaret  
Amarjit Kaur, Shrimati  
Amra, Shri Tirath Ram  
Anand Sharma, Shri  
Ansari, Shri Hayat Ulla  
Antony, Shri A. K.  
Arun Singh, Shri  
Bagrodia, Shri Santosh  
Bansal, Shri Pawan Kumar  
Bekal Utsahi, Shri  
Bhajan Lal, Shri  
Bhandare, Shri Murlidhar Chandra-  
kant  
Bhardwaj, Shri Hansraj  
Bhatia, Shri Madan  
Bhatt, Shri Jitendrabhai Labhshanker  
Bhim Raj, Shri  
Chatterjee, Prof. (Mrs.) Asima  
Chaturvedi, Shri Bhuvnesh  
Chowdhary, Ram Sewak

Darbara Singh, Shri  
Desai, Shri Jagesh  
Deshmukh, Shri Shankarrao Narayan-  
rao  
Dhusiya, Shri Sohan Lal  
Faguni Ram, Dr.  
Fernandes, Shri John F.  
Ganeshwar Kusum, Shri  
Gupta, Shri Vishwa Bandhu  
Hanspal, Shri Harvendia Singh  
Hanumanthappa, Shri H.  
Heptulla, Dr. (Shrimati) Najma  
Islam, Shri Baharul  
Jacob, Shri M. M.  
Jadhav, Shri Vitthalrao Madhavrao  
Jamir, Shri S. C.  
Jamuda, Shri Durga Prasad  
Jani, Shri Jagadish  
Jogi, Shri Ajit P. K.  
Joshi, Shri Krishna Nand  
Joshi, Shrimati Sudha Vijay  
Kadharsha, Shri M.  
Kailashpati, Shrimati  
Kakodkar, Shri Purushottam  
Kamble, Prof. N. M.  
Kaul, Shrimati Krishna  
Khaparde, Miss Saroj  
Khatun, Kumari Sayeeda  
Kidwai, Dr. Mohd. Hashim  
Kollur, Shri M. L.  
Kulkarni, Shri A. G.  
Kushnoor, Shri Veershetty Moglappa  
Laxmi Narain, Shri  
Mahendra Prasad, Shri  
Mahto, Shri Bandhu  
Majhi, Shri Prithibi  
Makwana, Shri Yogendra  
Malaviya, Shri Radhakishan  
Malik, Shri Mukhtiar Singh  
Malik, Shri Satya Pal  
Manhar, Shri Bhagatram  
Masodkar, Shri Bhaskar Annaji  
Meena, Shri Dhuleshwar

Mehta, Shri Chimanbhai  
 Mirza irshadbaig, Shri  
 Mishra, Shri Mahendra Moha<sub>n</sub>  
 Mishra, Shri Sheo Kumar  
 Mohapatra, Shri Basudeb  
 Mohanty, Shri Subas  
 Moopanar, Shri G. K.  
 Naik, Shri G. Swamy  
 Narayanasamy, Shri V.  
 Natarajan, Shrimati Jayanthi  
 Natha Singh, Shri  
 Pachourl, Shri Suresh  
 Pahadia, Shrimati Shanli  
 Pailaniyandi, Shri M.  
 Pandey, Shrimati Manoram<sub>a</sub>  
 Pandey, Dr. Ratnakar  
 Panwar<sub>s</sub>, Shri B, L.  
 Patel, Shri Chhotubhai  
 Patil, Shri Dinkarrao Govindrao  
 Pattnaik, Shri Sunil Kumar  
 Puglia, Shri Naresh C.  
 Rafiqu<sub>e</sub>, Alam, Shri  
 Rai, Shri Kajpnath  
 Ramamuxthy, Shri Thindivanam K.  
 Ramanathan, Shri V.  
 Rao, Prof. B. Ramachandra  
 Rathvakoti, Shri    Ramsingbhai Fata-  
     liyabhai  
 Rayka, Shri Sagar  
 Reddy, Shri Adinarayana  
 Reddy, Shri T. Chandrasekhar  
 Rohatgi, Shrimati sushila  
 Roshan Lai, Shri  
 Sahu, Shri Rajhi Ran jam  
 Sahu, Shri Santosh Kumar  
 Salve, Shri N. K. P  
 Sayeed, Mufti Mohamad  
 Sharma, Shri Chandan  
 Sharma<sub>s</sub>, Dr. H. P.  
 Shukla, Shri Keshavprasad  
 Siddiqi, Shri Shamim Ahmed  
 Singh, Shri Bir Bhadra Pratap

Singh, Thakur Kamakhya Prasad  
 Singh, Shrimati Pratibha  
 Singh, Dr. Rudra Pratap  
 Singh, Shri Surender  
 Singh, Shri Vishvijit Prithvijit  
 Sukul, Shri P. N.  
 Tariang, Shri Jerlie E  
 Thakur, Jagatpal Singh  
 Thakur, ghrl surendra Singh  
 Tiria, Kumari Sushida  
 Tyagi, Shri Shanti  
 Vaduthala, Shri T. K. C.  
 Valiullah, Shri Raoof  
 Verma, Shri Kapil  
 Verma, shrimati Veen<sub>a</sub>  
 Vikal, Shri Ram Chandra  
 Yadav, Shri Ramanand

NOES—44

Advani, Shri Lai K,  
 Aladi Aruna,    Shri *alias* V.    Arunacha-  
     lam  
 Aurora, Sardar Jagjit Singh  
 Baby, Shri M. A.  
 Basu, Shri Chitta  
 Basu Ray, Shri Sunil  
 Bhattacharjee, Shri Nepaldev  
 Chakravarty, shrimati Bijoy<sub>a</sub>  
 Chatterjee, shff Nlrmal  
 Chowdhury, Shrimati Renuka  
 Ghosh, Shri Dipen  
 Gopalan, Shri K.  
 Gopalsamy, Shri V.  
 Gos<sub>w</sub>ami, Shri Ramnarayan  
 Gowda, Shri D. B, Chandr<sub>e</sub>  
 Goyal, Shri J. P\_  
 Gurupadaswamy, Shri M. S.  
 Jaswant Singh, Shri  
 Kaldate, Dr. Bapu  
 Kar, Shri Narayan



Kushawaha, Shri Ram Naresh  
Lakshmana. Prof. C.

\* Mahajan, Shri Pramod

Maheswarappa, Shri K. G.

Malaviya, Shri Satya Prakash

Mohanan, Shri K.

Mukherjee, Shrimati Kanaf

Mukherjee, Shri Samai

Poddar, Dr. R. K.

Quasem, Shri Mostafa Bin

Radhakrishna, Shri Puttapaga

Rahman, Shri Mohd. Khaleelur

Rajangam, Shri N.

Rao, Shri Gopala Rao

Rao, Shri Yalla Sesi Bhushana

Reddy, Shri B. Satyanarayar.

Reddy, Dr. G. Vijaya Mohan

Sen, Shri Sukomal

Talari, ManoKar, Shri

Upendra, Shri Parvathaneni

Vajpayee, Shri Atad Bihari

r"Verma, Shri Ashok Nath

Yadav, Shri Jagdambi Prasad

Yadav, Shri Sharad

*The motion was adopted.*

SHRI BUTA SINGH; Madam,  
introduce the Bill.

THE DEPUTY CHAIRMAN: Yes,  
Mr. Minister.

SHRI LAL K. ADVANI: On a point  
of order.

SHRI BUTA SINGH; Madam,...

THE DEPUTY CHAIRMAN: He is  
on a point of order.

SHRI BUTA SINGH. Madam, 1  
beg to move;

"That the Bill, further to amend the  
Constitution of India, be taken into  
consideration."

SHRI LAL K. ADVANI: Madam  
Deputy Chairman, before the Union  
Home Minister moves the Bill for  
consideration I wish to point out that  
the Business Advisory Committee  
which allocates time was not even  
allowed to consider, not informed by  
the Government that next week they  
are to consider this particular im-  
portant Bill and, therefore, time has  
not been allocated for this particular  
Bill. My submission is that this is  
too important a Bill to be hustled  
through. We should have a discus-  
sion for at least two days on this Bill.  
If the Business Advisory Committee  
had occasion to consider this, I would  
have been bound by the recommenda-  
tions given by the Business Advisory  
Committee by and large, but in this  
particular case the matter has not  
come before the Business Advisory  
Committee and therefore, it is not  
for the Government to dictate, it is  
for the Chairman to take the sense of  
the House. May I read out the rule?  
The rule says that the Chairman has  
to take the sense of the House and  
then to allocate time. You cannot be  
dictated by the Government and,  
therefore, on behalf of the Opposition  
I would like to plead with you that  
this is a matter.....

SHRI BUTA SINGH: It has been admitted  
with the consent and approval of the Chair

SHRI LAL K. ADVANI: ..... on  
which no time has been allocated. Therefore  
Members have not been informed also. The  
Government, because it has notice and has its  
own intentions, can inform its Members. But  
we would like every single Member of the  
Opposition to be present here tomorrow.  
Therefore we seek that at least two days' time  
be allotted for this discussion.

SHRI PARVATHANENI UPENDRA: in  
the last Business Advisory Committee  
meeting, we raised this

[Shri Parvathaneni Upendra]

question and specifically asked the Government whether they were proposing to bring this Bill. We asked them for dates also. But they refused to tell. Instead, true to their character they tried to bring it stealthily on Friday and tried to introduce it. We require time. Every Member wants to express his views.

SHRI DIPEN GHOSH: On a point of order. Normally the convention in this House is....

SHRI RAOOF VALIULLAH (Gujarat):  
Nov/ they talk about conventions.

SHRI DIPEN GHOSH: I do not want to go by the convention of killing and raping the democracy by you.

Normally, the convention of this House is that after the Bill is introduced, time is given to the Members of the House so that they can assess the Bill, judge it and submit amendments, if necessary.... (*Interruptions*) We are talking about democracy. Please keep quiet. (*Interruptions*) Mr. Buta Singh, Mr. Jacob and others will not be allowed; if I am disturbed like this, then we will not allow Mr. Buta Singh to have passage of this Bill today in this House.\*\*

He will not have the passage of this Bill. I am telling you this. (*Interruptions*)

THE DEPUTY CHAIRMAN: Order please, I request all the Members to please keep quiet and let the business go on smoothly.

SHRI DIPEN GHOSH: I take up this challenge. (*Interruptions*)

THE DEPUTY CHAIRMAN: Please don't throw up challenges and counter-challenges in the House. (*Interruptions*)

\*\* Expunged as ordered by the Chair.

SHRI DIPEN GHOSH: Don't try to bully me. I am giving the threat. Don't try to bully me.

THE DEPUTY CHAIRMAN: Mr. Dipen Ghosh, this is not the way \_\_\_\_\_ Order please.. (व्यावधान)...

आप सब चुपचाप हो जाइए। इसे जल्दी से निपटाना है।

श्री सत्य प्रकाश मालवीय : यह जल्दी नहीं निपटेगा। यह लोकतंत्र की हत्या हो रही है।

उपसभापति : जल्दी से मतलब स्मृशली निपटाना है। चैलेंज और काउंटर चैलेंज करके नहीं निपटाना है। ऐसा मैं कह रही हूँ।

Mr. Dipen Ghosh, please don't throw any challenges across and stick to your point.

SHRI DIPEN GHOSH: The point is, when a Member is on his legs with the permission of the Chair, these treasury bench Members always disturb the speech.

THE DEPUTY CHAIRMAN: You also many times interrupt like that.

SHRI DIPEN GHOSH: My point of order is, the normal convention in this House is that after a Bill is introduced, a certain time is given to the Members so that they can assess the Bill, judge the Bill and submit their amendments if they feel it necessary. Then it is taken up for consideration and passing. But on Friday afternoon, suddenly an effort was made to introduce the Bill. The Bill could not be circulated by that time also. Anyway, it was withdrawn. Today, again. .. (*Interruptions*)

THE DEPUTY CHAIRMAN: Please don't interrupt, I know what he is saying'.

SHRI BUTA SINGH: Madam, nothing was withdrawn.

SHRI DIPEN GHOSH: ...It is sought to be introduced. After a division now it has been introduced. But obviously, we must be given time to submit our amendments. We are entitled to submit our amendments—to refer it to a Select Committee, to refer it for eliciting public opinion, or to alter, amend, or modify the Bill. We are entitled to that. Now, Madam, here a notice has been circulated today morning. What is the language?

THE DEPUTY CHAIRMAN: It has been withdrawn.

SHRI DIPEN GHOSH: \* Just listen. What is the language?\*

THE DEPUTY CHAIRMAN: You need not read what has been withdrawn.

SHRI DIPEN GHOSH: \*

THE DEPUTY CHAIRMAN: It will not go on record.

SHRI DIPEN GHOSH: \*

It was circulated today morning. The Bill had not yet been introduced at that time.

SHRIMATI RENUKA CHOWDHURY: That was circulated. Why should it not be referred?

THE DEPUTY CHAIRMAN: That has been withdrawn. Therefore, you do not know that.

SHRI DIPEN GHOSH: The Bill had not yet been introduced at that time.\*

Now it is being introduced.

My point is this. Let the Bill be taken up for consideration and passing after giving certain time to the Members to enable them to submit any amendment, if there be any.

Thank you.

SHRI V. GOPALSAMY: I am on a point of order, Madam. The Rules of

\*Not recorded.

Procedure, Chapter VI, Arrangement of Business, Rule No. 34 is very clear. I say:

"34. Report of Allocation of time to the Council.—The allocation of time in regard to the Bill or group of Bills or other business as recommended by the Committee, shall be reported by the Chairman or, in his absence, by the Deputy Chairman to the Council and notified in the Bulletin."

Madam, last week when the Business Advisory Committee meeting was held, there was not even a mention about the introduction of this Bill. The time was allocated for different businesses other than this. The time was allocated for the Railway Budget and other business.

Madam, Rule No. 37 also says:

"No variation in the allocation of Time Order shall be made except by the Chairman, who may make such variation if he is satisfied after taking the sense of the Council that there is a general agreement for such variation."

