

[श्री हुक्मदेव नारायण यादव]

सकेगा जिससे कि जो कांसेप्ट उसका था, जो हम चाहते थे वह पूरा हो सके।

इसलिए मैं इस रेजोल्यूशन को अपोज़ करता हूँ और आपके माध्यम से सरकार से यह निवेदन करना चाहता हूँ कि इस मंत्र को ठीक करने के लिए सही दिशा में कदम उठाना चाहिए।

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): Mr. Ramamurti.

SHRI P. RAMAMURTI: Only two minutes are left now.

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): We will continue the next day.

SHRI P. RAMAMURTI: I will speak for two minutes and then continue my speech later.

Mr. Vice-Chairman, Sir, the Resolution that has been placed before this House by my friend, Mr. Raju, simply asks the Government of India to place a White Paper regarding the working of these public sector undertakings by the end of this Session. While I have no objection to this particular thing, I think this is not going to solve the problem. We have got to go into the root of the problem as to why our public sector undertakings are undergoing losses, why our public sector undertakings are not coming up to expectations. All these are fundamental questions with which

5 P.M. we are concerned. The basic problem with regard to the public sector undertakings, as far as I am concerned, is that the public sector undertakings are a cesspool of corruption galore. The amount of corruption that is prevalent in the public sector undertakings today is something which is so colossal, something which I cannot describe. Just now, for example, he talked of coal. Do you know that this year the loss in coal is going to be Rs. 500 crores? Why? Because, coal is loaded in not railway wagons but in lorries....

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): Mr. Ramamurti, you can continue next time. Now we go to the Half-an-Hour Discussion. Shri Bhupesh Gupta.

HALF-AN-HOUR DISCUSSION ON POINTS ARISING OUT OF ANSWER GIVEN IN THE RAJYA SABHA ON THE 17TH NOVEMBER, 1980 TO STARRED QUESTIONS REGARDING AMENDMENT OF THE CONSTITUTION TO GIVE MORE POWERS TO THE PRIME MINISTER

SHRI BHUPESH GUPTA (West Bengal): Mr. Vice-Chairman, I am glad that we have the opportunity of discussing a very important matter. Although I disagree with the Prime Minister, Shrimati Indira Gandhi, that this is a subject-matter for national debate as to what form of Government India should have. In fact this is a non-issue at the moment and there is no warrant for having a national debate on this question. None in fact has demanded that there should be a national debate except the Prime Minister herself who has suggested some kind of a national debate, and people like Mr. K. K. Birla, Mr. J. R. D. Tata, the Maharashtra Chief Minister, Mr. Antulay. Another Chief Minister did it, but he is no more there—Mr. Chenna Reddy has gone. When Mr. Antulay will be going, we do not know. Anyway, this we find. None of the Opposition parties in the country, in fact, none in the Opposition parties or none of the individuals in the Opposition parties had made a demand of this kind. Not even the Congress Party has formally adopted a resolution. Suddenly we found that at a lawyers' conference the idea was canvassed. The idea was canvassed and an attempt was made to get a resolution passed. As far as that lawyers' conference is concerned, the less said, the better. The conference was held—I am coming to Antulay, that is the background—in Delhi at the end of October—I need not give the exact dates—at Vigyan Bhavan. It

seems that the lawyers were brought in expensive coaches from various parts of the country, they were put up in expensive guest-houses of the Government and they were served meals from the Ashoka Hotel. I do not know who paid for it...

SHRI J. K. JAIN (Madhya Pradesh): Sir, on a point of order; our honourable Member is reading from his house journal. It is not a newspaper. So whatever he is reading, it is not authentic.

SHRI BHUPESH GUPTA: My friend, some journal I have to read...

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): There is no point of order.

SHRI BHUPESH GUPTA: It was said that it was an all-India lawyers' conference. Even in that conference no resolution could be passed. The conference ended in a great fiasco. Although it was inaugurated by none other than the Prime Minister herself, the Conference ended in a fiasco. It is well known—from the newspapers, no resolution could be passed...

THE MINISTER OF STATE IN THE DEPARTMENT OF PARLIAMENTARY AFFAIRS (SHRI SITA RAM KESRI): No resolution was moved.

SHRI P. RAMAMURTI (Tamil Nadu): What do you know?

SHRI BHUPESH GUPTA: I wish I belonged to that category of lawyers' at least for two days I could have good food. It seems that they were put up in hotels or places which cost Rs. 100 to Rs. 150 per head per day, and I needed some sustenance of that kind in accommodation and food. But unfortunately I could not join such a thing nor would I ever join...

SHRI GHOUSE MOHIUDDIN SHEIKH (Andhra Pradesh): Sir, on a point of order. Mr. Bhupesh Gupta who is himself a lawyer is accusing

the lawyers' profession. Those lawyers who attended the conference in Delhi are above all these things. They came from different parts of the country. There is no necessity for bringing them here as the CPM or CPI workers are brought to attend meetings. Mr. Bhupesh Gupta belongs to the same profession of lawyers and he must give some respect to his own profession... (Interruptions) He should not have used those words... (Interruptions)

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): There is a point of order. I will reply to it. I think he is making only allegations of general nature. Allegations of general nature cannot be prevented here. It will be for others to reply to these allegations. Allegations of general nature are always permitted.

SHRI BHUPESH GUPTA: The question related to Mr. Antulay's speech in Bombay. May I proceed with that?... (Interruptions)

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): Please allow him to speak.

SHRI BHUPESH GUPTA: I listened to him very patiently.

SHRI ARVIND GANESH KULKARNI (Maharashtra): On a point of order.

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): Please sit down. Let me hear his point of order.

SHRI ARVIND GANESH KULKARNI: You just now ruled that these are of general nature. Even if Mr. Bhupesh Gupta had mentioned any name, they cannot object. With due respect to you, Rajya Sabha conventions are not like the Lok Sabha conventions. We have got our own conventions. I do not know whether the hon. Member who raised it was here during the last 10 or 15 years. Rajya Sabha has its own conventions. I would only appeal to you not to create any new convention... (Interruptions)

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): Please sit down . . . (Interruptions) Please sit down . . . (Interruptions) Please sit down. I am on my legs . . . (Interruptions)

SHRI BHUPESH GUPTA: I suggest that we tell the nation that this is how they want to conduct the national debate. Let them tell the nation and you can adjourn the House. I am ready for it. Let the nation know how the Congress Party wants to conduct this national debate . . .

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): Will you please have your seat? If we do not unnecessarily involve ourselves in accusations, it is quite possible to have a peaceful debate on the subject. So far as expunction is concerned, there are specific rules, provisions and procedures. If something comes under these specific rules, I will expunge it. If there is any convention I will take it into account. But now, this is clearly a hypothetical case. Let us raise the standard of the debate to a higher level. Let us hear Shri Bhupesh Gupta peacefully.

SHRI BHUPESH GUPTA: I say this thing because they should hear this. Let them hear and everybody should hear and everybody should have patience. They may have a contradictory view. But that is a different matter.

Sir, the question was about Shri Antulay's speech in Bombay. The answer was that the teleprinter message did not say all that. The Minister did not deny that. Now, this is the answer. And, Sir, here is a report that appeared in "The Hindu", some paper anyway.

"The Chief Minister of Maharashtra has said that the Prime Minister, Mrs. Gandhi should be given more powers and the Constitution should be amended accordingly for real democracy in the country."

"Addressing a lawyers' gathering here yesterday,"—that means 14th October 1980—"Mr. Antulay said that the President of the United States had more powers than the Indian Prime Minister who is the chosen leader of the people. Whether ours is a Presidential form of Government or a Parliamentary democracy has not been implicitly or explicitly made clear anywhere in the Constitution, he added. He called upon the lawyers to voice their opinion at the All-India Lawyers' Conference in New Delhi."

That is why, Sir, I referred to the All-India Lawyers Conference referred to in the question. Then, Sir, he said much more. Only this part was reported and, on that basis, the question was given, that is, Starred Question No. 5, which came up on the first day, but could not be taken up. Mr. Antulay gave an interview to somebody in "The Times of India" in which he elaborated the thing in a big way. There he said this very clearly, in the interview he gave to Mrs. Fatma Zakaria. I would like to quote:

"I am firmly of the opinion, after studying the various Constitutions of the world and the functioning of our own Constitution in the last 30 years, that it is high time that we discarded the so-called parliamentary system and adopted a Presidential form of Government which is more suitable to our needs, etc., etc."

This is what he said and there. Sir, he has made another disclosure that in 1976 he drafted a Constitution outlined for the Presidential system. Asked by the same correspondent, that is, Mrs. Zakaria, if he had drafted the Constitution, he said he had drafted it.

SHRI J. K. JAIN: Sir, on a point of order. Let us know how much time Mr. Bhupesh Gupta has been allotted because, in a Half-an-Hour Discussion, the Member should not how much time has been allotted to him and he should know that.

SHRI BHUPESH GUPTA: Clear fifteen minutes.

SHRI J. K. JAIN: I am not asking you, but I am asking the Chair.

SHRI BHUPESH GUPTA: You need not ask him. Rules you read. You read the Rules. It is 15 minutes.

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): Though the discussion is entitled "Half-an-Hour Discussion", we know by experience that these discussions have gone beyond an hour or 1½ hours. So, let us not raise that issue now. However, I will request him to be as brief as possible. By cutting Mr. Bhupesh Gupta, the House may encroach on their own right. Let us not create any such precedent.

SHRI BHUPESH GUPTA: I will not take your time, Mr. Jain. In fact, I will give you more time, if I can.

Now, Mr. Antulay said that in the emergency he drafted that Constitution. He said that, Sir, and I am hurriedly going through this. He said:

"I prepared that draft you mentioned in 1976 and I proposed the Presidential form as in the case of the United States."

This is what he has said. Here, Sir, I have with me the draft of the 1976 Constitution which was passed on to me by a Cabinet Minister of that time with the request:

"Mr. Bhupesh Gupta, people like you should come forward and save the Constitution and save Parliamentary democracy and we are not in a position to do anything more."

This is what he said. I have preserved that copy and dust has settled on that. There is some suggestion in it for having a fresh look at our Constitution. The very first paragraph reads:

"The President should be the Chief Executive of the nation as in

the United States of America. But, whereas the U.S. President is elected by those elected by each State for the purpose, our Constitution should provide for election of our President directly by the voters at the time of Parliamentary poll ..."

This contains an outline for a switch-over from the Cabinet-cum-Parliamentary system to the Presidential system. Well, I have marked many portions but I do not have the time to read them out. Now I find that speeches are being made along those lines. This could not be pushed through, although an attempt was made in State Assemblies to get the support of the ruling party...

SHRI J. K. JAIN: This is the democratic system.

SHRI BHUPESH GUPTA: I agree. But to make the Prime Minister the 'Queen' of India—is it democratic system?

SHRI J. K. JAIN: She is the Prime Minister of India.

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): Please, Mr. Jain.

SHRI BHUPESH GUPTA: We have seen democracy—how you lost by democratic system in 1977. Why do you want to lose again? Try to remain here.

Now, Sir, this is the position. Naturally, Sir, this has given rise to very strong indignation in the party. Here is a Resolution adopted by the Supreme Court Bar Association, dated November 17th. This Resolution says, I quote: I only concentrate on Mr. Antulay, not the bigger ones:

"This Association disapproves strongly the attack on the parliamentary democracy by the Chief Minister of Maharashtra who is bound by the Constitution and has taken oath of office to bear true faith and allegiance to the Consti-

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tution of India that the parliamentary democracy is its basic structure. The President of India must take note of this defiance of the Constitution by the Chief Minister of Maharashtra and examine whether under article 356 of the Constitution Mr. A. R. Antulay should not be asked to resign so that the Government of Maharashtra is run in accordance with the Constitution and he is prevented from reducing the office of the Chief Minister..."

This is not my resolution; it was passed by the Supreme Court Bar Association.

Now, Sir, this is a serious matter. The matter is whether the Chief Minister should really campaign in this manner. He can. He can, but as an individual. But his oath of office is very clear. It prevents this kind of utterance. This is not the policy of the Government. The Government of India has not adopted it. The ruling party or for that matter the Government has not announced this policy that they stand for Presidential system in place of Parliamentary-cum-Cabinet system. Neither the Congress Party official, although it may be one woman party—neither the Party nor the Congress(I) Government has adopted such a Resolution. How, then, a member belonging to that party, who occupies the position of a Chief Minister in the country can go on record in a public meeting and demand that this system itself should be scrapped? This is a strange thing. Now, if my friend had done it, I would have differed with him. But he is entitled to have his opinion. But the moment one is Chief Minister, he is under certain constraints. The Prime Minister cannot say everything he or she likes. A Chief Minister cannot say everything he likes. Or a Minister, for that matter, cannot say everything he likes.

Now, I find that an extra-constitutional operation has started side by

side with the Constitutional functioning or mal-functioning of the Government. This is what we find. You talk about extra-constitutional authority and function? Here is Antulay. He is doing it. In his personal capacity he can say this in an interview. But does he anywhere say that this is his personal opinion, not the opinion of the Government, not the opinion of the party to which he belongs, not the opinion of the Prime Minister? Should he openly say such things and . . . (Time bell rings). Therefore, it is extra-constitutional functioning as I have already said. If I may recall a historical analogy, I know it. Mr. Antulay knows how to out-Indira Indira. I know it very well. But then, today, he is the Chief Minister of a State. He cannot just run amuck and say whatever one likes.

Sir, if Mr. Antulay had been doing this alone, I would not have bothered because the Antulays may come and go on the shifting sands of the Congress(I) Party. We have seen many coming up and falling, some lasting two months, others six months and still others disappearing a little later. We have seen that game. It is like that—the shifting sands of the ruling party. The position is like that. But, Sir, when the Prime Minister asks for a debate, if she wanted a debate, why did she not call the Opposition, all the parties, saying that we want to discuss the question of the form of Government in the country, what do you think of it, let us start the debate. But nothing of that at all. Eminent lawyers conferred there. One of the sponsors of that conference is supposed to be a leader of the bar. I said it before. I repeat it now. To the best of my knowledge, he is the leader of the Oberoi Bar. I need not say more than that. He happens to be the director of the Oberoi Hotel. Well, I have not named him. Why are you touching your head?

SHRI N. K. P. SALVE (Maharashtra): It is uncharitable.

SHRI BHUPESH GUPTA: Very charitable, otherwise I would have named him. (*Interruptions*)

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): You have taken already 20 minutes.

SHRI BHUPESH GUPTA: I am finishing in two minutes. Why have they brought it? Sir, I have seen in it a desperate plot to subvert parliamentary democracy, to install in our country a Presidential form of Government, to establish *de jure* personal authoritarian power. It is not a question of an individual who will be there. Sir, we do not want such system.

This parliamentary democracy and system has helped us to unite the country, to promote national integration and to implement to a great extent the principle of unity in diversity. This has been in the tradition of our freedom struggle. And those who led the freedom struggle, in their wisdom—among them was Jawaharlal Nehru—thought that India should have a parliamentary democracy, and Jawaharlal was a zealous guard and champion of the country's parliamentary democracy. We had seen him working here for 12 years in this House. I myself had seen it and we know how he cherished it. Today, in the name of a national debate, they want to prepare the ground for a take-over by almost the dictatorial form, and establish the Presidential system. They know that they cannot do it now, standing in the way is the Supreme Court judgment in the Minerva Mills case which has taken away the powers of even Parliament to amend the Constitution on a basic issue like this. They know that they will not have a two-thirds majority here. But why had they said it? It is a diversion. They want to make out that the Government's failures—failures on the question of price rise, unemployment, communal situation and other things are due not to the wrong policies of the Government,

anti-democratic and anti-people policies of the Government but due to the form of Government. It is a diversionary tactic. In order to camouflage the failure of the Government and to divert the public attention from it, this slogan has been raised knowing fully well that it will not be implemented, it could not be implemented immediately. And Mr. Antulay has given out the case in his interview. He has suggested this to be done later. Therefore, they are waiting for 1982 Rajya Sabha biennial election when the Government, instead of the present 121 will have 150, very nearly a two-thirds majority to push through an amendment to the Constitution. That is why, Sir, this preparation. It is a pre-emptive blow against democracy and the democratic movement. Sir, it is a matter of shame that there are not many people like Shri Kamalapati Tripathi now who, in the emergency days, raised his voice against the plot to establish a presidential system of Government. I would like my friends to raise their voice against the presidential system in defence of the Cabinet-cum-Parliamentary system. Sir, I know it is an invitation to disruption. At a time when we have problems like Assam, prices problem, communal problem and many other problems, the Prime Minister wants us to debate what form of Government the country should have. (*Time bell rings*). Is it a top item in the priority list that you think you should have? If it is not so, why does not she ask us to debate some of our policies that are giving rise to prices, that are responsible for unemployment, that are responsible for atrocities on minority community, that are responsible for creating an explosive situation in Assam causing frustration and anger and disappointment of the people, which is now being exploited by some bad elements also. This should be discussed today. No. If she wants to know what system is good, why does she not say let us discuss the electoral system whether the system of the single-member constituency is good

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and whether proportional representation system is suitable in our country to give proper representation to our electorate. After all, she represents 43 per cent of the votes polled, and this side, despite the division, of course, serious division, represents 57 per cent of the total vote. (*Time bell rings.*)

Before I sit down, I want to say that many of my friends here were there before the emergency and some of you have come later. Some of you wanted to stop it secretly and we wanted to stop it openly. I exposed this Constitution at that time. I brought it today to show to the new Members. Well, we have returned to the same emergency game. May I not expect the new friends, who are there, to join with us to nip in the bud the plot to destroy India's parliamentary democracy because if you destroy it in the present situation, I see, if I may use the words of Mahatma Gandhi, ruin on all sides, destruction, disruption, and disintegration. Pandit Jawaharlal Nehru and Mahatma Gandhi did not build this system in order to be destroyed by Shrimati Indira Gandhi or anybody else. Therefore, I say, let us strengthen it, let us bring it closer to the people, let us make it an instrument of social change, let it serve the people. But let us not make it a stepping stone for the exercise of power cynically by the brute majority in Parliament, by the ruling party, by using propaganda and other things, as a spring-board for taking the country to a dictatorial, presidential system.