Madam, the Government brought this Bill surreptitiously. It informed the Members of the ruling party to reach Delhi. Most of the Members of the Opposition parties could not reach today. Therefore, Madam, the House should allocate two days' time to discuss this important Bill. This is the request of the Opposition. Therefore, Madam, you kindly consider this as per the Rules of Procedure.

SHRI ALADI ARUNA alias V. ARUNACHALAM: Madam, one point in one minute. I am raising a point of order.

The point for consideration of the Deputy Chairman is whether adequate time should be given to the hon. Members regarding the Constitutional Amendment Bill or not. We have not been informed in time about this Bill.

More than that, as far as the Members from Tamil Nadu are concerned, they are demonstrating against our

[Shri Aladi Aruna alias V. Aruna-chalam]

Speaker alleging that the Speaker had not followed the decision of the Business Advisory Committee in Tamil Nadu. What we are finding now here is that you are violating it. You are going to be alleged with the same allegation. You cannot give room for such things because there is no such decision by the Business Advisory Committee that we should discuss this. That is an allegation against our Speaker. Why do you follow that precedent? This is my request.

THE DEPUTY CHAIRMAN: It is no use<sup>1</sup> prolonging it. At the introduction stage also everybody wanted to speak. Now it is no use prolonging it.

SHRI JASWANT SINGH (Rajasthan): It will not take me more than half a minute to make a submission.

SHRI N. E. BALARAM: Madam I would like to say....

THE DEPUTY CHAIRMAN: Half a minute to you, and half a minute to him. That is all. Nobody else.

SHRI NIRMAL CHATTERJEE: And a point of order.

THE DEPUTY CHAIRMAN: No. I am not going to allow any point of order either. Mr. Jaswant Singh half a minute, and Balaram half a minute.

SHRI N. E. BALARAM: I request. Anyway, the Bill has already been introduced. Now, ...

THE DEPUTY CHAIRMAN: I have allowed Mr. Jaswant Singh first. After him, you speak.

SHRI JASWANT SINGH: Madam Deputy Chairman, the Bill has been introduced. Before we take it up for consideration, it is a submission which we can only make to you.

While making this submission, I would like to take your memory back to the Constitution (Forty-fifth Amendment) Bill which we are now attempting to undo. The 45th Consti-

tution Amendment Bill was introduced on 15th May, 1978. It was taken up for consideration for the first time on August 7, 1978 so that sufficient time, had been given between 15th May and August 7. That was the Bill which was, in fact, a liberal provision; which was enabling the<sup>1</sup> people and Parliament to ensure that Emergency is not introduced in a hurry. We are undoing that Act and you want us to pass that piece of legislation.

जसा आपने फरमाया कि जल्दी में  
निपटा लेंगे ।

उपसभापति : मैंने कहा कि स्मूथली  
कर लेंगे, जल्दी का मतलब इसको  
स्मूथली करना है । इसका दूसरा मतलब  
मत लगाइए ।

Don't take it in that manner.

SKTil JASWANT SINGH: I would not take it in that manner, yet I will submit to you, Madam.... The hon. Minister for Parliamentary Affairs must recognise<sup>1</sup> I have not yielded. Kindly-give me the courtesy of finishing my point. If, at that time the Parliament could deliberate, Members could get time<sup>1</sup> to study the provisions from 15th May to 7th August<sup>^</sup> surely Members have a right to now ask-your consideration that we are given at least two days instead of rushing and having a midnight declaration of Emergency. Consider it for two days. Just for two days, instead of rushing it as we are doing it today.

SHRI H. K. L. BHAGAT: The<sup>1</sup> relevant Rule is Rule 69 which says:

"When a Bill is introduced, or on some subsequent occasion, the member in charge may make one of the following motions in regard to his Bill, namely>—

(i) that it be taken into consideration;  
.."

The Home Minister is absolutely within his right and is according to the RtTe to move the motion for consideration.

Objection can be raised if the copies had not been circulated before that. Copies had been circulated a number of days before that. Actually, there is absolutely no reason or justification. .. (Interruptions) ...

SHRI PARVATHANENI UPENDRA:

What is the hurry? (Interruptions)

SHRI H. K. L. BHAGAT: Please wait. Let me say. I did not interrupt you. I do not expect you to interrupt like this. So far as fixing time for the debate is concerned, the Chairman is fully competent. These are all devices only to prolong it. That is all

SHRI N. E. BALARAM: I don't know how the Minister is arguing like that. If the Government was so earnest and serious about it, it could have had a discussion at the last Businjetes Advisory Committee meeting, because this is not a new thing. The Punjab incidents had not taken place day before yesterday. It was there for the last so many days, go many months. We were debating it. But if you want to bring in such a drastic enactment, of course, you could have drawn our attention at the last Business Advisory Committee Meeting. You did not do that. Somehow you are in a hurry.

THE DEPUTY CHAIRMAN: What is your point?

SHRI N. E. BALARAM: My point is... (Interruptions) I am a Member of this House. I want to know the full implications of this Bill. I want to read it once again. I do not know how far other Members have gone through it. So, you should give us some time. You can take it up on 17th— I am not asking for ten days' time—so that we can have a through discussion. You should not consider and pass it in a hurry.

THE DEPUTY CHAIRMAN: This is not the first time that the House has taken up a Bill without any formal allocation of time by the B.A.C. (Interruptions)

SHRI LAL K. ADVANI: Never in a Constitution amendment. (Interruptions)

SHRI PARVATHANENI UPENDRA: They were ordinary Bills. (Interruptions)

THE DEPUTY CHAIRMAN: At the stage of introduction enough scope was given to you keeping apart what the convention is. So, whatever the circumstances which have necessitated this Bill have been explained by the Home Minister in his reply to the objections which were raised at the time of the introduction. Therefore, I think there is no point in raising any objection. Now, let us go ahead with consideration of the Bill. (Interruptions)

SHRI DIPEN GHOSH: What about time allocation? (Interruptions).

THE DEPUTY CHAIRMAN: Shri Buta Singh. (Interruptions),

SHRI BUTA SINGH: Madam, I move:

"That the Bill further to amend the Constitution of India, be taken into consideration."

Under clause (5) of Article 356 of the Constitution, a resolution approving the continuance in force of a Presidential Proclamation issued under clause (1) of that Article beyond a period of one year cannot be passed by either House of "Parliament unless the two conditions specified in that clause are met. President's rule was imposed in the State<sup>1</sup> of Punjab by President's Proclamation issued under Article 356 (1) of the Constitution on 11th May, 1987 and the Legislative Assembly kept under suspended animation. The initial period of six months of President's rule was to be over on 10th November, 1987. However, in view of the situation in the State, approval of both the Houses of Parliament was obtained for continuance of President's rule for a further period of six months which is due to expire on 10th May, 1988. The Legislative

[Shri Buta Singh]

Assembly of the State has been dissolved on 6th March, 1988. (Interruptions)...

In view of the continued disturbed situation in Punjab, escalation in the activities of terrorists and anti-national forces resulting in the death of innocent men, women and children the continuance in force of the said Proclamation beyond the period of one year may be necessary in Punjab. In my statement made in this august House on March 7, 1988, I had stated that the Government proposed to introduce a Constitution (Amendment) Bill in the current session of Parliament to facilitate the extension of President's rule in Punjab as and when necessary and also to amend the Constitution suitably in respect of emergency provisions in their application to Punjab. Article 356 (5) of the Constitution is, therefore, proposed to be amended so as to facilitate the extension of the said Proclamation, if necessary, up to a period of three years as permissible under clause (4) of that Article. (Interruptions)...

THE DEPUTY CHAIRMAN: I will give you a chance to speak. You go back to your seats. That is under consideration. You will have right to speak... (Interruptions)...

After the motion is moved I will give you a chance to speak. Please go back to your seats... (Interruptions)...

SHRI BUTA SINGH: The activities of terrorists may not appropriately come under the definition of "armed rebellion" so as to invoke provisions of Article 352 of the Constitution, if considered necessary and declare a Proclamation of Emergency either in respect of the whole of the State of Punjab or parts thereof. It is, therefore, felt that Article 352 may be suitably amended in its application to the State of Punjab to include as one of the grounds "that the integrity of India is threatened by internal

disturbance in any part of the territory of India" so as to facilitate the taking of action under that Article if it becomes necessary at a future date. Consequently, Articles 358 and 359 are also proposed to be amended so as to provide for the automatic suspension of Article 19 of the Constitution and the issuing of an order by the President suspending the operation of any of the other provisions contained in Part-III (except Article 20) under Article 359, if and when a Proclamation of Emergency on the ground of internal disturbance threatening the integrity of India is issued in relation to the State of Punjab. . . . (Interruptions) . . .

As the proposed amendments are only for the purpose of curbing the terrorist activities in the State of Punjab more effectively, the powers that are proposed to be conferred by these amendments would not be resorted to for any period beyond what is absolutely necessary for achieving the aforesaid object. Accordingly, the amendments proposed in articles 352, 358 and 359 have been made to be operative only for a period of two years from the commencement of this amendment.

In view of this position, I request the august House to approve and pass the Constitution (Fifty-ninth Amendment Bill, 1988).

*The question was proposed.*

THE DEPUTY CHAIRMAN: Now the House stands adjourned for half an hour.

The House then adjourned at fifty-one minutes past three of the clock.

The House reassembled at fifty-four minutes past four of the clock. The Deputy Chairman in the Chair.

THE DEPUTY CHAIRMAN: There was a discussion among the different group leaders. A consensus has been arrived at. We will sit today up to 7.30 P.M. and discuss the Bill. Tomorrow, again after 12 O' clock we will

start the discussion. That will be up to 1.40 or 1.45 p.m. After that, the Minister will reply and exactly at 2 p.m. we will start the final voting. (*Interruptions*) It was also decide-} that no point of order will be raised from both the sides.

SHRI PARVATHANENI UPENDRA: Unless they provoke.

SHRI HANS RAJ BHARDWAJ: No provocation.

THE DEPUTY CHAIRMAN: The discussion will be very smooth. Now, Mr. Samar Mukherjee.

SHRI SAMAR MUKHERJEE (West Bengal): Madam Deputy Chairman, I could not hear what Mr. Buta Singh had said because there was pandemonium here at that time. But whatever he might have said in his speech, the Bill which has been brought is such a dangerous Bill that the protest by the Opposition here, limited as it is, is not enough and the protest will be organised throughout the country. ~I am reminded of the situation in June, 1975 when an Emergency was imposed. The situation at that time was similar to what it is today. I think there is some similarity between the two situations. On June 27 there was a programme of a big rally to be addressed by Jayaprakash Narayan and the then Prime Minister got so nervous. Then she sought the advice of the same person who is now advising. At that time he had advised the Prime Minister as a Cabinet Minister while today he is advising as a Governor to impose or to bring a Bill for imposition of Emergency, using the same language, same clause—internal disturbance. Now, remember, tomorrow is an all-India day of protest throughout the country. You are opposing it, you may not agree with it. But the central demand is resignation of Rajiv Government. Now your action has fully justified the demand being raised outside. That is why tomorrow's *bundh* becomes much more powerful by your action today. Sri this is not showing your strength. This is showing your utter weakness;

you are in the midst of a crisis. What is the argument in support of this Bill? The argument is extension of President's rule is necessary. Why is it necessary? To curb terrorism. What is the Statement of "Objects and Reasons", It says—

"The continuation of the Proclamation after the 10th May, 1988 may not, it is felt, be effective as terrorist activities had been on the increase."

This is the admission that under President's rule terrorist activity is on the increase. If this is your statement, further extension of President's rule means further increase of the activities of the terrorists..

SHRI SAT PAUL MITTAL (Punjab): That is your conjecture.

[The Vice-Chairman (Shri Jagesh Desai) in the Chair]

SHRI SAMAR MUKHERJEE: This is your statement, an open admission. When you make the statement you claim that you have been able to curb terrorism but in the same breath you make an admission that terrorist activity is on the increase. So how can you demand that there should be further extension of President's rule when under President's rule the terrorist activity is on the increase? That is why I say there is no justification for raising the demand for further extension of President's rule. Now, the verdict of the people in 1977 had saved Parliamentary democracy. Had the Congress been elected in 1977, India would not have had any Parliamentary democracy at all. The Emergency would have been totally consolidated because after victory Indira would have claimed that the people had justified, supported, the Emergency. Now, you see, the people had rejected you totally in 1977 5.00 P.M. and had thrown you out of power and they had set up an alternative Government and it was that Government which restored parliamentary democracy in the country. Similarly, a stage has now come when in India

[Shri Samar Mukherjee]

parliamentary democracy can be saved only if you are thrown out of the Central Government and a totally new Government comes to power at the Centre. There is no alternative before the people. You have substantiated this by bringing forward this Bill and you have substantiated our charge that you cannot remain in power without Emergency. This was the situation in 1975. At that time, you thought that you could not remain in power unless you made use of the Emergency to suppress the entire Opposition by throwing them all into the jails. Now that situation has arisen and that situation has come. That is why it is bound to unite all the Opposition. Whatever plea you may make here now in relation to Punjab you must see the reality throughout India and you must see the reality in Punjab. We are very much interested in a solution to the Punjab problem. We have given repeatedly positive suggestions, positive solutions, so that the Punjab situation could be saved. Personally, I have repeatedly told that this is not the way to solve the Punjab problem. Today, what you have done is—you must learn the lessons now—that you have made all the Opposition united. This was done by the former Prime Minister, Shrimati Indira Gandhi, in 1975 after issuing the Proclamation of Emergency. I asked Shrimati Indira Gandhi in the Lok Sabha, "Why were you defeated in 1977 in the Lok Sabha election? Can you give a reply?" She did not reply. But her younger son was there in the House who stood up and said, "It is because of your propaganda." I told him, "If this is your assessment, then we have become so much powerful that our propaganda can throw you out of power in the elections. But you do not understand the reality." What was the reality? The reality was that by proclaiming Emergency, you had lade all the Opposition united, you had put all the Opposition people in the same jail and you had turned the entire country into a prison. That

is why I say that a unified base had been created inside the jail by you to throw you out. Today also, you see, all the Opposition is united. The people and the Opposition parties will be united tomorrow and the movement will continue further. There is no alternative before the people than throwing you out of the Government in order to preserve democracy and national unity. Sitting here you have no understanding of the realities outside.