Sir, it has been seen in developing countries when parliamentary democracy fails, when the ruling party fails to deliver the goods, they think of presidential system. In the Philippines, in Indonesia, in Bangladesh, in Pakistan and in many other countries this has happened. (*Time bell rings.*) Look at these countries. What has happened to them. And, today

our country for all its ills is in a better position than those countries. Therefore, Sir, I strike a note of warning against the advancing conspiracy, dark and shameful, cynical and cowardly, which wants to stab in the back the system which we have built, Congressmen and others, all of us together. Over the years this has served the people. Let us not destroy the edifice for the sake of Mr. Antulay, Mr. K. K. Birla, and Mr. J. R. D. Tata, or even for the sake of insatiable thirst for personal, authoritarian, presidential power. And, if you do so you shall be inviting trouble. This is all that I have to say. I have said nothing against you. All this I have said from our past experience.

SHRIMATI USHA MALHOTRA (Himachal Pradesh): I wish the speech had come two years earlier.

SHRI BHUPESH GUPTA: I wish you were there when I came. I missed you that way. But I hope you listened to me. All I say is, I appeal to you, sycophancy may be good; I do not say you are a sycophant; it may be a good qualification in some quarters; but it leads the nation to disaster. Sycophancy is self-defeating. Sycophancy destroys moral character, destroys human values and makes the nation and those people who are sycophants, a laughing stock before others.

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): May I take the sense of the House? Normally, the procedure is that the Minister replies immediately after the hon. Member raising the Half-an-Hour Discussion and then the questions follow. But today, I have before me a list of 12 Members. So, can we follow the procedure that . . .

SHRI ARVIND GANESH KULKARNI: The Minister may reply after all the Members have spoken.

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): May I suggest that all the Members may put one question each and the Minister may

reply at the end if the House agrees, because there will be repetitions? But I would request the Members to be very brief and not to put questions (a), (b), (c) etc., because there are 12 Members and most of the points have been covered. So the position now is that the Minister will reply at the end so that there is no repetition. This is being done now because the House has agreed.

SHRI MAQSOOD ALI KHAN (Karnataka): How long are we going to sit?

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): That we will decide.

श्री सीताराम केसरी : आप ने एक परंपरा नियत कर दी कि पहले सदस्यगण अपनी बात कह लें, लेकिन मैं जानता हूँ कि आप के आदेश का पालन नहीं होगा। इसलिये मेरा आप से आग्रह है कि केवल प्रश्न ही पूछे जायें, माषण न दिये जायें। वरना बहुत समय लग जायगा।

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): The Chair will come in the way of speeches. Yes, Mr. Kulkarni, no speech; one question only.

[Mr. Deputy Chairman in the Chair].

SHRI ARVIND GANESH KULKARNI: While supporting Mr. Bhupesh Gupta who has very lucidly placed the viewpoint on the general feeling in the country . . .

MR. DEPUTY CHAIRMAN: You ask question.

SHRI ARVIND GANESH KULKARNI: I am only asking the question; I will be very brief. In Bhubaneswar Congress meeting (there is a Minister at present in the Cabinet) this problem was discussed whether it should be a Parliamentary system or whether a Presidential system or any other system is necessary to solve problems of poverty etc. But it was turned down before the very eyes of Mr. Nehru who was all along very

much in favour of a Parliamentary system since that is the only system which will solve the problems of this developing country. So, in this connection, I want to ask him whether by creating an atmosphere, you want, or the Government desires, that the judiciary should be shattered, people should always have some apprehensions, or you want really to hide your failure in governing this country because you promised to the people that you will give a Government which governs. But this seems to me to be a manoeuvring whereby diversionary tactics are played and in that connection, I was told by the lawyers who came from Sangli, from the town where I come! Then I asked another question as to who had paid for their hotel and travel bills and they said that they were issued coupons and Railway or Air tickets. I asked: "Where did you stay?" and they said: "not at Oberoi and Ashoka but some other hotel in Delhi". I asked: "How did you eat?" and they said that coupons were provided to them. . . . (Interruptions). May I request my young friends there not to get so much sensitive. This debate is for all the people in the country to follow. You are interested in Parliamentary democracy. You cannot have Shrimati Indira Gandhi for another Ten Thousand years who is capable to administer the country for all the time. (Interruptions). You have to be very careful as regards system. (Interruptions).

MR. DEPUTY CHAIRMAN: Please conclude.

SHRI ARVIND GANESH KULKARNI: I am concluding. I am asking a question. (Interruptions). I have to protest myself against the powerful Parliamentary Affairs Minister. (Interruptions).

MR. DEPUTY CHAIRMAN: Please ask your question. (Interruptions)

SHRI ARVIND GANESH KULKARNI: I am asking a question. My point is this. They were given coupons to eat at Ashoka, Oberoi and so on. I was told like that. The Law Minister himself has made a speech not in the lawyers' conference but elsewhere and has given an indication that there is same type of inking in the Government's mind for changing the pattern of the Constitution. I would like to know from the Law Minister. The Prime Minister has also given a call for a national debate. We know what type of national debate she desires, based on her style of functioning. This is a road to Emergency and the Law Minister himself is in tune with the Government.

SHRI S. W. DHABE: (Maharashtra): Sir, Mr. Antulay, the Chief Minister of Maharashtra, has made a statement that the judiciary has no right to interpret the Constitution. Statements have also been made that even legislations cannot be interpreted by the Supreme Court. The attack on the judiciary is a consequence of the judgement of the Supreme Court in the Minerva Mills case. The power of the judiciary to interpret the provisions of the Constitutional amendments and other laws is not acceptable to the Government. Hence I would like to know from the hon. Minister whether article 368 which deals with the amendment power of Parliament, also gives the power to Parliament to amend the Constitution so as to bring in the Presidential form of Government. I would also like to know whether the appointment of Supreme Court judges is being delayed by the Government deliberately so that they can pack up the Supreme Court with their own people who can give judicial interpretations in their favour and reverse the earlier decisions of the Supreme Court in the Keshavnanda Bharati and Minerva Mills cases.

SHRI NARASINGHA PRASAD NANDA: (Orissa): Sir, I must make

it absolutely clear to the House that I am totally opposed to the Presidential form of Government. Now, what has aroused suspicion in my mind is the answer given by the Law Minister to the Starred Question No. 5 on 17th November, 1980. If the hon. Minister would have come forward with an honest answer about the opinion expressed by the Chief Minister of Maharashtra in regard to the form of Government which he desires to be established in this country. I would have absolutely nothing to say on this matter. You say this was his personal opinion. But as the Chief Minister of Maharashtra, he did attend a meeting of lawyers at Bombay and he did express some opinion there. I must say the Law Minister was unfair to this House in answering the question in the form in which he has answered. He has said 'It is learnt from the Maharashtra Information Centre' as if the Central Government could not get the reply from the Government of Maharashtra or from the Chief Minister of Maharashtra and come straight to the House and say 'Yes; this was his opinion'. In the answer, it has been stated further: 'However, there is no mention in the teleprinter message received from that Centre that the Chief Minister demanded for an amendment of the Constitution of India'. The Central Government, relying on a teleprinter message received from the Maharashtra Information Centre wants to tell the Members of Parliament that he never made such a demand. Is it the way the hon. Law Minister should answer to this House? It is a very fundamental question on which the Law Minister should have taken care to give a fair answer in this House. Therefore, may I know from the hon. Law Minister . . . (Interruptions). Mr. Jain, I know it better than you.