Now, Sir, we were told that the Prime Minister had a package plan in his pocket. One is the release of the priests. Why? Because now the Government is thinking of having a dialogue with them. Who are those priests who have been released? They are the same people who raised the slogan of Khalistan one year before in the Golden Temple. Is it not known to you? You know it perfectly well. And now you have released another man who has become the Head of the Panth. He is the nephew of Mr. Bhindranwale. That means that to those people, against whom you are fighting to isolate them from the masses and to expose their character, you have given credibility by bringing them into the fore-front and now one has been made the Head of the Panth and the Panth is the supreme religious authority. Is it your sense of secularism that is working in this respect, or are you encouraging all the fundamentalists and terrorists by this method? You should reconsider your stand which you have taken now. On the one hand, you are using the office of Sushil Muni or some other religious heads, without going into a political solution or talking of a political solution.

SHRI V. GOPALSAMY: Now they are after 'tantriks'. (*Interruptions*)

SHRI SAMAR MUKHERJEE: Now, I want that you should give serious consideration to it because the entire future of India is directly related.

What is the package? On the one hand, you are releasing extremist



leaders who are heads of the religion, giving them further credibility, so that a dialogue can be conducted and thereby some solution can be sought, while repeatedly Rajiv Gandhi has told earlier that there should not be any dialogue with those who are conducting terrorist activities. Where has that solemn declaration gone? (*Time be ringing*) Then I will sit.

SOME HON. MEMBERS: What is this? Why did you ring the bell?

THE VICE-CHAIRMAN (SHRI JAGESH DESAI): Out of 14 minutes, 10 minutes have already passed.

SHRI NIRMAL CHATTERJEE: We are not prepared to sit for 8 hours. (*Interruptions*)

THE VICE-CHAIRMAN (SHRI JAGESH DESAI): Please listen. According to the time-schedule given to me, your time has been given as 14 minutes and, 12 minutes have passed. Tell me, why I rang the bell.

SHRI NIRMAL CHATTERJEE: We requested the Deputy Chairman to give us at least minutes. You want to pass the Bill as you like?

PROF. C. LAKSHMANNA: You said that they will not field people from the other side and that you will not curb Members from this side. (*Interruptions*)

SHRI DIPEN GHOSH: What is the rationale behind 14 minutes' time?

THE VICE-CHAIRMAN (SHRI JAGESH DESAI): If there is something wrong let us check up.

SHRI PARVATHANENI UPENDRA: We can sit for half-an-hour more and you give him more time. (*Interruptions*).

SHRI SAMAR MUKHERJEE: Mr. Vice-Chairman, Sir, you know last time before the Haryana elections President's rule was imposed; before that a process started of joint compromise. You called a meeting for process of joint meetings. We all participated when suddenly President's rule was imposed to get some benefit in Haryana elections with this most narrow consideration. By this the Opposition got down and the

process of joint campaign disrupted. You could not get any benefit out of that President's rule. You gave an assurance that only President's rule would curb terrorism. Now you admit that the terrorist activities have further increased. Again you are coming with such a haste to assume these draconian powers in your hand. This will go against you and the masses will be mobilised against you because the emergency has already created a background between 1975 and 1977. Those traumatic days have not been forgotten by the people. All those memories will be revived again throughout the country. Be definite that your mass base will be eroded very rapidly and you will be virtually important to nothing in the Punjab situation.

You have lost all your credibility. What is the Punjab situation today? There are friends there. Some of whom are senior Congress(I) leaders. I had private talks with them several times. When I talk with them, I don't mention names, they all agree that our suggestion is the only alternative the only correct way. But there is no power to implement that. This is the position you have come to. The Punjab people are passing through a very traumatic experience. What is the present mood of the Punjab people? They are against terrorists. It has been proved in the 1985 election. Majority of them are Khalistan and against terrorism. A section of the Akalis were prepared to fight against terrorism. Now, your stand has thrown them into the camp of the terrorists. People are against Khalistan. But they are becoming more against the Central Government because of your reneging, because of your failure. You know that many people are very much being harassed. That is why they have lost all the confidence in you. It is because of your actions that the Punjab people are getting frustrated. All the extremists are utilising that frustration and recruiting the frustrated youths and cadre into their fold. It is bound to alienate them further. You are fully responsible for this present deteriorating situation in Punjab. We have to move forward and

"...> »rc. foiling you now that you should mobilise all the opposition forces. A political solution does not mean 'naked' retreat

[Shri Samar Mukherjee]

the extremists. A political solution means that the terrorists and the extremists should be isolated from the masses and the masses should be united so that they can intervene and stop the terrorist activities. You have seen that when these Priests were released, on the same day, i.e. on the day Holi 36 people were killed at Kalisari. The terrorists were so much encouraged after the release of the priests. They tried to present the impression (flat after the release of priests the terrorism should not go down. That was the Holi festival." About 1000 people had gathered there. There were Hindus, Sikhs and Muslims. They wanted the Sikhs to be separated. They wanted the Hindus to be separated from the Sikhs. The Sikhs rejected and refused saying that they would die together. The Sikhs, the Hindus and the Muslims were together. This is the new mood which is emerging today. You don't try to learn from that. You know that in today's papers, there is the news that 3 CPM workers have been killed. Your policy can never bring about unity in India. We know that the path that we have adopted will bring about unity in India. This is the situation you have created. The people of Punjab are very much frustrated by the move of the Central Government. What about the Accord you had arrived at? We had supported the Accord. What is the fate of the Rajiv-Longowal Accord. You have not implemented that. That was a time-bound Accord. You are not serious about implementing the Accord. You have released some of the Jodhpur prisoners. There were about 366 fellows. You have released only 40. Both the Barnala Government and we have repeatedly demanded that those people are mostly innocent and they should be released. Some favourable situation may be created. You have not released them. Only 40 have been released. Then there is the question of transfer of Chandigarh, the transfer of canal and water distribution. Then a demand for the punishment for those who participated in the mass massacre here in Delhi in 1984. There are slogans on those things. And through the method of emergency only

with the help of administration, you want to solve the Punjab problem. No, never can it be solved unless this is going out of your head. You are absolutely taking a step, taking a path which is very dangerous for democracy, for national unity. And the result which the Indira Gandhi Government had to face the same result is awaiting you. There is no doubt about it. It has happened in 1977. I totally oppose this Bill lock stock and barrel.

SHRI N. K. P. SALVE: Sir, a measure amending the Constitution I thought, would be unanimously approved by this House. *'Interruption'* say so because Communist Party is one party which has stood by us in solving the problem.

SHRI DIPEN GHOSH: By the national interest not by you.

SHRI N. K. P. SALVE: You are not the one who is the repository of all the knowledge. Also attribute some sense to me and listen to what I have to say. This is what I have to say.. *(Interruption)*

THE VICE-CHAIRMAN (SHRI JAGESH DESAI): Mr. Reddy, please.

SHRI N. K. P. SALVE: It was because I thought that the Communist Party has a very laudable role to play in Punjab. And we do feel that if the measures proposals had been properly understood and if motives were not mistakenly imputed to (is, I am sure, a whole lot of misunderstanding which has arisen today could have been avoided.

Sir, I am greatly anguished at heart to hear the speech of Shri Mukherjee. What he said about political fallout of 1975 emergency and our having lost the 1977 elections amused me. I do not want to go into that dialectics because in three years, people have found Janata Party utterly incompetent corrupt and incapable of running the country and lock stock and barrel they were thrown out. *(Inter. rwlfonje! Let us see Last time also)*

*[it]* that we will lose them. You talk things a little too early. Credit has been spoken of. Have you ever accepted that we had credibility in last 40 years? I do not want to go into the question as

to who has the credibility and who does not have the credibility with the masses. But what anguishes me is that his Party the (Communist Party) has not appreciated and understood the basic purpose for which the 59th Constitution Amendment is sought to be made.

Sir, two main things pointed by the opposition appeal to me as valid which we must deal. Firstly, it was sought to be pleaded that the Bill is not seeking to amend the Constitution, to vest authority in the Government to assume emergency power only in respect of Punjab but that these extraordinary powers which are vested could be assumed as emergency powers for the whole country. A bare reading of the Bill will show that there are only two objectives which are to be achieved by the Bill. One is the continuation of the Presidential Rule- beyond one year.

SHRI B. SATYANARAYAN REDDY (Andhra Pradesh): To convert the whole country into a prison.

THE VICE-CHAIRMAN (SHRI JAGESH DESAI): Mr. Reddy, no interruption, please. Let it go on smoothly.

SHRI N. K. P. SALVE: One is amendment of Article 356 so that the Presidential Rule can continue beyond one year and up to three years. Secondly the insertion of Article 359A which seeks to amend Articles 352, 358 and 359. Now, Article 359A in terms says: "Notwithstanding anything in this Constitution this Part shall in relation to the state of Punjab be subject to the following modifications namely— "Where is the doubt, where is a iota of doubt left that whatever provisions are made are applicable to Punjab and Punjab only? Territorial applicability of this article is confirmed only to Punjab. So far as Article 356, continuation of the Presidential Rule, is concerned a new proviso is sought to be inserted. Mr. Vice-Chairman Sir the new proviso is under article 356; "Provided that nothing in this clause shall apply to the Proclamation issued under clause (1) on the 11th day of May 1987 with respect to the State of Punjab." Totality of the amendments are confined only and wholly and exclusively to

Punjab and yet on that issue so much noise was made and charges levelled that this measure is not for Punjab; that this amendment is for the whole of the country. This massacre is for Punjab and Punjab alone. Unfortunately, people, who though conversant with the state of affairs in Punjab unjustly imputed motives to us that it is for tendentious political objectives that we are bringing this Bill. I want to assure all the Members present, specially the opposition members that there is no such motive, please do not read into this Bill anything else except our anxiety to bring peace and amity and repose and tranquillity in disturbed Punjab. Beyond that there is absolutely no motive, there is no other objective in making this sort of a change. We are not happy, repeat not happy in curbing the liberty of citizen's contemplated in article 21. We are anguishing suspending article 21, and suspending article 19 for the people of Punjab. We do not want to divest people of Punjab of their provincial rights. We do not want to suspend the basic freedoms given in article 19, or the rights of enjoyment of life and liberty, from which people should never be divested with except in accordance with the provisions of the law.

Mr. Advani has said that one of the intentions is to gag the press, I do not know where he gets that from suspension of article 19. is for purposes of Punjab only. It is not suspended in Delhi, Calcutta, Madras or Bombay or anywhere outside Punjab. How are you going to gag the press. May I ask this question? He is not here unfortunately. You are reading in it things which do not exist. You are reading in it matters which are absolutely not germane to the entire Bill. Please look into it with an open mind and evaluate and determine whether or not people of Punjab desperately need this kind of help and assistance to put an end to terrorism. We thought not very long ago that events in Punjab had taken a turn for the better. Happily we believed, it was our imagination as it turned out to be, that the counter operations by the

[Shri N.K. P. Salve] police and the para military forces in Punjab had turned the corner and we were also inclined to believe that the terrorists are now on the run. But what has happened in the last few days? Dozens of lives were lost each day and Punjab is soaked with the blood of the innocents. I think, Sir, it would have been a criminal dereliction and negligence on the part of the Central Government if they were not to move and assume adequate power to tackle the Punjab situation. And if the Government has brought this Bill they are only discharging their cardinal duty which has been reposed in them by the entire nation. There were also some other points raised about suspension of article 21, article 19, and Mr. Advani pointed out that when we passed the Fortyfifth Constitution Amendment Bill by consensus it was agreed that whatever may happen we will not suspend the rights given to citizens under article 21 and under article 19. I want to submit only one thing in reply to that. That was a valid point because I have always maintained that people must not be deprived of their right to life and liberty that they must not ever be deprived of the various freedoms which are guaranteed to them and enshrined in our Constitution under article 19; that is the heart and soul of our Constitution. But I should like to ask him is it not, the present situation of the Punjab simply "grave and dangerous" are not the people in Punjab living in mortal fear of the bullets of the assassins, the extremists and the terrorists? Are they worried about the concept of liberty and democracy and national heritage or cultural heritage or are they worried about their life? Isn't this Government responsible for ensuring safety of their lives. Is not the only fault of those people is that they are living in Punjab, and should they therefore, must continue to languish in such mortal fear? It is the duty of this Government that this mortal fear should be removed and once and for all and all those elements who are indulging in this sort of diabolical exercise must be crushed and crushed ruthlessly. And how will you do it unless you suspend the grand ideas of liberty and dispense with these; rights under article 21 and article 19.

Sir no less a person, than Mahatma Gandhi, while writing on Non-Violence in War and Peace had this to say and I quote: "Liberty and democracy become fin- holy when their hands are dyed red with innocent blood." Liberty has no meaning, when the price is blood of the innocent day in and day out." Democracy has no meaning when the hands of these two Liberty and democracy are dyed red with innocent blood. No less an authority than Mahatma Gandhi has this to say of liberty, has so to think of democracy. And today we talk of high values of democracy; we are talking "of the high moral authority and high values of human life while people are being killed recklessly right left and centre, by these mindless extremists, a few misguided youth. They are not the one who represent the true spirit of Gurus or the true spirit of Sikh community!. The entire Punjab played a magnificent role when there was aggression on the country. The people in Punjab not only protected the borders of this country, but they saved the honour of the motherland, and the role played by the Sikhs in those days will be enshrined in history in golden letter. It is not by the misdeed of a few misguided youth of Sikh community that we are ever going to judge the greatness of the Sikhs and the great message of Gurus. Plenty of loose talk on that issue has been going on.

Our fight is not against Sikhs. They are one of us. The real spirit of Sikhs is not the one who shot the people in Sangrur but when threatened by terrorists to isolate them in the Congregations or be killed with other community the Sikhs refused to isolate because they thought it was their duty to protect the Hindus, the Muslims and everybody else. They were Indians first and the Indians last. The brave Sikhs were killed with Hindus and Muslims. The assassins and the extremists to shot there martyrs may be despatched to the dustbin of history but we will erect a monument in Sangrur for the dead and when we go and pay our obeisance there and bow our head, we will be proud that we are Indians; we will be proud that we have lived up to the traditions of great Gurus. It is

the Sikhs who gave their lives and became martyre. It i<sub>s</sub> they who symbolis<sub>e</sub> the true spirit of Sikhism and the true spirit of Gurus. They were brave and gave their lives to protect the innocent. A time has come when do these misguided youth a message has to be sent. That is the message which this Bill sends.

Plenty of political gibberish i<sub>s</sub> being talked by the Chief of Shiv Sena from Bombay. Coming from Bombay, I do not have to tell you what kind of a political institution Shiv Sena is. They are a people who believe in strongarm methods and ar<sub>e</sub> most immature and irresponsible in their political utterances. I want to submit here to this House that we will fight, should there be any retaliation by Shiv Sena or anybody against Sikhs living outside Punjab. We as one ma<sub>n</sub> will fight thi<sub>s</sub> kind of retaliation because our fight is not against Sikh<sub>s</sub> at all; our fight is against the few misguided people and their supporters who are holding th<sub>e</sub> entire country to ransom.

Sir, I want to submit that we have reached a time when a message must be sent to the people who are indulging in this mindless violence, who are unleashing leonine violence and the violence, the like of which our innocent people have not known. And whereas we completely endorse th<sub>e</sub> announcement of the Prime Minister that our doors are open for anyone to come and negotiate; after all, that is th<sub>e</sub> spirit of any Parliamentary democracy; we must resolve issues by parleys. Our doors cannot be shut. It is not a facist Government; it is not a Government where we will go and shoot anybody and everybody, we want and say that we are not going to talk. But there are certain compulsions and norms of democracy, and one of the compulsions is, you hav<sub>e</sub> to talk and resolve your problems and find a political solution to the problem—a solution which " is basically political. But there i<sub>s</sub> a condition, an important conditon attached to it, that the dialogue and the talks will have to be within the four corners of the Constitution. There is also on<sub>e</sub> mor<sub>e</sub> condition that those who want to come and have a dialogue must eschew violence, abandon

violence and only then will they have any credibility for coming to negotiating table. I am not very sanguine about the outcome, because I know Punjab has unfortunately seen frustration after frustration; unfortunately the terrorists have not come to th<sub>e</sub> path of rectitude. Times out of number gestures have been made The whole country i<sub>s</sub> willing to do anything which these people would want us to do for them within the framework of the Constitution. No sacrific<sub>e</sub> is too much for us for settling the issues i<sub>n</sub> Punjab but for God's sake, it has to be settled within the four corners of th<sub>e</sub> Constitution. The country will do anything and everything possible. We are willing to do anything provided these people retur<sub>n</sub> to sanity; they must return to the path of rectitude and must realize that the entire country as a whole is an integrated nation and there not only Punjab but the whole country belongs to them. It can not be fragmented. Sir, as I stated earlier, a time D<sub>a</sub>s come when a message must be sent to the misguided Sikh youths and their supporters indulging in this mindless, leonine violence and in diabolical activities of fanatical depravity.

It is not too late for them to give up the path of violence and come to the path of rectitude. They are welcome. If they return to th<sub>e</sub> mainstream of the nation's life, a great future awaits them. Without cohesive sentiments we can never build a unified and strong India. But should, however, these elements force the Government to unleash their ferocious striking power under the rule, of emergency, it is not th<sub>e</sub> Government alone but they would be inviting th<sub>e</sub> fury and wrath of the people of Indi<sub>a</sub> as a whol<sub>e</sub> and nothing will then sav<sub>e</sub> them from sheer ruination.

Democracy and terrorism can never coexist in any country. Constitution amendment is th<sub>e</sub> first step and before the Government is forced to taking the ultimate step, I pray ardently and hope that wise counsel will prevail and terrorists and their supporters will realise th<sub>e</sub> sheer futility and gross stupidity of their diabolical exercise, abandon th<sub>e</sub> path of sin and hatred, coming back to sanity and responsible citizenship. In true noble Sikh tra-

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ditions they, I hope, will help build a united, powerful and secular India and an India of the dreams of r'ne Gurus.

With these words, I support the Bill.

THE VICE-CHAIRMAN (SHRI JAG-ESH DESAI): Prof. Lakshmananna 11 minutes.

PROF. C. LAKSHMANNA: I want at least 20 minutes.

THE VICE-CHAIRMAN (SHRI JAG-ESH DESAI): We have to go according to the timetable. Otherwise, we will have to sit late.

PROF. C. LAKSHMANNA: Mr. Vice-chairman, Sir, I rise to oppose this draconian, black Bill which is before the House. By this Bill the Government sought to enact the sordid drama which blackened this country in 1975 to 1977. I would like to prove it. The intention of the Government is only to bring back those horror days, nothing more than that. Sir, I would like to deal with the entire problem in two perspectives, the political consideration and in the consideration of some of the clauses of the Bill that is before us.

As has been stated earlier, what were the various provisions which were sought and given to this Government to deal with the problem of terrorism in Punjab? As you are aware, each time they came forward with these Bills which became Acts, they assured the House that with this particular thing we will be firm, we will bring back normalcy in Punjab. The net result has been not bringing back normalcy, but going from bad to worse. It is only because there is the lack of political will on the part of the Government even to utilise the opportunities that have been given to them. It is the weak Rajiv Gandhi Government and previously the other Government which preceded, they were responsible for the type of situation that is prevailing in Punjab and nobody else could be blamed. At least the Congress(I) will not have an occasion to point out that it is done by this central party which happens to sit in the opposition. Today the entire responsibility

should be apportioned on the Congress (I) party alone.

What were the various powers that have been taken? Initially they wanted to declare Punjab as a disturbed area. For this there is an Act. Subsequently they said, merely declaration of disturbed area was not sufficient, they wanted the help of armed forces. Therefore, there was an Armed Forces (Special Powers) Act. Then that was not sufficient. They said, look, there are certain local bodies, unless they are superseded, they would not have enough power to deal with the situation. Therefore, they went in for the Panchayats Samitis and Zila Parishads (Temporary Supersession) Act. Then even that was not sufficient. They came back again and said: "There have to be Special Courts". Therefore they went in for Terrorists' Affected Areas (Special Courts) Act. Even that was not sufficient for them, from 1983. Again they came back in 1985 with the Terrorist and Disruptive Activities (Prevention) Act. First they said: "There are terrorists, we will deal with the situation, we will suppress them". Then they said: "We will have to prevent it"; therefore powers were given to the Government even for prevention. But that was not sufficient. They further said: "We want to strengthen Special Courts"; therefore they came forward with the Terrorists' Affected Areas (Special Courts) Amendment Act. Then on the top of it they came forward with the Terrorist and Disruptive Activities Prevention (Second Amendment) Act. Then came the Third Amendment Act. So I would like to ask: when did this Parliament, when did the people of this country not give enough powers? As though that was not sufficient, you went further and said: "It is not so much of internal disturbance which is causing the problem there, it is the external activities which are causing it; therefore we should seal the borders. Give us powers under Art. 249." This Rajya Sabha even gave them those powers. Then they said: "It is not sufficient, the popular government is able to do it, if we ourselves are there, if the Rajiv Government is there in Punjab also, we would be able to deal with the situation better because there will be direct linkage and direct understanding between the Home Minister of India and"

the Governor there. So for the second time the President's rule was imposed, to aside a popularly elected government which was there. Then subsequently when there was the problem of Rajasthan elections, on the eve of it, it took the step of dissolving the Assembly.

this is the way in which this inept, inefficient, incompetent and impotent Congress Government has been taking all powers, but have not been able to curb terrorism. What does it mean? It means that they want to shut out information. What has been happening is, after the imposition of President's rule, the number of deaths has been going up. It has been reported that they could not curb this; therefore in the name of emergency—now whether the Government is intending to impose emergency for the entire country or only for Punjab, I will come to that later, but assuming for the sake of argument that it is only for Punjab, it means that in Punjab they would like to do away with what? They would like to do away with freedom of expression. That means, they would not like the newspapers to report. They will give a coloured view to the whole nation through their own media—the television and All India Radio—that since they have taken over, every thing is normal. That means they want to keep the entire nation in darkness, in ignorance, in the guise of emergency powers, about the real state of affairs in Punjab.

Then the second point is, not merely they would like to do away with freedom, but even the right to life. I do not mind if they deal with terrorists because, according to everybody, terrorists are causing harm to the norms of life in Punjab. Perhaps you can deal with them. But this denial of right to life is not sought to be enforced against terrorists but everybody, whosoever, will be opposing them. Therefore, there is no doubt that it is a black Act.

SHRI K. MOHANAN (Kerala): Then there will be no difference between the terrorists and the Government, because terrorists are also denying life.

SHRI PARVATHANENI UPENDRA: They will kill mercilessly.

PROF. C. LAKSHMANNA: So, Sir, I have said enough to prove that if this Government was really intending to deal with the problem of Punjab, they would have dealt with it. Not only that, during the last 8 months or 9 months, what used to be a common practice with this Government has been given a go-by—namely, the practice of consulting the Opposition parties. There has been so consultation between the Opposition and the Government on anything now, much less on an important thing like the amendment of the Constitution, to what area, it has to be applied, to which part it will apply. I will come to that later.

THE VICE-CHAIRMAN (SHRI JAG-ESH DESAI): How much time you will take, you say. The time is limited.

PROF. C. LAKSHMANNA: I am trying to conclude. If I go on one point out of focus, you can pull me.

THE VICE-CHAIRMAN (SHRI JAG-ESH DESAI): That is immaterial.

PROF. C. LAKSHMANNA: Therefore, they never want Opposition. I am saying this because there was a time when there could have been a political solution. All the Opposition parties, whether the so-called national parties or even the regional parties, all of them, with one voice, told the Government, "We are with you. Let us go to the people. Let us educate them. Let us tell them the perils of what is happening there." In that process there have been occasions when we organised meetings, we organised *shanli ruths*, we organised *yathras*. But that was not to their liking. The Government did not want it. If that was allowed, they thought, the role which is being played by the Opposition, might be used by them and, therefore, they wanted to shut the Opposition out. That is the reason why they did not take any initiative subsequent to the proclamation of the President's rule in Punjab for co-operation of any Opposition party.

On the other hand it is a known fact that the Opposition parties have been doing their part. The fact that some of them have been killed day in and day out

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is enough proof that the Opposition parties in this country stand for integrity of the country, stand for unity of the country. It is not the prerogative, it is not the monopoly of only the Congress party to talk in term, of integrity and unity of this country. The Opposition parties have been doing it. You are not interested to take them. Therefore, you are not taking their help. If you had taken their help, perhaps, the things would have been much different from what they are today.

Thirdly, for heaven's sake, don't create fear. Fear is the worst enemy of humanity. If the psyche, the Sikh psyche or the Punjabi psyche is affected by threats of fear, I think, we would be alienating them for ever and ever. I do not want that to happen. As a true Indian I do not want to alienate the Punjabis, I do not want to alienate the Sikhs. I want them to be an integral part of this country. I want to plead with them. But no pleading can take place on the basis of fear. Declaration of emergency, proclamation of emergency is nothing but a strong weapon of creating fear in the minds of the people of Punjab, for the present even if we assume it is for Punjab. Therefore, what type of dialogue can be there what type of discussion can be there what type of encouragement can be there for the people in Punjab to fall in line with the entire country, to isolate the few terrorists here and there? No effort will be made. AH will be in darkness. If you want to grope in darkness for heaven's sake, you don't do it. You had the taste of it from 1975 to 1977, and the country reeled under it. Please, for heaven's sake, don't bring back those bad days, even for Punjab.

Having stated this, I will now come to the clauses. I am not a legal pundit, I am not even a lawyer. But even for my common mind, two or three things appear to be so obvious.

Now, let us take article 359A. What does it say.

"Notwithstanding anything in this

Constitution, this Part shall, in relation to the State of Punjab,....."

Mark the words "in relation to the State of Punjab."

".....be subject to the following modifications,....."

What are those modifications? The modifications are two, especially (a), (b) and the Explanation which is (B). It means what? I was talking to two important legal luminaries of the Congress Party themselves. One of them held the view that this cannot be applied to any other part than Punjab. I was independently talking to the other luminary. He said, "You think of a situation." I did not tell him what I was thinking. "You think of a situation. There is some disturbance, say, in Maharashtra which could be attributed to terrorists. Under those circumstances, can it not be applied?" The Explanation says:

"..... the integrity of India is threatened by internal disturbance in any part of the territory of India,....."

I said precisely this is the point which I have been raising with the first legal luminary of the ruling party itself. Therefore, there is a possibility of interpretation of this black law not merely to Punjab, but to the entire country. You kindly make a note of it.

Then they may say that there could be a defect in the formulation or the wording of the Act. I will say that for an important Act like this there should not be any scope for any interpretation. It should be very clear. The moment there is a scope for interpretation, I will have a lurking fear in my mind that it could be utilised by the ruling party, which has no qualms or norms of life, to apply even elsewhere under the pretext, under the token, under the ad hocism for which this party is very famous, to implement the proclamation of Emergency in other parts of India. Therefore, even when we are considering the clauses, it is very obvious that this could be a very dangerous situation developed in this



country. It could be utilised to stifle the Opposition, to stifle the public opinion and ultimately to suppress all freedoms, \* including the right to life, not merely in Punjab, but in the entire country. That is not good for the Opposition benches, much less even for the Congress benches. Don't think when it is applied, it will be applied only to the Opposition benches. What was the experience of Emergency? During Emergency Opposition people were put into jails, incarcerated, but they also put some of the Congress people into jails and incarcerated, who could never assuage them since then. Therefore, I am appealing to the Congress Members to kindly consider coolly the reprehensible possibilities of imposition...

SHRI BUTA SINGH: Don't mislead our Members.

PROF. C. LAKSHMANNA: That is my right. I do not think the hon. Members could be misled, but I can open their eyes, I can open their ears, I can open their mind. That is why I am saying this. It is my duty. Otherwise you will use this more for the Congress than for the Opposition perhaps. You are going to do it.