SHRI DHARAMCHAND JAIN (Bihar): Messages are received through teleprinter only.

SHRI NARASINGHA * PRASAD
NANDA: I know it. (*Interruptions*).
Well, people will judge both of us.

Now I will formulate the question.
Will the hon. Law Minister be pleased
to state what prevented him from
directly getting the information from
the Maharashtra Government and
the Chief Minister? What were the
difficulties and obstacles for him in
getting the authentic information
from the Maharashtra Chief Minis-
ter himself?

श्री शिव चन्द्र झा (बिहार): उपसभा-
पति महोदय, मेरा पहला सवाल है कि यह जो
विवाद हुआ है कि प्रेजीडेंशियल फार्म आफ
गवर्नमेंट हो इस पर सम्मेलन हुआ था।
मैं मंत्री महोदय से जानना चाहता हूँ कि इस
विवाद को खत्म करने के लिये केटागोरिकली
क्या प्रधान मंत्री जी को यह कहेंगे कि हाउस
में यानी इस सदन में और दूसरे सदन में वह इस
का खंडन करें कि ऐसी बात नहीं है। कोई
प्रेजीडेंशियल टाइप की सरकार हम बनाने
नहीं जा रहे हैं। इस तरह का केटागोरिकली
जवाब, दोनों सदनों के सामने प्रधान मंत्री जी
को देने के लिये आप कहेंगे? दूसरे मैं
पंडित जी की याद दिलाना चाहता हूँ फैजाबाद
कांग्रेस के सेशन में तीसरी बार कांग्रेस प्रेजीडेंट
होने के बाद उन्होंने एक लेख लिखा था
'माडर्न रेव्यू' में कि एक आदमी के हाथ में
पावर मत दो। अगर हाथ में पावर दी तो
वह जुलियस सीजर हो जाएगा। राष्ट्रपति
जा रहा था और जनता जय-जयकार कर
रही थी परन्तु उसका दम घुट रहा था।
वह आदमी एम्परर हो जाएगा, डिक टर हो
जाएगा। ऐसे आदमी के हाथ में पावर मत दो।
यानी पंडित जी नहीं चाहते थे कि एक
आदमी के हाथ में पावर हो। अभी भी प्रधान
मंत्री जी के हाथ में काफी पावर है। आप
लोग पावरलैस हैं। लेकिन विरोधी दल
जो है उनके पास जो पावर है उसको भी यह
खत्म करना चाहती हैं। इसलिये मैं चाहूंगा
कि एक केटागोरिकली स्टेटमेंट क्या प्रधान
मंत्री देंगे कि ऐसा नहीं है। विवाद चल रहा

है। किताबों में भी पढ़ाया जाता है कि प्रेजी-
डेंशियल फार्म आफ गवर्नमेंट ठीक है या
नहीं। यह अलग बात है। आपने अभी जो कहा
उससे लगता है आपका इन्कलिग माइंड है।
दाल में कुछ काला दिखाई देता है।
अगर प्रेजाडेंशियल रूल यह सरकार चाहती है
तो ठीक नहीं है। हिटलर भी यही चाहता
था। प्रेजीडेंट और प्राइम मिनिस्टर दोनों हो
जाएँ इसे तरह की आपकी मशा है। मैं
चाहता हूँ वह इस तरह की बात का खंडन
करे।

SHRI P. RAMAMURTI: Mr. Deputy
Chairman, Sir, last time when this
question of presidential form of gov-
ernment was canvassed, was during
the period of emergency which came
at the height of a big struggle in the
entire country, when the people in the
entire country, State after State, rose
against high prices, corruption, black-
marketing and other things, The
Gujarat students rose, the Bihar boys
rose, everywhere the people were ris-
ing and it was precisely at this time
when the emergency was clamped.
Later on, it was thought that the pre-
sidential form of government might
be good, it was canvassed, but that did
not succeed. Today also movements
are rising throughout the country over
high prices, over lack of proper prices
for the peasantry, over all sorts of
things. Unemployment is on the in-
crease, prices are rising and peoples'
movements over other matters are
rising. Precisely at this moment,
when peoples' movements are rising
throughout the country and when
they are unable to control these move-
ments, this idea of the presidential
form of government is again being
mooted. I want only to remind them.
When these movements rise, they say
that the opposition parties are creat-
ing trouble. I only want to remind
them of what Pandit Jawaharlal Nehru
said, not now but in 1929, when he
was not the President of the Congress
Party but when he was about to be
the President of the Congress Party,
presiding over the Youth Conference

[Shri P. Ramamurti]

in Lahore. Those words are still ringing in my ears. I attended that Conference as a delegate. Most of you were not born then. I attended it as a delegate. My association with the movement is much longer than yours. My association with the national movement is from 1919. Therefore, those words are still ringing in my ears. The British used to charge the political leaders, particularly of the Congress Party at that time, of creating trouble and rousing the people against the British Government. Pandit Jawaharlal Nehru replied in his speech, "It is not we who are driving the people to revolt, but hunger and poverty and unemployment are. Growing hunger and poverty and unemployment are the drill sergeants which are driving the people to revolt and rebellion." This was the particular sentence which is still ringing in my ears, which was uttered by Pandit Jawaharlal Nehru in 1929. Therefore, may I remind that it is not we politicians in the opposition, but hunger and poverty and unemployment of the people which is increasing despite the 30 years of your socialist rule, of your socialist policies, of your Five-Year Plans, which are driving the people to revolt. And do you think that by means of a presidential form of Government you would be able to suppress that? Whether it is a presidential form of Government or any form of Government nothing can suppress the rising tide of the people's movement because the drill sergeants are there. Therefore, the question I am asking is, "Is it because of the fact that today you are unable to solve the problems of the people—on the other hand they are aggravating the problems of poverty, unemployment and hunger of the people, that have been the result of your policies of 30 years—that you are now thinking of the presidential form of Government and abolishing the accountability of the executive to Parliament, to the elected Members of Parliament, so that they can do whatever they please?" This is the question I am asking.

SHRI DINESH GOSWAMI (Assam):

Mr. Deputy Chairman, Sir, may I know from the hon. Minister whether he is aware that earlier to this also when the ruling party was seriously considering about making Constitutional amendments, at that time, when I had the privilege to belong to that party, this question was debated and ultimately a committee constituted by the ruling party came to the conclusion that any deviation from the Parliamentary form of Government will be a disaster to the country because it will lead to all sorts of fissiparous tendencies? Now, keeping that in view, may I know from the hon. Minister that when the entire political system is under strain, do they not feel that it is at this juncture going to erode the confidence of the people in the system itself with very serious consequences, that it is desirable for democracy to survive and that this debate should end at this particular juncture and should not be carried any further?

MR. DEPUTY CHAIRMAN: Mr. Jaswant Singh. Is he not there?

SHRI JASWANT SINGH (Rajasthan): Do I have your permission, Sir?

MR. DEPUTY CHAIRMAN: You speak. For taking notice it is necessary to be at the seat.

SHRI JASWANT SINGH: May I have your permission to speak?

MR. DEPUTY CHAIRMAN: Yes.

SHRI JASWANT SINGH: We have had such debates earlier. We have heard of controlled democracy, committed bureaucracy, responsible Press, committed judiciary, the Fundamental Rights *versus* the Directive Principles etc. We know all that. These debates are evasive. These debates are taking us away from what is pertinent, what is material and what is real. The Congress Party is perfectly free to have a debate within itself as to what they wish to do with themselves. They can have monarchy. They can have imperialism. They can

perpetuate family rule. But a party is not a nation. If they wish to equate the party with an individual, that is their prerogative. They are free to do so. But to equate a party with the nation—I do not think that right is still there. There are, even within the ranks of the Congress Party, eminent lawyers, men of sensibility. I am sure there are men who think and feel even within their ranks. I request you, I appeal to you, for heaven's sake, blinded as you are today by sycophancy and fear, don't set this as an example for the future generations of Indians. I am forbidden to make a speech; I would have dearly liked to do it. The hon. Law Minister gave a reply to a specific question. He is an eminent lawyer. I am not a lawyer. But there is a legal phrase which is quite commonly used in courts of law—*suggestio falsi, suppressio veri*, to suggest the false and to suppress the truth. I must, in all humility, submit to the hon. Minister, who is an eminent lawyer, that his reply is *suggestio falsi, suppressio veri*. I now ask a question. In what capacity did the Chief Minister of Maharashtra attend that function? Did he go there as Shri Antulay? Or, did he go there as Chief Minister of Maharashtra? The newspaper report is specific that he was there as Chief Minister of Maharashtra. The Chief Minister of Maharashtra is bound by an oath to the Constitution. I do not know the exact words; I cannot quote them. But it says "...shall bear true faith and allegiance to the Constitution."

MR. DEPUTY CHAIRMAN: That point has been made.

SHRI JASWANT SINGH: That same gentleman goes and says this—Mr. Bhupesh Gupta has already quoted it; I do not want to take up the time of the House—"implicitly or explicitly there is nothing in the Constitution which clarifies whether we have a parliamentary system or a presidential system". I would request the hon. Law Minister to let me know whether such a statement is bearing

"true faith and allegiance to the Constitution"?

MR. DEPUTY CHAIRMAN: That point is clear now. Mr. Chakraborty.

SHRI AMARPROSAD CHAKRABORTY (West Bengal): Mr. Deputy Chairman, Sir, some of the very important points have already been covered by the Members. So I do not want to repeat them. But I want only to know from the Law Minister whether it is a fact that even the so-called lawyers' conference, which was planted and which was held under the blessings of Mr. Oberoi who actually met all the expenses, as suggested by some Members and as is also common knowledge, ...

SHRI ARVIND GANESH KULKARNI: Not Mr. Oberoi but Mr. Lalit Bhasin provided drinks.

SHRI AMARPROSAD CHAKRABORTY: Yes, everything.

MR. DEPUTY CHAIRMAN: Please put your question.

SHRI AMARPROSAD CHAKRABORTY: First I am trying to remind the Law Minister whether he was invited and given a suitable position as the present Law Minister. He was not invited and only the Prime Minister was invited to inaugurate the session. And when he entered the conference hall, he was not even received properly. He took his seat in a corner. And at last as a very prudent man of the judiciary—after all he is in the same line—he made a speech in a very cogent way but he avoided the question because he is quite conscious that having taken the oath of office, nobody can say anything against the Constitution. So he did not say anything. But there were others. Even Mrs. Gandhi, I think, crossed the border because after having taken the oath, she did not restrain herself; it was only up to an extent but she definitely gave a hint for the presidential system. Today, as Members have suggested, because of poverty, hunger and price rise the people are rising. It reminds us of Hitler, Mussolini and also the

[Shri Amarprosad Chakraborty]

capitalist system of society where if they cannot control the situation, they go on towards dictatorship. That is why Mrs. Gandhi has now . . .

MR. DEPUTY CHAIRMAN: Your point is clear.

SHRI AMARPROSAD CHAKRABORTY: We remember those periods.

MR. DEPUTY CHAIRMAN: Your point is clear. Now I call the next speaker.

SHRI AMARPROSAD CHAKRABORTY: I am concluding. Sir, they are again proceeding towards that. My next question is this. They are thinking or changing the entire Constitution; even the Law Minister is not acting on the advice of the Chief Justice of the Supreme Court in regard to filling up vacancies in the Supreme Court and the High Courts. There are many posts of Judges in the Supreme Court vacant. There are 44 posts of Judges in various High Courts vacant. These are all lying vacant because the judges are not committed to the opinion expressed in favour of the Presidential system. That is the reason why so many of these posts are lying vacant. No courts are held and arrears are piling up . . .

MR. DEPUTY CHAIRMAN: You have made your point. Please sit down now.

SHRI AMARPROSAD CHAKRABORTY: The Law Minister is taking steps for crushing the judiciary . . .

MR. DEPUTY CHAIRMAN: Please sit down now. I am calling the next speaker. Mr. Ladli Mohan Nigam.

श्री लाडली मोहन निगम (मध्य प्रदेश) : उपसभापति जी, मुझे इस पर कुछ नहीं कहना है। अगर सारे मसले को एक वाक्य में कहने बैठूं तो यह है कि नाच न आवे आंगन टेढ़ा। सवाल यह है कि

श्री अरविन्द गणेश कुलकर्णी अंग्रेजी में बोलो भाई, हिन्दी हम नहीं समझते।

SHRI LADLI MOHAN NIGAM: A bad workman always quarrels with his tools.

मैं आपसे यह जानना चाहूंगा, बहुत विनम्रता के साथ यह जानना चाहूंगा कि क्या सही मायने में हिन्दुस्तान में संसदीय प्रणाली का प्रयोग आपने किया है? क्योंकि 32 वर्षों में 30 वर्ष तक आप लोग ही गद्दी पर रहे हो, मैं आपसे इतनी बात जानना चाहता हूं कि जिस संसदीय प्रणाली की कल्पना हिन्दुस्तान के संविधान बनाने वाले हमारे पितामहों ने की थी और उसमें जो प्रेरणा हिन्दुस्तान के सब से बड़े बाप गांधी जी की थी, उसमें जो स्वराज्य की कल्पना तिलक से गांधी तक की है जिसका समावेश करने की कोशिश की गई क्या किसी ने उसको कार्यरूप में परिणित करने की कोशिश की? सत्ता का विकेंद्रीकरण किए बिना संसदीय प्रजातंत्र में आप चलाते हैं, इस बात को कि आप अपने सभी मसूबों को पूरा कर लेंगे इससे बड़ा मखौल हिन्दुस्तान में और कुछ नहीं हो सकता, हिन्दुस्तान का राजकाज और काम हिन्दुस्तान का व्यवहार और सभी चीजें प्रजातंत्र में किसी पर देशी जवान में चलें यह जनतंत्र की बुनियाद के विपरीत है। और दूसरी चीज कभी मत भूलिये, जिस चीज की आप कल्पना कर रहे हैं, मैं आपसे एक बात जानना चाहता हूं कि जिस तरीके से अंग्रेज हिन्दुस्तान पर राज करते थे, क्या वही पद्धति वे अपने देश में भी चलाते थे? उनका दिया हुआ वारसाना हक आज जो मिला है। आज कलक्टर नाम का जानवर दुनिया के किसी प्रजातंत्र देश में शायद नहीं है। हम लोग जब पढ़ते थे तो सिविल्स के इम्तहान में कहा जाता था Prove that Collector is the backbone of the British Empire. आज वही परम्परा आपने चल दी है। जिले का सारा प्रशासन कहीं आदमी के हाथ में है जबकि विभाग अलग अलग लोगों के हाथ

में होते हैं। सूबे के प्रशासन में भी सर्वोपरि कुछ न कुछ बना रखा है और अब तो उनके अधिकार भी छीन कर केन्द्र में केन्द्रित करना चाहते हैं। मैं आपसे बहुत विनम्रता के साथ जानना चाहता हूँ, आपने जिस चीज का प्रयोग किया ही नहीं उसके बारे में कैसे राय दे रहे हैं कि वह असफल है। यह बुनियादी प्रश्न है। अगर आप अपने गिरेबान में मुँह डाल कर देखें कि हिन्दुस्तान में क्या सही मायने में गांव से ले कर केन्द्र में सत्ता का समान बटवारा हुआ या नहीं? जब तक सत्ता का समान बटवारा प्रजातंत्र में आप नहीं करेंगे संसदीय प्रणाली के उन गुम्बजों में जो जनहित का काम होना चाहिए वह नहीं हो सकता। यह एक बुनियादी सवाल है जिस पर आप लोग गम्भीरता से विचार कर के देखें।

इसके साथ दूसरा प्रश्न यह है कि हिन्दुस्तान में कितने लोगों की हिस्सेदारी हम लोगों ने अपने जनतंत्र में ली है। आप अगर अन्दाजा लगाइये तो हिन्दुस्तान में मेरे जैसे आदमी को लगता है कि मुश्किल से 20-25 हजार आदमी ऐसे हैं या रहे होंगे जिन्होंने जनतंत्र की प्रक्रिया में कोई 6 P.M. न कोई हिस्सेदारी की। चाहे कभी संसद रही हो या अन्य विधायिका रही हो या ग्राम पंचायत, अब तो खैर ग्राम पंचायत का नहीं जिला परिषद् का भी कुछ नहीं है। आप जब तक शासन व्यवस्था में, राजकाज में, प्रजातंत्र के अंदर, प्रजातंत्र में 30 हजार की साझेदारी को 3 लाख या 30 लाख पर नहीं बनायेंगे तब तक हिन्दुस्तान में जनतंत्र नहीं चलेगा। संसदीय प्रणाली का मतलब यह है कि हिन्दुस्तान की आम जनता को ज्यादा से ज्यादा हम राजकाज के रोजमर्रा के जन-जीवन के साथ जोड़ें, जो आपने जोड़ा नहीं है। इस वास्ते मैं बहुत विनम्रता से कहूँगा कि बहुत हो चुक अब ज्यादा मजाक मत उड़ाइये, इसको यहीं रोकिए और अब अगर आपमें थोड़ी भी ईमानदारी और गैरत बची है अगर पूर्वजों की कुछ भी वसीयत