Then let us come to another one—  
^Ntfinber (2).

"The amendments made to the Constitution by sub-section (1) shall cease to operate on the expiry of a period of two years from the commencement of this Act, except"....

This is important.

"... except as respects things done. .."  
That means if somebody has- been put behind bars, and if somebody has been put out of life, there is no remedy for it even after two years, even after this Emergency is lifted. It is very clear.

"...except as respects things done or omitted to be done before such cesser."

That means if the Government makes it a point to deny or omit certain rights which accrue to the general public, that can be continued even after the com-

mencement of this Emergency. It has happened. There was enough evidence which has already been proved on the floor of this House that even after the proclamation of President's Rule ceased, some of the things, which were done during the President's rule, continued to be operative. They did not cease to be operative. Therefore, if it could happen in the case of imposition of the President's rule, where is the guarantee that it will not operate in the case of imposition of Emergency either in Punjab—if I accept for argument's sake—or in the country, as I contend it? Where is the guarantee? What will happen to the people of this country?

Finally, when we are reading the first one, you read the Statement of Objects and Reasons. Then it becomes very clear.

"It is, therefore, felt that Article 352 may be suitably amended in its application to the State of Punjab to include "internal disturbance" as one of the grounds that the integrity of India is threatened by internal disturbance in any part of the territory of India."

Mark it. I request especially the Congress Benches to mark it, "in any part of India" so as to facilitate taking of action under that article if it becomes necessary at a future date. That means they do not exclude the possibility of their enlarging the scope of this black Bill to any part of the country if it suits them in future date under the pretext that there has been threat to the national integrity of this country. Therefore, even on the basis of the article or on the basis of a political situation which demands otherwise, there is no need for a black Bill of this nature. But still this Government does not hesitate to bring such a Bill on a Friday evening. It circulated the Bill on Saturday when the Members happen to go to their States and who come on Monday and they tried to push through using all the force that it possible to push through the same day. I must pat the Opposition who have been very cautious having all their

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eyes and ears open. Therefore, they wanted introduction of the Bill on Friday. Secondly, we could see to it and even those who have occasion to have a look into this black Bill they could look into it and they raise last such things. Therefore, it is the alert Opposition which has a definite role to play. It is the watch-dog Opposition which, needs a pat from the Union Government which could open the eyes of the country, of the people with regard to this black Bill. Therefore, Congress is known for doing several things.

THE VICE-CHAIRMAN (SHRI JAGESH DESAI) : You have already taken 20 minutes, please conclude now

PROF. C. LAKSHMANNA; I am concluding.

Congress is known for doing all sorts of things I do not want to call them gimmicks

SHRI ANAND SHARMA (Himachal Pradesh) : We do not need certificates from you.

PROF. C. LAKSHMANNA : Yes, I have given certificates. Legitimately I am proud of the fact that I have given certificates to myself because what I have stated is irrefutable by you. Therefore I give that certificate to myself. But non-the-less they are known for several things I do not want to call them gimmicks. They indulged in "freedom run". I think it is "run away from freedom". Then, they had "Dandi March" and not actual presentation of all the aspects. At that time, there was some police who could beat, lathi-charge and even now there was some police who could do it.

Finally, please don't force the Opposition Benches to do one more thing, namely, to enact one important episode in the country's freedom struggle 'Quit India'. Don't force this Opposition to stage that thing. It has been your prerogative to have "freedom run". It is your prerogative to have "Dandi March" or "Danda March". Please don't force the

Opposition to talk in terms of "Quit India".

SHRI BUTA SINGH : Don't quit India

PROF. C. LAKSHMANNA : You read my statement

SHRI BUTA SINGH: We welcome you. You are a part of parliament •democracy.

THE VICE-CHAIRMAN (SHRI JAGESH DESAI) : Mr. M. S. Garupada-swamy. Not more than 15 minute.

SHRI M. S. GURUPADASWAMY : I will try to finish as early as possible.

I have been thinking in what way I have to describe this measure. It appears that more and more I read the amendments, more and more they appear pernicious, obnoxious and sinister in their implications. What is it that the Government is trying to do by this measure ? I ask this question to myself. Is it a fact that the Government have no powers to deal with Punjab situation. Is it not that all efforts made by the Government so far by adopting various mechanisms and various measures have failed to contain violence, terrorism and disturbances in Punjab ? In the beginning, we were told, Sir, President's rule in Punjab has not solved any problem therefore, there should be elections. The elections were held and Barnala Government was installed. Even that Government was praised to the skies by the President of India last year. Later on, Sir, we were told that Barnala Government failed to contain violence in Punjab, terrorism in that State. So it was dismissed. But they kept the Assembly in suspended animation to lull us into thinking that after some time, the popular Government will be restored. Later, we were told that this was not possible. Even in this Bill, it has been said, restoration of popular Government is not possible in the circumstances. Therefore, President's rule has to be extended and it was extended and that is also drawing to a close. The constitutional limit imposed on President's rule is being reached very soon in the month of May. Now, we are told there has got to be a further extension of Pre-

adent's rule. For how long, I do not know. It may be six months, a year more or two years more, we do not know. We are groping in the dark. So, now the Government comes forward with the plea, this is not enough. This will not give adequate powers for the Government to deal with the situation there. So they have resorted to the Constitution amendment. They want to extend the President's rule on the one side and on the other, they want to see that whatever little rights and liberties are left in Punjab are taken away completely. I tried to scan, Sir, various Constitutions of the world to find whether there are parallel precedents of this nature. I was able to find and I was able to locate one Constitution that is dead and gone. That is the Constitution of Weimar Republic of Germany. There, there was a provision of this nature, more or less in a more dilated form. Do you know what happened to that Constitution? Hitler took advantage of the provision of the Constitution, imposed its rule, destroyed the Weimar Republic of Germany. The

amendment contemplated by 6.00 P.M. the Government in this

is much more serious than the provision contained in the Weimar Republic of Germany. This is authoritarian by nature. Nobody can say it is democratic. It is indeed a despotic piece of legislation. I had thought that at least very careful thought would be given by the drafters while drafting Bill properly and clearly. If one reads this Bill—one gets more confused. At one stage the amendment says that it applies to the whole of India. If there is war, threat of war, armed rebellion—now, it is internal disturbance—anywhere in India, emergency can be imposed. But my friend may be thinking that it is being qualified and that there is a safeguard. The safeguard is, that it should be used in relation to Punjab. 'In relation to Punjab' is a dangerous phrase. That has been pointed out by some other colleagues here. Suppose issues, events, in Punjab evoke reactions in Delhi and elsewhere. I think this amendment gives power to the Centre to declare any part of India other than Punjab as an area under emergency. What is it that the drafters

want to achieve in this? I do not know. It is not clear. It is contradictory. The intentions of my friend are not properly incorporated in the Bill. This gives power to the Centre to declare emergency all over India. That is my understanding. I am a Member of Parliament. I know the English language too. I have not been able to understand why this sort of thing has been done. Is it purposeful, deliberate? Or is it lack of, say, clarity on the part of the drafters themselves which has been responsible for this kind of a Bill? It is not at all clear. Sir, the words "internal disturbance" have been deliberately introduced as an amendment. What is an amendment. What is internal disturbance? Have they defined internal disturbance? A Constitutional amendment of this nature which takes away the liberties of the people should define internal disturbance. Is it domestic violence, Sir? I do not know. Will killing of a few people mean internal disturbance? Is terror-psychois created can be called internal disturbance? It is not defined: it is not explained. In the absence of explanation, clarity, anything can be construed as internal disturbance. A communal riot can be called an internal disturbance. The riots we had earlier in Meerut and Moradabad can be described as internal disturbances. Is it domestic violence? If that is so, that has to be defined. What is domestic violence? It is not clear. You know that in the absence of clarity those who are in power become irresponsible, tend to become irresponsible. It gives room for interpreting things to their advantage to justify their omissions and commissions. We know that. Why is this being done, being kept vague? Secondly, far more importantly, why did we discard "the internal emergency" in 1978? We did that after a good deal of debate. I quoted in the morning the words of Shri Shanti Bhushan who was the Law Minister, while he was piloting the Forty-fifth Amendment Bill at that time. While making a statement on various aspects he said; Articles 20 and 21 are in the Constitution and the founding Fathers of the Constitution had advisedly kept these two Articles as exceptions, they should not be touched. They were debated in the Constituent Assembly. There

[Shri M- S. Gurupadaswamy]

is ample justification to keep these two Articles. They should not be touched at all, they should not be tampered with. And now Article 21 is being removed from the purview. Why? Article 21 deals with a basic right, a fundamental right, the right to life and right to liberty. These rights touch individuals, citizens. These fundamental rights are paramount to the very existence of man in a nation. When you destroy the right to life and the right to liberty, what is left of democracy even for a temporary period? What is left of it? Take Punjab. Do you mean to say that people living in Punjab should be denied the right to life and liberty? Is this the kind of situation that you would like to create in Punjab? Only a minority of people are terrorists and they create problem. They have to be of course dealt with. But why do you deny the right to liberty and the right to life to peace loving? I do not think this measure is necessary at all. My friend was very vehement that this Government is unable to rule and should get out. I may not use that expression. But any Government, any popular Government, resorting to such measures, such methods, has no business to stay in power. Suppose you want to test the popularity of this Bill. May I ask the Minister to hold a referendum on this issue? Let there be a referendum, whether the people want this measure or not. Let there be a referendum not only in Punjab, all over India, whether they want this kind of a measure, I am sure the people are not stupid. And, Sir, they are not as stupid as we are here who discuss this measure. They are wiser than us and I am sure they will give a verdict against this measure. But will you hold a referendum? Mere sophistry is not enough here. My friend, Mr. Chidambaram, always indulges in sophistry and I know that he uses this sophistry even now.

THE MINISTER OF STATE IN THE MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS AND THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI P. CHIDAMBARAM): Sir, he is unneces-

arily provoking me. I have not said a word.

SHRI M. S. GURUPADASWAMY: It is not enough if he indulges in sophistry.

SHRI P. CHIDAMBARAM: Sir, I am patiently listening to him and I have not said a word. But he is unnecessarily provoking me. Why do you provoke me? I am just sitting and patiently listening to you.

SHRI M. S. GURUPADASWAMY: Because I thought you are one who is more capable among those indulging in sophistry and I thought I was giving you some compliments. If you do not take it as a complement, then it is all right and you forget about it. You are so new to politics and parliamentary system.

SHRI P. CHIDAMBARAM: I will remain new for another five years.

SHRI M. S. GURUPADASWAMY: Finally, Sir, I think that this measure should be withdrawn and that is why we opposed the very introduction of this Bill in the morning and we opposed it for very valid reason. This will compromise our parliamentary institutions, this will affect our parliamentary system, this will affect our democratic set-up and this will in a way—change the basic features of our political life. Therefore, Sir, we in the Opposition opposed the very introduction of this Bill. Even now they should not be in a hurry. Why they are in a hurry, I do not know. They should withdraw the Bill, they should consult the leaders of the Opposition, and if they are very much concerned about Punjab, about which we are also concerned, they should try to find a solution for the Punjab problem. The Punjab issue can be settled only through political means and there has got to be a political solution. The Punjab problem cannot be settled by thinking that it is a law and order problem, that it is a police problem. Therefore, Sir, I would like the Minister to ponder over this matter. There has got to be a political solution, a political way out, for the Punjab problem. The Sikhs there have got to be won over and if there are grievances, they have got to be removed politically and there has got to be an early election. We cannot have the Presi-

dent's Rule in Punjab for longer than what we have it already. We should have elections. We have held elections in Tri-pura. We sent the army and we held the elections there. Let there be elections in Punjab again. If Mr. Barnala does not have any following, we do not mind anybody else coming to power there. After all, election is an election. If the Congress (I) is powerful, let them form the Government there.

So, Sir, I appeal for an election; I appeal for a political solution of the Punjab issue; and I appeal for the withdrawal of this obnoxious and black measure. Thank you.

THE VICE-CHAIRMAN (SHRI JAGESH DESAI): Now, Mr. Madan Bhatia.

SHRI MADAN BHATIA (Nominated): Mr. Vice-Chairman, Sir, I have listened to the speeches of the honourable Members on this side with rapt attention. The primary attacks which have been made against this Bill are founded on the concept of liberty, on the concept of democracy and on their apprehension that this power which is sought to be vested in the Union or the President of India is viable to be abused

I respectfully submit what one very famous jurist has said. And I quote:

"Every Government that professes freedom as an ideal must plot a difficult course somewhere between complete political liberty for its citizens and full security against its enemies at home and abroad. The choice is never simple."

The hon. Members have talked about personal liberties. And I am sure the choice before the Government of the day has not been a simple choice while deciding to go in for this constitutional amendment. I have said that the hon. Member? have invoked the concept of democracy. The word 'democracy' owes its definition to Abraham Lincoln who said;

" 'Democracy' means government of the people, for the people and by the people."

And what is it that Abraham Lincoln" said when the United States was threatened with a secessionist forces which Abraham Lincoln had to face in 1861? In his declaration before the Congress, Abraham Lincoln said—I quote:

"Is there in all Republics this inherent and weakness? Must a Government of necessity be too strong for the liberty of its own people, or too weak to maintain its own existence?"

And it is with this basic postulate that Abraham Lincoln met the forces of secession with a strong and heavy hand. A similar situation is facing India today, particularly so far as Punjab is concerned. I do not wish to go in to the political developments of Punjab, because the hon. Member who first spoke on this side has gone into that. I shall deal only with certain constitutional aspects.

It was because the Constitution makers understood that a conflict can arise between the liberty of a citizen and the security of the State that the Constitution makers introduced Part XVIII in the Constitution which is headed as 'Emergency Provision'. This part covers Articles 352 to 360. All these provisions of the Constitution were harmonized, one with the other. In order to understand as to why the Constitution makers introduced the expression 'internal disturbance' in Article 352 when this Constitution was framed, formulated and adopted by the people of India, we have to go to Article 355 of the Constitution, because Article 355 of the Constitution says—and I will draw the attention of the honourable House to this particular article:

**"DUTY OF THE UNION TO PROTECT  
STATES AGAINST EXTERNAL  
AGGRESSION AND INTERNAL  
DISTURBANCE**

—It shall be the duty of the Union to protect every State against external aggression and internal disturbance and to ensure that the government of every State is carried on in accordance with the provisions of this Constitution."