आपके पास है, गांधी के आलम्बरदार बनने की आप कोशिश करते हों तो फिर मैं चाहूँगा कि सही मायने में आज से ही, देर आयद दुस्त आयद, आज से शुरू करो हिन्दुस्तान में प्रजातंत्र के विकेन्द्रीकरण की कल्पना को जिससे कि जनतंत्र भी परवान चढ़ेगा। बस मुझे इतना ही कहना है। धन्यवाद।

SHRI G. C. BHATTACHARYA (Uttar Pradesh): Mr. Deputy Chairman, at the outset, I want to associate myself with whatever has been said by Mr. Bhupesh Gupta, Mr. Ramamurti, Mr. Nigam and Mr. Goswami. I want to know from the Law Minister whether it is not a fact that a Bill for amending the Constitution in favour of the Presidential system on the model of the Philippines Constitution is ready and the Government is going to introduce the same either at the end of this session or during the next session. I will also like to know from the Law Minister whether his Party manifesto contains even a whisper that the party if voted to power will change the Constitution. I will also like to know from him specifically which power the Prime Minister is lacking to solve the various socio-economic and other problems of this country. He may also let me know whether he is not playing into the hands of the Sino-American axis which wants to destabilise and disintegrate this country because if Parliamentary system is given a go-by and is replaced by the Presidential system on the Philippines model, it will be nothing but perpetuation of personal and family rule which will lead to the disintegration of the country. The country will not only disintegrate, but none of its problems will be solved. Hundreds of people will be thrown behind the bars and there will be persecution and all sorts of human rights will be trampled upon and there will be blood-shed which will be unprecedented and which will even surpass what happened during Hitler's regime.

[Shri G. C. Bhattacharya]

I want these four specific questions to be answered. In the end I would only refer to the last point referred to by Mr. Chakraborty. A Law Minister who was not even received well in this jamboree has been sent here to reply to these questions. I think he will have some sympathy with us and whatever we are doing.

SHRI ERA SEZHIYAN (Tamil Nadu): Sir, this was a question put by me, but unfortunately it was not reached on that day. It was the fifth question on that day. Though it was the fifth question, it could not be reached on that day. You see the callous and almost contemptible way in which the question has been answered. Now, Sir, the question is whether it is a fact that the Chief Minister of Maharashtra has demanded at the lawyers' conference a change of the system and the reply that was given was that they had contacted the Maharashtra Information Centre and in the teleprinter message received by the Maharashtra Information Centre these words did not appear. Does this mean that the Government is not aware of the UNI report which has come in "The Hindu"? I do not say about the other papers. Sir, here is a Government that refuses to go to the source of my information. If they did not have it, they could have asked me and I could have supplied it. Or, they could have simply said: "We are not aware of it". And, Sir, we could have supplied it. Here, Sir, the Government goes to the Maharashtra Information Centre and I do not know what sanctity they attach to the Maharashtra Information Centre or why more sanctity to that Centre than to the newspaper reports. If they say, "We do not have it.", I can understand; if you say, "We are not aware of it.", I will be satisfied; and if you say, "It is still under consideration.", I will accept it. But here is a Government that comes forward and says that it is learnt from the Maharashtra Information Centre and so on. If they want to be technical I can also be technical. Sir, I want the full state-

ment to be laid on the Table of the House. If they want to be technical, I can also be so. Is he prepared? Is the Government prepared to place it on the Table of the House, to place whatever correspondence they might have had with the Maharashtra Information Centre? In that case, the whole world will know what kind of a Government they are running and what kind of a machinery they have got to collect this information.

Now, coming to this question, Sir, it is not a question of the personal opinion of any individual or it is not a matter of a free discussion as to which form should be there. But here it is the Chief Minister of a State who has almost disparagingly spoken about the parliamentary system, almost ridiculing the system of parliamentary democracy in the country.

Sir, in the article, in the interview, which Bhupesh Dada had quoted, in the end, he says:

"It is high time that we discarded the so-called parliamentary system."

Parliamentary system has been brought to ridicule. He says, "so-called parliamentary system."

SHRI BHUPESH GUPTA: Treason, treason.

SHRI ERA SEZHIYAN: Although the entire Constitution is for parliamentary democracy and although it is entirely the parliamentary system that we are running of which he is also a part, here is a Chief Minister coming forward and saying that it is the "so-called parliamentary system" so much so that he is disparagingly ridiculing the entire concept of parliamentary system. It is not a free discussion, Sir. It is a wedge that is being driven to bring in the totalitarian form of government, a dictatorial form of government because, Sir, just now it has been said that the dancing girl could not dance and hence she finds fault with the shape of the floor and a bad worker finds with his tools.

Like that, here is a Government which is not able to govern. They said that they wanted to have a Government that worked. But here is a Government that wrecks everything in its own way; It is shattering the confidence of the judiciary; the administration has come to a standstill; and the prices are rising. Instead of meeting all these things, they are trying to change the entire concept of parliamentary system. I am not here against any free discussion. Any free discussion you can have. So many Members are arguing this way and that way. But here is a Chief Minister who is disparaging the whole concept and calls it the "so-called parliamentary system". Therefore, Sir, the entire parliamentary system has been brought to ridicule. So, I want to know the reaction of the Government and he should not refer me to the Maharashtra Information Centre.

SHRI BHUPESH GUPTA: Here, Sir, you see what is written. It is written in this article... (*Interruptions*)

SOME HON. MEMBERS: He should not be allowed.

MR. DEPUTY CHAIRMAN: You had your say, Mr. Gupta.

SHRI G. C. BHATTACHARYA: Why don't you say that to them, Sir? (*Interruptions*) This is how you are killing parliamentary democracy. (*Interruptions*) Everytime you are saying to this side.

MR. DEPUTY CHAIRMAN: You had your say. (*Interruptions*) He has also spoken.

SHRI G. C. BHATTACHARYA: This is how the Half-an-Hour Discussion is scuttled.

MR. DEPUTY CHAIRMAN: You see, Mr. Sezhiyan is speaking and he had already spoken.

SHRI G. C. BHATTACHARYA: If Mr. Bhupesh Gupta wanted to read out something, what is wrong in it? (*Interruptions*)

SHRI GHOUSE MOHIUDDIN SHEIKH: You have been given ample time to discuss this. (*Interruptions*)

SHRI ARVIND GANESH KULKARNI: Don't be a murderer of democracy.

SHRI GHOUSE MOHIUDDIN SHEIKH: You have had your time.

SHRI G. C. BHATTACHARYA: After all, he is reading out something.

SOME HON. MEMBERS: No; he should not be allowed. (*Interruptions*)

SHRI ERA SEZHIYAN: Sir, a new trend is emerging in our system of politics, even inside this House. When someone wants to raise something, then there are so many shouts. (*Interruptions*)

SOME HON. MEMBERS: No, no.

SHRI GHOUSE MOHIUDDIN SHEIKH: No, no. (*Interruptions*)

SHRI HARISINH BHAGUBA MAHIDA (Gujarat): No, no. (*Interruptions*)

SHRI ERA SEZHIYAN: If you shout like this, we can also shout. (*Interruptions*)

SHRI ARVIND GANESH KULKARNI: This is the cult that they have developed. (*Interruptions*)

MR. DEPUTY CHAIRMAN: Order, please.

AN HON. MEMBER: Do you talk of democracy? What have you done during 2½ years?

SHRI ERA SEZHIYAN: During the Janata rule, democracy has been put back, the Constitution was re-amended, and we put Parliamentary democracy straight... (*Interruptions*) And what is this shouting going on here and outside? (*Interruptions*)

MR. DEPUTY CHAIRMAN: Please allow him to put his questions. Please take your seat. (*Interruptions*) Order, please. Let him complete. Mr.

[Mr. Deputy Chairman]

Sezhiyan, please conclude and formulate your questions.

SHRIMATI MONIKA DAS (Karnataka): Are you following democracy? (*Interruptions*)

SHRI ERA SEZHIYAN: A Chief Minister has the guts to say "so-called parliamentary democracy". Has none of you the guts to humour him? (*Interruptions*)

MR. DEPUTY CHAIRMAN: Let him complete. (*Interruptions*) Mr. Hukmdeo Narayan Yadav is not here. So, let the Minister reply. (*Interruptions*)

SHRI P. RAMAMURTI: I would like to make one submission. Interruptions are allowed. If somebody is speaking, and if somebody else interrupts him, this is correct; it is a part and parcel of parliamentary game. But what is this—half-a-dozen people getting up and shouting? (*Interruptions*)

SHRIMATI MONIKA DAS: Are you talking of parliamentary democracy? (*Interruptions*)

SHRI P. RAMAMURTI: There are also people on this side who shout. I do not deny that. But it requires two hands to make a sound. Therefore, it is the responsibility of the party which is ruling to see that their people do not join in such . . . (*Interruptions*). If they do not realise their responsibility then hell with them. (*Interruptions*)

MR. DEPUTY CHAIRMAN: Let the Minister reply. (*Interruptions*)

THE MINISTER OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI SHIV SHANKAR): Mr. Deputy Chairman, Sir, the thrust of the speeches here emanates from the inauguration of the Lawyers' Conference by the Prime Minister on the 25th October and also the Press Interview of Mr. Antulay, which has been published in The Times of India, Sunday

Edition, on the 16th November, 1980. This has also reference to a speech that was delivered by Mr. Antulay at Bombay on the 14th of October, 1980. Sir, what has surprised me is the manner in which the Opposition, and particularly one of the very elder Members of the House, has started crying, "wolf". In my submission, the discussion on this issue is much ado about nothing. My own feeling is, I do not know the strategy of the Opposition, particularly the strategy to which the elder Member, Mr. Gupta, seems to be committed, time and again, when there is an occasion, the issue is being raised. As to what purpose, at least, my sensitives have failed to understand. But I may make the position clear that the lawyers are entitled for their conference.

AN HON. MEMBER: Who had denied it?

MR. DEPUTY CHAIRMAN: Let him reply.

SHRI SHIV SHANKAR: I have a right to say a few words. You are more experienced than me. My experience had been at the Bar and not here.

SHRI ARVIND GANESH KULKARNI: Mr. Minister, you have every right. We have not denied it. But we do not want stage-management. That is all.

SHRI BHUPESH GUPTA: You have ample right. Mr. Shiv Shankar, you will be heard with rapt attention. You have both Constitutional and extra-Constitutional rights.

SHRI SHIV SHANKAR: Thank you for the left-handed compliments you have paid me.

SHRI GHOUSE MOHIUDDIN SHEIKH: He has territorial and extra-territorial rights.

MR. DEPUTY CHAIRMAN: The Minister is competent to take care of his mouth.

SHRI SHIV SHANKAR: Sir, I repeat...

श्री अरविन्द गणेश कुलकर्णी : सीताराम जी, थोड़ी हवा निकाल दो, बहुत हवा भर गयी है ।

श्री शिव शंकर : आप बुजुर्ग आदमी हैं, आप थोड़ी देर बैठ सकते हैं । हम लोग तो नौजवान हैं; हमें तो और भी ज्यादा एजिटेटेड होना चाहिए ।

Sir, I repeat even to the distaste of a few that the lawyers are entitled to have their conference. The lawyers did moot a conference for the 25th and 26th of October. They had two issues before them for discussion. One was with reference to the role of the Opposition. The other was with reference to the system of the Government. Sir, what has rather amazed me is the ignorance with which some of the hon. Members have expressed themselves on certain aspects, and the manner in which the questions have been put by some of the hon. Members. While I will answer the questions specifically slightly late, I may make the position absolutely clear that the Government of India does not come into the picture with reference to the convening of the lawyers conference at all. The assumptions on which disparaging remarks were made to bring in the name of the Government in this conference, Sir, I am only sorry for the manner in which they were said. And I go on record... (Interruptions) Sir, I go on record to say that the Government of India has nothing to do with the conference. My friend...

SHRI ARVIND GANESH KULKARNI: Except back-seat driving.

SHRI HARISHINH BHAGUBAVA MAHIDA: Have patience in hearing.

SHRI SHIV SHANKAR: I do not want to give the same performance as you are trying to give. Sir, I may say this much that the gentleman who raised the Half-an-Hour Discussion and his own contradiction are sufficient to belie the argument that this conference was sponsored by the Government.

SHRI BHUPESH GUPTA: What is that?

SHRI P. RAMAMURTI: He says that you have contradicted yourself.

SHRI SHIV SHANKAR: The contradiction is that the whole argument proceeds on the premise, on the presumption, firstly, that we have decided to have the presidential form of Government, and, secondly, that we were at the back of convening the lawyers' conference. If this be so, what my friend has said, that the Resolution could not be passed and it ended in a fiasco, could not have been correct.

SHRI G. C. BHATTACHARYA: You tried and failed. (Interruptions)

SHRI SHIV SHANKAR: Please give me a chance to say what I have to say. I can assure the House that if we had decided... (Interruptions) Why so much impatience. I had been keeping quiet and hearing you I can assure you that if we had decided on the presidential form of Government and secondly, if we were behind the conference, we would have got it passed unanimously if we wanted the Resolution to be passed.

SOME HON. MEMBERS: Correct.

SHRI SHIV SHANKAR: This, by itself, is sufficient to show that we had nothing to do with the conference so as it could be suggested that people there were brought and so on and so forth, as many a things which were said, I leave it to them, to their conscience, as if whatever judgment they want to pass on them is for them.

SHRI BHUPESH GUPTA: There is a thing in life called the miscarriage.

SHRI SHIV SHANKAR: I have not interrupted you. You were more emotional than me. At your age you were so much emotional. At my age I can be more emotional but you cannot tolerate even this much.

[Shri Shiv Shankar]

Sir, I would like to make it clear that it is true that the Prime Minister has inaugurated the Conference. What the Prime Minister has said at the inauguration, I think, it is better that I quote her in her own words, and that is our policy and that continues to be our policy. She said:

"The certain topic before the conference is to assess the various existing democratic systems. What, if any, are the flaws in ours and how can we correct them? What can be done to strengthen democracy and ensure political stability along with social change? No system is perfect. Human beings and institutions built by them are always a mixture of good and bad, of our strength and weakness. Our effort must be a continuous one to reduce the weaknesses and consolidate the strong points. The same can be said about our legal system."

I avoid the expressions about the legal system. Then, I again quote:

"This is true of the Legislature as well as the Executive. A large number of people from all walks of life in different countries write to me. Many are dissatisfied with their own systems. The presidential form also has many varieties and nowhere it is more criticised than within the United States which has had to pay a high price for the deadlocks that all too frequently occur between the executive and the legislature. France also has tried many combinations as a republic. So far, in our country, there has hardly been any debate on systems of Government. Democracy demands a public that is knowledgeable and alert. We would like the people of India as a whole to take an interest. It is in that spirit that I welcome this discussion and this conference."

"The items taken up by the conference are of special interest. So it was natural for it to attract

a great deal of national attention. But there have been needless controversies. We should not be surprised by the opposition and misrepresentation and even onslaughts by those who over the years have lost no opportunity of doing so on most other matters as well. It is astonishing that many who speak the loudest about democracy, should shy away from any public debate and involvement of the large numbers of the masses of our people."

This is the crux which the Prime Minister spoke at the inauguration and about which lot of things are either imagined or said. I do not understand, Sir, if a man has taken the oath in the name of the Constitution, as Mr. Antulay had done, what has been suggested here was that look! This man who has taken oath in the name of the Constitution is trying to preach for the Presidential form of Government; Sir, may I say, with whatever knowledge I have of the Constitution and the laws, that if one has taken the oath in the name of Constitution, it should not be forgotten that freedom of speech is one of the fundamental rights that is enshrined in Part III of the Constitution... (Interruptions) It is only after taking oath that one could speak and I am justifying it.

SHRI AMARPROSAD CHAKRABORTY: You can justify.

SHRI SHIV SHANKAR: I do not understand them, but I have taken the oath in the name of Constitution and if their judgment must survive, if I speak even of Presidential form of Government, I will be put behind the bars. This is exactly what they seem to be thinking. Is it the way of justice expected in this country? This is exactly what they have to ponder. There is nothing wrong if some person speaks unless according to prevailing law it is wrong... (Interruptions)

SHRI G. C. BHATTACHARYA: You are destroying the Constitution

and you are talking of the fundamental right of speech!

MR. DEPUTY CHAIRMAN: Let him complete and then you ask anything.

SHRI BHUPESH GUPTA: Mr. Shiv Shankar, you are a Minister. You have freedom of speech, I concede. But if you are a Minister, can you publicly criticise the Prime Minister and say that you have exercised your fundamental right?

SHRI SHIV SHANKAR: Sir, I am only trying to elucidate certain points and I am not able to understand the impatience...