Article 355 imposed a duty upon the Union to protect every foot of the Indian

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[Shi Madan Bhatia]

soil against external aggression and internal disturbance. Now, this was the duty which was cast upon the Union. Article 352 was intended to empower the Union with certain powers to deal with and discharge its duty under Article 355 of the Constitution. The duty was to protect every foot of the Indian soil from external aggression and internal disturbance. Therefore, Article 352 also said: "The President may, when the security of India is threatened by external aggression or internal disturbances, declare an emergency". Therefore, Articles 352 and 355 were complementary to each other. I respectfully submit that this 44th amendment which removed the expression "internal disturbance" from Article 352 but did not touch Article 355, was inspired by political anger. It was not characterised either by political wisdom or by constitutional understanding. It created inconsistency. It created contradictions and it created conflicts within the provisions of the Constitution under Chapter XVIII of the Constitution of India. How does Article 352 read after the 44th amendment? "The President of India may declare an emergency, if the security of India is threatened by external aggression or armed rebellion." The power to declare emergency in the discharge of its duty under Article 355 to protect every foot of the Indian soil against internal disturbances has been taken away altogether. A total conflict was created between Article 352 and 355. I respectfully submit that this was nothing but a case of utter political unwisdom and a case of total constitutional ignorance.

Then, Sir, what is it that is now sought to be done? As a matter of fact, so far as I am concerned, I would have rather restored the original expression of internal disturbance in Article 352 in order to make it consistent with Article 355 which was the constitutional scheme when the Constitution was framed in 1950. But the Government, in its own wisdom, has decided not to go that far. The Government has decided to bring forth this Bill not by way of repeal of Article 352 as

it was amended, but by way of addition to Article 352 through Article 359A. So, Article 352 still remains as it is so far as the rest of India is concerned. Article 359A has been introduced as an additional article in regard to the State of Punjab. So far as the disturbances in Punjab are concerned, the Constitution has been put back on the rails, as it was before this politically unwise and constitutionally ignorant amendment namely, the 44th Amendment of 1978.

Then, Sir, let us go to Article 359 where they say about personal liberty. Another amendment which was made by the 44th Amendment was in Article 359. So far as the un-amended article was concerned, it took away the right of an individual to enforce his fundamental rights contained in Part III of the Constitution. What did the 44th Amendment do? It said that he would not be having the right to enforce any rights contained in Part III of the Constitution except those under Article 21. Now, this action was based on total constitutional ignorance. This was based on the assumption that so far as personal liberty in Article 21 is concerned, personal liberty was a different, distinct and an independent right having nothing to do with the rights contained in Article 19 and article 22 of the Constitution of India. It was based on the assumption that personal liberty was something totally different from the right to move freely in India, the right of free speech, the right to form association, the right to carry on the trade as enshrined in article 19 and protection against detention as contained in article 22. I am amazed how this Amendment could possibly be made because in Maneka Gandhi case, the Supreme Court in terms clearly put the nail into this concept. Or theory that article 21 deals with a right of personal liberty which is different from the rights contained in articles 19 and 22 of the Constitution of India. The Supreme Court in terms held that personal liberty contained in article 21 is nothing but a compendium of rights contained in articles 19 and 22 of rights contained in articles 19 and 22 reversed. The Supreme Court affirmed it. The Supreme Court said: The

right to form an association as contained in article 19 is also a part of personal liberty under article 21, the right to move about freely throughout the territory of India as contained in article 19 is also a part of personal liberty as contained in article 21, the right to carry on the trade is also a part of personal liberty as contained in article 21, and the right of freedom from detention except in accordance with the law and procedure established by article 22 is also a part of personal liberty as contained in article 21. But what did we do by this Amendment? It said: The right to bring the Supreme Court or any Court for enforcement of fundamental rights contained in part III will remain suspended, but article 21 will remain. This was a contradiction in terms. How can you say that the rights under articles 19 and 22 will be suspended unless article 21 also remains suspended because article 21 is nothing but a general term for the specific rights which have been defined in articles 19 and 22? So far as the original article 359 was concerned, it said earlier that "where a Proclamation of Emergency is in operation, the President may by order declare that the right to move any court for the enforcement of such of the rights conferred by Part III as may be mentioned in the order and all proceedings pending therein shall remain suspended." But what did the Forty-fourth Amendment say: "Except articles 20 and 21." Article 20 is not a part of personal liberty. It simply says that nobody can be compelled to give evidence against himself and nobody shall be convicted without trial. So, article 20 is neither here nor there. They said, 'Except article 21'. This means by one hand article 359 as it is, and by the other hand you create a conflict within the body of Article 359 itself. Sir, I will draw the attention of this hon. House to a judgment. I had the privilege to argue this case before the Supreme Court. And this was the argument that I urged and it was accepted. Earlier the view of the Supreme Court was that Article 19 rights and Article 22 rights are diffe-

rent from the right of personal liberty. This the majority of the Supreme Court said in the Kharak Singh's case. But a minority judgment said, no, 19 and 22 are only the different facets of personal liberty as contained in article 21. And the minority judgment was: No doubt, the expression 'personal liberty' is a comprehensive one. This was the minority view. And the right to move freely is, an attribute of personal liberty. It is said that the freedom to move freely is carved out of personal liberty and therefore the expression personal liberty in article 21 excludes that attribute. In our view this is not a correct approach. Both are independent fundamental rights, though there is overlapping. There is no question of one being carved out of another. The fundamental right of life and personal liberty has many attributes and some of them are found in article 19. If a person's fundamental right under article 21 is infringed, the State can rely upon a law to sustain the action, but that cannot be a complete answer unless the said law satisfies the test laid down in article 19. So far as the attributes of article 19 (a, b, c, d, e, f, g, h, i, j, k, l, m, n, o, p, q, r, s, t, u, v, w, x, y, z) concerned, this is what the Supreme Court says: There can be no doubt that in view of the decision of this court in R.C. Cooper versus the Union of India, the minority view must be regarded as correct and the majority view must be held to have been overruled. This minority view was upheld. It is indeed difficult to see on what principle we can refuse to give its plain natural meaning to the expression personal liberty in article 21 and read it in a narrow and restricted sense so as to exclude those attributes of personal liberty which are specifically dealt with in article 19. And this was this amendment. That is why I respectfully submit, Sir, that this amendment was based on total constitutional This amendment came into being in 1979. This judgment was delivered in February 1978. This law was there. And still they say, all rights except article 21. But article 21 is covered by the other rights contained in Part III. Therefore.



[Shri Madan Bhatia]

I respectfully submit, Sir, that when the present Bill seeks to delete article 21 from\* article 359, it seeks to remove the constitutional conflict which was created by the Fortyfourth Amendment in 1979 by the Hon. Members who held the roost at that particular time. Sir, these challenges have been faced by different countries and how have those challenges been met. I shall give only one particular example ...

**THE VICE-CHAIRMAN (SHRI JAGESH DESAI):** And then you will conclude.

**SHRI MADAN BHATIA:** I am concluding, Sir. In 1958, there was total chaos in France, and President De Gaulle was recalled from exile to take over the reigns of France. And what did he say in his Investiture speech. He said, French unity directly threatened conflicting movements on the mainland, growing impassioned and in intensity. Such is the situation of our country, as we are facing the situation in Punjab. And what did he do? The whole Constitution was amended. Two specific provisions in the Constitution were introduced to meet that particular situation. One was article 5, the other was article 16. Article 5 said, the President of the Republic shall see that the Constitution is respected. He shall ensure by his arbitration the regular functioning of the governmental authorities as well as the continuance of the State. And article 16 said, I quote: "When the institutions of the Republic, the independence of the Nation, the integrity of its territory are threatened in a grave and immediate manner, the President of the Republic shall take the measures commanded by these circumstances after official consultation with the Presidents of the Assembly and the Constitutional Council. He shall inform the nation of these measures in a message." Which meant that unlimited powers were given to the President if such a situation arose. No limit was placed on the powers

of the President of France to deal with such a situation, and that situation took place in France in 1968 as a result of the revolt of the students who put up barricades in the streets of Paris. His mere threat to invoke provisions of article 5 and article 16 put an end to that chaos and internal disturbances throughout France.

I would respectfully submit at the end that the Constitution of a nation is the amalgam of its historical and political experiences and its aspirations of the future. The amendment has been inspired by the aspirations of the people of India for a strong, united and stable India. The amendment proposed reflects the current political experiences of India. History takes no sides and if India of tomorrow becomes a strong well-knit nation and the present hideous challenges thrown up to her integrity are squelched by the measures which will follow this amendment, history will bow in reverence to those of us today who stemmed the rot with their courage, with their boldness and vision, because as T.S. Eliot says:

"Time present and time past Are both

perhaps present in time future

And time future contained in time past."

Thank you.

**\*SHRI N. RAJANGAM (Tamil Nadu):** Mr. Vice-Chairman, Sir, for the last four years we have been only indulging in discussions on the Punjab problem, without arriving at a viable solution. Our late leader Dr. Anna aptly said:

"Law is a dark room in which the argument of a lawyer is the light". Therefore, the sheer enactment of law can serve no purpose. The Government has to elicit public opinion before framing a law because, then alone the people will respect and obey the law. Whenever the Government fails to implement a law with the

♦English translation of the original speech delivered in Tamil.

desired result, and to a total satisfaction, it is imperative that the Government makes a thorough analysis of the lacunae and the causes of failure from different angles. I have not studied law, as such I do not want to go into the technicalities of law. But I would like to make one thing clear. Law alone cannot rule this country for ever. Ultimately, it is truth that will rule this country. Truth alone triumphs at last. Law can not last long. It is high time the Government realised this. In spite of continuing the current trend of enacting laws to maintain peace, it is time we deliberate and mobilise public opinion. In the pre-Independent era, both, Hindus and Muslims, fought the Britishers unitedly for Independence. But later we had a bitter experience of Hindu-Muslim clashes because of the religious fanaticism of certain anti-social elements. This led to the demand of a separate nation by the Muslims. I am pained to say that today we have a similar situation in Punjab.

Sir, there are Hindus, Muslims Sikhs, Anglo-Indians and people belonging to various religions in Punjab. But it is a matter of grave concern that the religious fanaticism of some misguided elements has let down India in the eyes of world. I am afraid, the actions of the centre will only isolate Punjab further from the rest of India. You often forget that Punjab is a part of India—a limb of body. It would be unwise on the part of the Central Government to curb the rights of the people of Punjab by legislation because of the anti-national activities of some miscreants. How long you can go on enacting law after law? Eight from 1983, we have been enacting various laws to deal with Punjab. This is the 59th time that you are going to amend the Constitution. We follow the religious Holy Books without making any amendments. But we amend the Constitution as often as possible. Still we do not get the desired results because we fail to take national consensus. I would say very assertively

that none of us in India follow the path of Mahatma Gandhi today. That is why, violence has been on the increase in India. I once again plead with the Government to be realistic in its approach. After all, our forefathers got us independence not for the sake of reeling under President's rule. So the Government should not think of imposing President's rule unnecessarily. You should not try to stigmatize everyone as terrorist and estrange the Sikh community. There is nothing wrong in calling even extremists for talks to arrive at an early solution. Therefore, I oppose this Bill on behalf of A.I.A.D.M.K.

Thank you.

SHRI N. E. BALABAM: Mr. Vice-Chairman, Sir, so far as the question of finding a solution to the Punjab problem is concerned, I do not think there are two opinions about it, but on the question of solution only there are basic differences between the opposition and the Government. There are basic differences. Sir, I was trying to understand, after going through the Statement of Objects and Reasons, what is the new approach? What is the new approach? I have read it twice but I do not find any new approach at all. Their approach is the same which they have been continuing for the last two years. They take the Punjab problem as a law and order problem. That is why some of the advocate friends were arguing under the Constitution how much freedom can be given, this freedom, that freedom can be given. They were defending it like that. The whole approach of the Government is that it is a problem of law and order.

[The Vice-Chairman, (Shri H. Hanumanthappa) in the Chair]

That is the way they are thinking. The thinking of the Government, according to the Statement of Objects and Reasons, is that the situation may continue like this for the coming three years. That is why they want the President's rule to be extended, if necessary, upto three years. According to them, the solution is not

[Shri N. E. Balaram]

so easy; it is not visible; it is far off it may take some more years. So to find a solution, they want more powers. To make the emergency more stronger, they have added another clause. That is, internal disturbance is also one of the reasons for which they can declare emergency in Punjab.

Now, for the last one year, Punjab has been ruled by the Central Government. When they were dismissing Barnala Government I remember very well the statement they made in Parliament. Their argument was that the Barnala Government was very weak, it could not solve the problem, so to take stronger action and to meet the situation, they wanted to impose President's rule in Punjab. As some of my friends have pointed out, in this period about six or seven important legislations were passed by this House, giving more and more powers to suppress them—not enlarge the democratic powers in the State, but to suppress them far more powers were taken by the Government. Now to implement them, you want to declare emergency to solve the problem. You have gone to that extent. Now you come and say that the situation is completely out of control. Not only that, according to paper reports and I have also had the occasion to visit Punjab several times, even the police force, even the administration itself is how not in a position to meet the situation because you do not want to mobilise the people, you do not want to find a political solution to the problem. In that way, because of your reasons, the terrorists are increasing their activities every day and if they are creating fear in Punjab.

As far as political solution is concerned, sometime back, you were talking with the Opposition parties, "what shall we do with the Punjab problem?". On the question of a political solution of the problem, I do not know; the Government is not giving a proper reply. They were not able to implement the Punjab Accord. If

they take a proper political attitude. I think the Opposition parties also will cooperate. If they want a political solution, the Opposition parties will also cooperate. Several times there were meetings. Several suggestions were made, including the release of detainees. Many, many points were raised. But those suggestions were not accepted by the Government. The Government did not accept that a political approach was needed to solve the Punjab problem at all. That is the position now. But surreptitiously they are encouraging. I do not know. It is a strange development. They are encouraging some middle men. According to me, some of the sections whom they are contacting, are anti-national forces. I have up to doubt about that. Some of them are anti-national forces. They are contacting, and they are saying that if they are prepared to come to negotiate, and settle the matter within the parameters of the Constitution, they are prepared to talk to anybody. That is the latest position taken by the Prime Minister. They are prepared to talk to anybody. They have already started talking to some people.

They have released the priests. You know who the priests are. They also know. After releasing the priests, today I read in the papers, the statement issued by the Home Minister he was condemning the priests—and the statement issued by the priests after their release. So, what happened in between, I do not know. Before releasing them, what the understanding was between the Home Minister and the priests. I do not know. After releasing them what happened in Punjab, I do not know. What was his expectation when he was releasing them? Anyway, today he is saying that the priests are talking something against the interests of the country. a new discovery—I do not know—on the part of the Government? The head priest, everybody knows, who he is. Everybody in the country knows who he is. I do not know what the Government is doing after all.

One thing is very clear, according to me, that the public opinion

throughout India is against the Central Government and its activities in Punjab. It is moulding everyday. Everyday this is becoming a question. Since the Central Government has taken the powers and it is now trying to contain the terrorist activities in Punjab, why did they fail? That question is being raised throughout the country.

Now they are trying to deceive the people, I would say that. I would say that this is deception, a sort of political deception. This is to deceive the people outside Punjab that they are saying, "we are taking more powers in our hands. We are going to suppress the movement. We are going to restore normalcy in Punjab." This is the idea behind this Bill. Otherwise, what is the meaning of bringing such a draconian law?

Do you think that by declaring emergency in Punjab you can curtail the activities of the terrorists? The terrorist activities can be curtailed only by mobilising the support of the entire Punjab people. You are not for that. Being a left party, we have been going to the Congress (I) office in Punjab requesting them to have a joint campaign against the terrorists in Punjab for the last three years. But your leaders refused to join the secular forces, in India while they are having secret talks with some of the terrorist groups in Punjab because you are thinking about elections in Punjab again.

You have lost the elections in Haryana. You did not implement the Punjab Accord because you wanted to win the elections in Haryana. You miserably failed there. That is the most important reason why you did not implement the Punjab Accord. Everybody knows in the country, if you would implement the Punjab Accord at the proper time, you thought you would lose the elections in Haryana. Now you want to come back somehow with the help of some terrorist groups.

That is your object. You have got so many mediators nowadays, not politicians, to go and talk for you. With them you are talking, you know that. So, everything is being done behind the back of the people, behind the back of Parliament.

This Government is not taking Parliament into confidence. They are not taking the Opposition parties into confidence. You have got your own methods to find a solution of the Punjab problem, I tell you, by introducing, by passing this Bill. If you think that you can suppress the movement, I do not know in which paradise you are living. Do you think that you can suppress the terrorist movement by emergency measures and restore normalcy in Punjab? I don't think you can do it there, because they are getting enough money and support from foreign countries, if a terrorist is killed, the next day lakhs of rupees are paid to his family. Young boys are coming up everyday as terrorists. They are getting support from several quarters. By declaring emergency and creating a panic throughout Punjab, do you think you can bring back normalcy there? Your only aim is that you want to deceive the people outside Punjab saying here is a Government taking strong measure to stop the atrocities in Punjab, this is your only attempt, but the people outside also know what your game is, because they are also watching your activities, what you are doing in different States and in which way you are behaving. They know all that, I don't think this method will solve the problem in Punjab at all. This act of yours will never solve the problem in Punjab, unless you have a proper political perspective. You call a meeting tomorrow if you have a political will to implement the decision in cooperation with the Opposition parties. Only then you can solve the Punjab problem, but you don't do it.

Coming to this Bill, I would like to add one more thing. What is the

[Shri N. E. Balaram]

meaning of this 'internal disturbance'? What that gentleman was explaining was that 'internal disturbance' according to him means the revolt of the students in France.

He is a top supreme Court lawyer. He was explaining in this House that internal disturbance means revolt of students.

So, suppress it. suppose tomorrow there is a big peasants' movement against your own Government. They may come and *gherao* the whole Administration. What will you say? A sort of internal disturbance?

SHRI P. N. SUKUL (Uttar Pradesh): It is wishful thinking.

SHRI N. E. BALARAM: You are going to face it. (*Interruptions*) My point is, what is the meaning of 'internal disturbance'? Where is the definition for that? The internal disturbance would be decided by the Executive authorities with the concerned Minister who is sitting here as a puppet. They will decide what is internal disturbance. What else is it? Internal disturbance can be anything. Even if it is a general strike lasting thirty to forty days, somebody will tell you it is an internal disturbance, because somebody may not like it. If you want to suppress the terrorist activities say 'terrorist activities'. Here you are talking in general term—internal disturbance. I do not know what you mean by that. This has got serious consequences. This 'internal disturbance' clause including that clause is generally applicable throughout India. That has already been mentioned by some of the friends. So, I do not want to add anything more than that.

., Anyway this day is a black day for India because if this Bill is passed in this House, it will have far-reaching consequences. It will affect the future of the country. But the only shining thing is that you are not going to be here for many days. That is the only

consolation for us. I can tell you that. You can see tomorrow onwards what is going to happen in this country because of your attitude of suppressing the movement. We are all agreed on one point. There is no doubt about it, but the main point is that you don't want to find a political solution. That is the major question. This creates more problems for the country. This Bill will not help you to find a solution. Therefore, I oppose it.

7.00 P.M.

SHRI V. GOPALSAMY: Mr. Vice-Chairman, sir, as I said earlier when the Bill was introduced today, it is a black day in the history of the Indian Parliament once again. It seems this Government headed by Mr. Rajiv Gandhi has determined to strike at the very root of democracy to snatch away the basic "Fundamental Rights of the people of India. Sir, it is the verdict of the Allahabad High Court which led the then Government to declare emergency in the year 1975 and to detain the Leaders of the Opposition who refused to toe the line of the authoritarian regime. So they were detained under Maintenance of Internal Security Act. The press was kept pressed at that time and atrocities were committed in the name of emergency and hundreds and thousands of political workers were detained and many had to die and the party which was responsible for those things, were given bitter experience by the people of India in the year 1977. For the first time in the history of independent India, Congress lost in the elections. They were thrown away from the Central Government.

SHRI V. NARAYANASAMY (Pondicherry): We came back.

SHRI V. GOPALSAMY: Yes. My friends are telling they came back.

SHRI V. NARAYANASAMY: We will receive it.

SHRI V. GOPALSAMY: Your -the then leader Madam Gandhi had to tender an apology before the masses saying, "we committed some crimes, and we will not repeat."

SHRI N. K. P. SALVE; When did she apologise?

SHRI V. GOPALSAMY: She apologised before the public at the Marina sands in the year 1979. Sir, today is not only a black day... you may be laughing. Even if there is dissent in your party—I warn you—the "internal disturbances" means if there is dissent—if the Members of the ruling Congress party raise their voice true to their conscience they will also be put behind the bars. That is why today this phrase "internal disturbance" is being brought again in the name of amendment of the Constitution. An arrogant or an authoritarian trend or tendency has crept into the mind of the VVIP who is piloting this country as he is very often telling that he is piloting this country towards the 21st century. But, Sir, the stengun diplomacy is not good because people were taking about gunboat diplomacy. Today wherever you see, in the name of security—arrangements, the capital itself looks like a military camp, like a police camp. Therefore, Sir, this Government, it seems, through this draconian Bill once again wants to crush the Opposition and strangle the voice of democracy. Therefore, surreptitiously, they have brought this Bill. Of course, the ruling party today has got a brutal majority. You may succeed in passing this obnoxious legislation, but Sir, the day is not far off when once again the people of this country, the freedom-loving people, people who are prepared to lay down even their lives to uphold democracy and their basic fundamental rights, they will rise against this Government and you will be in the streets. That is why, our Marxist leaders were telling that tomorrow, that is 15th March will be a warning to you. From Kashmir to Capri, Como-rin, all the progressive and democra-

tic forces will rise with one slogan that the inefficient and corrupt Government of Mr. Rajiv Gandhi must go. There is one slogan. Therefore, Sir, the Government should learn a lesson from the past because we opposed emergency. We also suffered, our Government was dismissed. I also suffered detention for 12 months. Many of our friends suffered detention for 18 months. It is not a matter to laugh at because we cherished an idea that in principle, we will fight tooth and nail to oppose this sort of authoritarian trend. It is very unfortunate that the philosophy of those years, the medieval time of King Louis and King George that we have derived this divine power to rule the country or rule the people, that sort of tendency I find in the Government headed by Mr. Rajiv Gandhi. It is disastrous (Interruptions)

SHRI BUTA SINGH; You are mistaken.

SHRI V. GOPALSAMY: They have not learnt lessons from the past history. Let the Prime Minister read history, glimpses of the world history narrated by his grandfather. Let him spend some time. On this, instead of learning lessons from Sam Pitroda, let him learn lessons from his own grandfather. What is democracy? Let him learn. Therefore, with all the force under my command, I oppose this obnoxious, malicious and pernicious legislation lock, stock and barrel.

श्री राम नरेश कशवाहा (उत्तर प्रदेश) : माननीय उपसभाध्यक्ष जी, मैं इस विधेयक का विरोध करने के लिए खड़ा हुआ हूँ। मान्यवर एक कहावत है कि, "जो गुड़ देने से मर जाए उसको जहर देने से क्या फायदा।" इस सरकार के हाथ में तो गुड़ भी जहर हो जाता है, तो फिर जहर खरीदने की जरूरत क्या है।

श्री बूटा सिंह : आपके हाथ में ही जहर है।

**श्री राम नरेश कुशवाहा :** मान्यवर, अब पता नहीं ये अंग्रेजी में बूटा सिंह हैं और पंजाबी या भोजपुरी में बूटा सिंह हैं ? मान्यवर ये सचमुच में हैं बूटा सिंह और अंग्रेजी में लिखते हैं बूटा सिंह। तो इनका बूटा खत्म हो चुका है। अब इनके बूते का काम नहीं है कि ये देश और पंजाब का शासन चला सकें।

मान्यवर, लोकतंत्र का मतलब इन्होंने अपने मन से लगा लिया है। अब हम लिंकन ने कहा होगा—For the people of the people and by the people

लेकिन इन्होंने अर्थ कर दिया—For the people, of the people and by the people

यह इन्होंने अपने मन से अर्थ लगा लिया। मान्यवर, अब इमरजेंसी में क्या बचा है ? पंजाब में तो मार्शल ला लागू है। अब मार्शल ला के बाद भी कोई इमरजेंसी लागू होगी क्या ? मान्यवर, इनके पास सबसे बड़ी इमरजेंसी है—मनोबल। पुलिस का और अधिकारियों का मनोबल बना रहे, इसलिए चाहे वे जितना कुकर्म करें इनको सब लीपा-पोती करनी पड़ती है। उत्तर प्रदेश में पांच हजार आदमियों का फर्जी एनकाउंटर हुआ जिसके बारे में यहां मैंने बार-बार कहा है। यह किस इमरजेंसी के तहत हुआ। अभी 29 फरवरी को उत्तर प्रदेश विधान सभा के सामने हमारे नेता अक्षयवर मल को लाठी से पीटकर मार डाला गया और बताया कि ये तो धक्के से गिर गए हैं, इसलिए हुआ। लाठी की चोट सिर पर लगी ही नहीं जब लाश फूंक दी गयी तो यह कह दिया गया। इनके पास तो सब तरह का अधिकार है। जब बलात्कार होता है तो वही धंधा कि पुलिस का मनोबल गिर जाएगा पहले कहते हैं कि बलात्कार हुआ और बाद में कहते हैं कि नहीं हुआ। सब लीपा-पोती करते हैं, इसलिए कि पुलिस का मनोबल गिर जाएगा। तो पुलिस और अधिकारियों का मनोबल ठीक करने के लिए वो आप कोई भी कुकर्म करने के लिए स्वतंत्र हैं फिर इमरजेंसी की क्या जरूरत है। मान्यवर, हमारे कहने से

तो यह सरकार मानेगी नहीं क्योंकि यह सरकार है उल्टा-सो-पंडाइन। उल्टा-सो पंडाइन का किस्सा यों है कि एक पंडिताइन थीं उनके पंडित जी जो कहते थे वह उसका उल्टा करती थी। जब उनको कहा कि अच्छा खाना बनाना तो सबसे खराब बना देती थी और जब कहते कि खराब बनाओ तो अच्छा बनाती थीं। तो पंडित जी ने कहा यह इससे हमको पिंड छुड़ाना चाहिए। संयोगवश भादों के महीने में उनके सले आ गए। पंडित जी ने पंडिताइन जी से पिंड छुड़ाने के लिए कहा कि, वे कहते हैं कि विदा कर दो। मैं कहता हूं कि मत जाओ, भादों के बाद जाना। तो पंडिताइन जी ने कहा कि मैं जरूर जाऊंगी। क्यों नहीं जाऊंगी। मेरा भाई आया है। फिर पंडिताइन से उन्होंने कहा कि अच्छा ये बाछी है इसको रहने दो। इसको खिलाने-पिलाने में लगा रहूंगा।

**एक माननीय सदस्य :** कुशवाहा जी आप अपने घर की बात सुना रहे हैं।

**श्री राम नरेश कुशवाहा :** ये पंडित, पांडेय और शुक्ला जी अच्छे तरह समझते हैं। वे आपको बता देंगे। मान्यवर, बाछी को ले लिया पंडिताइन ने। अब एक नाला पार करना था। पंडिताइन के भाई आगे चले, बीच में बाछी और उस के पीछे पंडिताइन चलीं। उसके पीछे ये पंडित जी। पंडित जी ने कहा कि पंडिताइन, बाछी को पूंछ पकड़ लेना, नहीं तो डूब जाओगी। इस बात पर ही पंडिताइन ने बाछी की पूंछ छोड़ दी और वह पानो में डूब गयी। पंडित जी को इस तरह से पंडिताइन से छुट्टी मिली। तो इसी तरह से जो कुछ हम कहेंगे सरकार तो उस का उल्टा करेगी। कोई रजट जयन्ती मनाता है, स्वर्ण जयन्ती मनाता है, हीरक जयन्ती मनाता है। लोगों को शताब्दी मनाते भी सुना है, लेकिन किसी को भी 40वां मनाते नहीं सुना। 40वां कहीं मनाया जाता है तो मुसलमानों में मनाया जाता है। यह आजादी का चालीसवां आज मना रहे हैं। मैं तो समझता हूं कि इस विधेयक के द्वारा यह कांग्रेस और कांग्रेसी शासन का चालीसवां मना रहे हैं। आज लड़ाई है इस देश में इज्जत और पैट की और

जब तक यह सवाल हल नहीं होगा यहां शक्ति नहीं हो सकती। आप समझते हैं कि आप कानून से और इमरजेंसी से इस को हल कर लेंगे। पंजाब का सवाल तब तक तय नहीं होगा जब तक कि आप अपना शऊर नहीं सम्हालेंगे। इस पूरे देश में पंजाब में ही सिखों का बहुमत है जहां वे अपना मुख्य मंत्री चुन सकते हैं। चार बार उन्होंने अपना मुख्य मंत्री चुना। पहली बार गुरुदेव सिंह, दो बार प्रकाश सिंह बादल और फिर बरनाला जी को चुना गया। आपने सबको बर्खास्त किया इसी प्रकार मुसलमानों का बहुमत केवल एक प्रदेश काश्मीर में है। उन के पहले मुख्य मंत्री शेख अब्दुल्ला को जेल में डाल दिया गया, फारूख अब्दुल्ला को बरखास्त कर दिया गया और अब वह मुख्य मंत्री हैं इसलिये कि वे बराबर आप की हाजरी में रहते हैं तो अगर इस देश के लोग इज्जतदार हैं और अगर उन में कुछ दम है तो आखिर वे आप के इस कुकर्म का बदला लेंगे या नहीं। किस ने सिखों को सिखाया है कि तुम चाहे कितने ही मुख्य मंत्री चुनो जब तक वह चापलूस नहीं होगा, हमारी हाजरी में नहीं रहेगा, हम उस का रहने नहीं देंगे। काश्मीर के लोगों को कौन बता रहा है कि जब तक हमारे दरबार में नहीं आओगे तब तक तुम्हारा मुख्य मंत्री नहीं बना रहेगा। तो काश्मीर और पंजाब के नौजवानों को कौन विद्रोह के लिये उकसा रहा है। कौन बिहार में नक्सलाइट्स को उकसा रहा है। (समय की घंटी) मुझे थोड़ा समय और दिया जाये क्योंकि यह बड़ा मौलिक प्रश्न है। मैं आप से कहना चाहता हूँ कि आज दो शब्द बड़े प्रचलित हैं। एक माफिया और दूसरा नक्सलाइट। माफिया कौन है। माफिया वह है जो जो चाहे अपराध कर के मूँछें ऐंठ कर धूमता है। उस के खिलाफ आरोप लगाने की किसी की हिम्मत नहीं। अगर कोई रिपोर्ट उस के खिलाफ लिखाने जाता है तो उस का साढ़ू थानेदार बन कर बैठा हुआ है। अगर उससे ऊपर गया तो उस का मामा एस पी बन कर बैठा हुआ है। नेता जी के यहां गया तो नेता जी का बूथ केप्चर कर के उस ने उन को जिताया था उस लिये वे बोलेंगे नहीं और उस के बाद

भी अगर किसी ने रिपोर्ट लिखवा दी तो उस को गवाही नहीं मिलती और अगर किसी तरह से गवाही मिल भी गयी तो हाई कोर्ट तक उस के नाना जी बैठे हुए हैं। वह छड़ देंगे। तो आज चारों ओर धूम आओ, माफिया के खिलाफ आप को न्याय नहीं मिलेगा। कहीं भी जिस को सज़ा न मिल सके वह है माफिया और जो माफिया लोगों से सताया जाता है, जिस को न नेता के पास शरण मिलती है न अधिकारियों के पास शरण मिलती है न न्यायालिका के पास शरण मिलती है तो वह न्याय पाने के लिये हथियार ले कर निकल जाता है और उस को आप नक्सलाइट कह देते हैं। वही आतंकवादी हो जाता है। जब तक यह व्यवस्था नहीं बदलेगी, जब तक पेट और इज्जत का सवाल इस देश में हल नहीं होगा तब तक आप बूटा सिंह जी रोज इमरजेंसी लगाओ, कुछ होने वाला नहीं है। अगर अगर इस इमरजेंसी के भरोसे ही चलना होता तो इंदिरा जी अनंत काल तक राज करतीं आप भी कर लीजिए जितना चाहे उतना, लेकिन एक ही व्यवस्था से लड़ रहे हैं पंजाब के आतंकवादी और आंध्र और बिहार के नक्सलवादी और जंगल की पार्टी वाले और चम्बल के डकैत और अगर किसी दिन यह इकट्ठे हो गये तीन घंटे भी यह सरकार नहीं रहेगी। आप को सोचना पड़ेगा गम्भीरता से और गम्भीरता से नहीं सोचा तो वह दिन दूर नहीं है कि जब गांधीवाद और अहिंसा के पुजारी तुम नहीं रह जाओगे और आप की पुलिस और फौज का मनोबल घरा रह जाएगा और लोग आप को उठा कर खड़े में फेंक देंगे। इसलिये इससे पहले कि कोई बुरा दिन आए आप चेतिए और अगर नहीं चेतेंगे तो जो लिखा होगा वह तो होगा उसको रोकेगा कौन? कोई नहीं रोक सकता है।

श्रीमन्, मनोबल का टेस्ट हमारे शिवशंकर जी दांडी यात्रा में गए थे, उनको मिला और एक मंत्री महोदय को भी मिला हमने अखबारों में पढ़ा बहुत देखा मनोबल कितना अच्छा है कि मंत्री भी पिट जाता है, कोई नहीं बचता हमारे जैसे लोग पिट जाए तो क्या होगा अखबारों की रिपोर्ट क्या चलत है या सही। अगर



[श्री राम नरेश कुशवाहा]

पुलिस का मनोबल होता तो इंदिरा जी की हत्या होती ? इंदिरा जी की हत्या पुलिस ने की और सजा आपने सिखों को दी । पुलिस सुधारने के लिए आपने क्या किया ? आज भी आप पुलिस का अबाध अधिकार देने जा रहे हैं, किसी को भी मार देने का अधिकार दे रहे हैं ।

मान्यवर, इससे प्रतिक्रिया उत्पन्न होगी तो आप कहेंगे कि सशस्त्र विद्रोह हो गया है और भी उदाहरण हैं, मैं आपको पढ़कर सुना रहा हूँ । अंग्रेजी के विद्वान लोग क्या अर्थ लगाएंगे, मैं नहीं जानता मैं केवल इसको पढ़कर छोड़ देता हूँ मैं कानून का जानकार नहीं हूँ, जरा देखिए इसके आपात उपबंध ।

(अ) प्रारंभिक भाग के स्थान पर निम्नलिखित रखा जाएगा, अर्थात्—

“यदि राष्ट्रपति का यह समाधान हो जाता है कि गम्भीर आपात विद्यमान है, जिससे—

(क) युद्ध या बाह्य आक्रमण या सशस्त्र विद्रोह के कारण भारत या उसके राज्यक्षेत्र के किसी भी भाग की अखंडता संकट में है, या

(ख) भारत के राज्यक्षेत्र के किसी भाग में अभ्यंतरिक अशांति के कारण उसकी अखंडता संकट में है,

तो वह उद्घोषणा द्वारा संपूर्ण भारत या उसके राज्यक्षेत्र के ऐसे भाग के संबंध में जो उद्घोषणा में विनिर्दिष्ट किया जाएगा, इस आशय की घोषणा, कर सकेगा

श्रीमन्, इसमें स्पष्टीकरण आग किया गया है, जिसमें कहा गया है—

(1) “का संकट सन्निकट है” शब्दों के पश्चात् “या भारत की अखंडता उसके राज्यक्षेत्र के किसी भाग में अभ्यंतरिक अशांति के कारण संकट में है” शब्द अन्तः स्थापित किए जाएंगे ।

**स्पष्टीकरण :** यदि राष्ट्रपति का यह समाधान हो जाता है कि युद्ध या बाह्य आक्रमण या सशस्त्र विद्रोह का संकट सन्निकट है तो यह घोषित करने वाली आपात की उद्घोषणा कि युद्ध या बाह्य आक्रमण या सशस्त्र विद्रोह से भारत या उसके राज्यक्षेत्र के किसी भाग की सुरक्षा संकट में है, युद्ध या ऐसे किसी आक्रमण या विद्रोह के वास्तव में होने के पहले भी की जा सकती ।

तो क्या आप नहीं समझते हैं कि पंजाब में ऐसी स्थिति है ? इस उपबंध के द्वारा क्या आप पंजाब में इमरजेंसी लागू नहीं कर सकते हैं ? इसलिए सरकार के पास सारी शक्तियाँ विद्यमान है ।

मान्यवर, इस सरकार की आदत है सरकार कहने की । क्या आपने इस बात को कभी गम्भीरता से लिया है ? आपने बार बार घंटी बजाई है, इसलिए मैं ज्यादा समय नहीं लेना चाहता, लेकिन अब तक सरकार के पास वर्तमान कानूनों के तहत पर्याप्त अधिकार है कि वह पंजाब की समस्या का हल खोजे और लोकतांत्रिक तरीके से खोजे । ये लालडिंगा से सलाह कर सकते हैं तो क्या आतंकवादियों से नहीं कर सकते ? आपको कुछ तो करना पड़ेगा, नहीं तो आप क्या करेंगे । लेकिन यह सरकार कहने से नहीं करती, सुझाव देने नहीं मानेगी तो बात खाने पर मानेगी ?

**श्री बट्टा सिंह :** जैसे लालडिंगा ने हथियार फेंककर मान लिया, क्या आप मान लेंगे ?

**श्री राम नरेश कुशवाहा :** बच्चे तो दो थप्पड़ खाने पर मान जाते हैं आपने तो उनकी गर्दन काटने के उपाय किए हैं जब आंतरिक सुरक्षा कानून पास हुआ था तो आपने सदन में आश्वासन दिया था कि राजनीतिक लोगों पर इसे लागू नहीं किया जाएगा, लेकिन आपने किया इसलिए जो आप पास कर रहे हैं, यह जरूरी है कि उससे दूसरे लोग आतंकित होंगे क्योंकि पास होने के बाद पता चलेगा कि आप क्या क्या करते हैं ।

उपसभाध्यक्ष (श्री हच० हनुमन्तप्पा) :  
जवाब के लिए नहीं, उनका कहने के लिए  
है । आप बैठ जाइए । श्री रामनाथन ।

SHRI V. RAMANATHAN (Tamil Nadu):  
Mr. Vice-Chairman, Sir, since this morning  
till this hour, almost all the hon. Members  
who have participated in the discussion,  
from the stage of the introduction of the  
Bill to the discussion of this Bill, are of the  
opinion that the problem of Punjab should  
be solved. The Punjab problem has become  
a highland of terrorism in the  
sub-continent. It started as a religious  
thing. Now so many people are being  
murdered. No day passes without killings in  
the land of Punjab. During the last three or  
four years the Government came up with so  
many pieces of legislation to strengthen its  
hand. All were passed by this House and  
the other House. But, unfortunately, with all  
these the Government has not been able to  
control it. Every day it is becoming  
more and more serious. Normalcy has  
not been restored. Once it was felt that if  
an elected Government comes it can  
control terrorism. But when the ejected  
Government came, it also failed. The  
Assembly was suspended. The Governor  
also could not control the situation. Every  
day it is growing worse. I saw a news-item  
in the Press today that the terrorists in Punjab  
are getting training even in explosives, it is  
a very serious thing. Just like people in  
Ceylon they also want to use such methods.  
The news-item goes like that. Therefore,  
unless it is curbed by efficient means, it  
cannot be erased; the problem cannot be  
solved.

But I want to submit one thing, I want to  
ask whether by using this emergency power  
they can solve the problem. Will it be  
sufficient? This is the question. Whenever  
any piece of legislation was brought before  
this House it was told that by that terrorism  
can be erased from Punjab. But

on all these occasions it failed. Therefore, my  
doubt is whether by this measure this problem  
can be solved in Punjab. Also, the  
Government should not take undue advantage  
of imposing emergency anywhere else on the  
pretext of 'internal disturbance'. This should  
not be done as many people have pointed out  
here. The Government should not use this  
weapon to curb the fundamental rights of any  
people in any part of the country on any  
occasion. The situation that has arisen in  
Punjab is a very dangerous situation. If with  
the help of this measure the Government is  
able to control it, we support this Bill—but  
only on this ground. They should not go to the  
extent of enforcing President's rule or emer-  
gency in any part of this land.

With these words, I conclude.

THE VICE-CHAIRMAN (SHRI H.  
HANUMANTHAPPA): Mr. Malaviya -Not  
here (Interruptions)

SHRI NIRMAL CHATTERJEE: Today  
there was a consensus that we will not extend  
the sitting beyond 7.30. Have we to break  
that consensus?

THE VICE-CHAIRMAN (SHRI H.  
HANUMANTHAPPA): No, we are not  
breaking it. Mr. Aurora can start and continue  
tomorrow. The House cannot sit idle. Mr.  
Aurora, you start it.

SARDAR JZ SINGH AURORA: Mr.  
Vice-Chairman, Sir, I rise to oppose the Bill.

THE VICE-CHAIRMAN (SHRI H.  
HANUMANTHAPPA): You may continue  
tomorrow. The House stands adjourned till 11  
O'clock tomorrow.

The House then adjourned at  
thirty-one minutes past seven of  
the clock till eleven of the clock on  
Tuesday, the 15th March 1988