SHRI ARVIND GANESH KULKARNI: You are arguing.

SHRI SHIV SHANKAR: I have to argue; you raised all the points and you don't want to listen to the reply. You must also listen to others. Why are you interrupting? You are an elderly gentleman; you have spoken of the traditions of this House and I expected you to keep quiet.

Sir, everyone of us takes the oath when we become Members of Parliament, to uphold the Constitution and the laws. Many of our friends who are here might air their own views against the tenets of the Constitution. Now I ask a question. What is the relevance of Mr. Antulay's speeches if he says that he prefers Presidential form of Government? He is not a policymaking authority in the Government of India. He might be one of the apparatus who is connected with the State. But then if I say that I prefer Presidential form of Government, having certainly a hand in the policy-making of the Government of India, you could perhaps find fault with it.

SHRI AMARPROSAD CHAKRABORTY: You will have to give resignation.

SHRI SHIV SHANKAR: I am saying that I have something to do with

reference to the formulation of the policies of the Government of India and if I...

SHRI BHUPESH GUPTA: If Pandit Jawaharlal Nehru had been alive, he would have telephoned him and sacked him. I have no doubt about it.

SHRI SHIV SHANKAR: You have not heard what I was saying. I said that if I advocate something contrary to the Constitution, which has got a bearing over bringing down the very Constitutional concepts, you can certainly find fault with that. Sometime back, Dr. Chenna Reddy also said. A lot of hulla gulla was raised in this House itself. Today, Mr. Antulay says that. He is entitled to say whatever he feels. But the question is, what is the view of the Government of India. Supposing, the Government of India has come to the conclusion . . .
(Interruptions)

SHRI DINESH GOSWAMI: Will you kindly permit me an interruption?

SHRI SHIV SHANKAR: If you go on interrupting, I will not be able to answer.

SHRI DINESH GOSWAMI: I am only asking permission. (Interruptions)

MR. DEPUTY CHAIRMAN: Mr. Goswami, please sit down. At the end, if anything remains, you can ask.
(Interruptions)

SHRI SHIV SHANKAR: At every sentence, if you rise and if you want to break my thought, if you want to have a free-for-all, you have it. (Interruptions) Hence, if any person in this country would like to air his views which has nothing to do with the formulation of the policies, I must say, you cannot hold the Government of India responsible for what is happening. What the Prime Minister has said, I have read out. This is the portion which is relevant for the purpose. Now, what did she say? Here

[Shri Shiv Shankar]

is a lawyers' conference which wanted to discuss some issues. All right. They can discuss them. This is freedom of expression which is enshrined as a fundamental right. Nobody can stop it. After all, this is a country where people air their own views in different forums. They have been doing it. Many a things have been said to which I need not allude. But if some people who, day in and day out, accuse the Congress rule and the Congress organisation and then want to rely for the purpose of their argument on either Mahatma Gandhi or Jawaharlal Nehru, I can only say that it amounts to devil quoting the scriptures. I have nothing more to say on that.

My approach is this. The gentleman has given an interview. I am prepared to quote other people who have said this. Even Mr. Palkhivala has gone on record to say that the Presidential form of Government is good. It is perfectly alright. It is for him to say that. He is one of the noted jurists of this country, a gentleman who does not share our thoughts, a gentleman who shares the thoughts of some other sections of the society. (*Interruptions*) It is certainly his prerogative to say whatever he likes. (*Interruptions*)

SHRI BHUPESH GUPTA: But he is the Chief Minister. (*Interruptions*)

SHRI SHIV SHANKAR: I have answered earlier, when Dr. Chenna Reddy had spoken. I am even now answering. He also said in his capacity as Chief Minister. Hence, what is most relevant is the view of the Government of India. I am prepared to go on record that even in the previous Government, some very highly-placed person in the Government of India was trying to exercise his mind on this issue. He went to the extent of saying that Parliament has become irrelevant in the present context. He has said that. He has also taken the oath. What is it that could be done? There

is the Resolution of the Bar Association. Fair enough. The Bar Association has its own right to debate. Supposing, on an issue, I get agitated, it is possible for me to muster opinion. If the Bar Association has good reason to feel that what Mr. Antulay is saying is wrong. It is for them to say that. Hence, in my submission, on this issue, they are making a mountain of a molehill. This, I submit, is only subversive of the concepts which we seek to uphold. Sir, even in the Constituent Assembly, when the form of Government was discussed, some of the members of the Constituent Assembly very strongly pleaded for the Presidential form of Government. It is on record. But that does not mean that after the Constitution coming into force one should not speak at all. After all, I am not able to understand them unless they go to the extent of saying that the presidential form of Government is not a democratic form of government. Presidential form of Government has got its own nuances, in different countries it is democracy in different ways.

SHRI BHUPESH GUPTA: Here it is intended to install personal authoritarian rule.

SHRI SHIV SHANKAR: You will go on repeating, that is the burden of your song. Notwithstanding that, people have voted Mrs. Gandhi in an absolute majority. You will go on saying and this type of propaganda is going on in this country since 1977, which we had been seeing. The propaganda is there and people are aware of the propaganda. People are also aware of the vilifications. People have noted how personal vindictiveness has been carried on in this country and still they have given their judgment. I request you to bow down to that judgment. (*Interruptions*). You will go on interrupting. If you have no faith in anybody else's word except yourself, you are entitled to have your own egoism and vanity and nobody is there to stop you. (*Interruptions*).

You were also at the polls in January 1980. You have seen what it was. Better, you submit yourself to the judgment of the people. But the question, is, if I had said ... (*Interruptions*). After all, there is nothing wrong so far as the question of Government of India is concerned. Government of India, upholding the Constitution and its spirit, would not mind people discussing whatever they would like to discuss, any subject under heaven and over the earth.

SHRI BHUPESH GUPTA: Mr. Shiv Shankar, we submit to the judgment.

SHRI SHIV SHANKAR: So far as discussion is concerned, we would not like to stop it. If somebody wants to discuss it, fair enough. So far as the Government of India is concerned, it is nowhere near it. (*Interruptions*). You allow me to speak. You are an elderly person, you should have enough patience to hear.

श्री लाडली मोहन निगम : साफ-साफ
कह दीजिये कि हम इस प्रकार की सरकार
नहीं बनाएंगे ।

SHRI G. C. BHATTACHARYA:
He knows how to plead his case.

SHRI SHIV SHANKAR: One of the hon. Members has gone on record to say that the Law Minister himself spoke and said that there was an inkling for the change of the Government. What more distortion than the question itself? I never uttered a word, I never spoke. I do not know wherefrom all this propaganda paraphernalia is brought for the purpose of misleading the people. I am aware, day in and day out some politically aligned newspapers have been going on giving some handouts which are wholly false. I for one believe and I must request with all earnestness at my command, so far as the newspapers are concerned, they must not give a tinge, they must not tilt wrongfully when they are reporting the news. They have a right to say whatever

they like in the editorial. That is their prerogative, but this tilting of the news day in and day out, which I have been seeing, is rather unfortunate, I do not know whether it suits their purpose. Do they want really this type of an approach all over, by some of the opposition party newspapers? Would they like to create a chaos by handing out all sorts of false news? This is the matter which I leave for those concerned to judge and it is for them to give the judgment in an introspective mood. Sir, I must very frankly say...

SHRI BHUPESH GUPTA: Do we have assurance that we are not in the danger of the presidential system?

SHRI SHIV SHANKAR: Sir, there are questions! If it is the prerogative of the Members to put false questions, to accuse some people and falsely say, "Look you are in the docks. It is for you to prove that you are innocent", I can only say that I did not speak a word in the Conference. Therefore, the other questions do not arise. Then, Sir, ...

श्री लाडली मोहन निगम : सरकार की
तरफ से भी यही बात कह दीजिये, खत्म
हुई बात ।

SHRI SHIV SHANKAR: What the Prime Minister has said, I have read to you. If I have spoken anything, that also I have said.

SHRI BHUPESH GUPTA: If you have not spoken in the Conference, I must congratulate you.

SHRI SHIV SHANKAR: I do not require your congratulations and all left-handed compliments because if I am here I am here under my own right. Therefore, let us not go into those questions. One of the Members said... (*Interruptions*)

I do not think I should go on answering every interruption. (*Interruptions*)

MR. DEPUTY CHAIRMAN: Do not answer interruptions.

SHRI SHIV SHANKAR: I am trying to shorten the debate. They do not allow it.

SHRI BHUPESH GUPTA: Can we go to bed without having any fear of presidential system?

SHRI SHIV SHANKAR: May I tell you, if you are haunted by the ghost, you cannot be peaceful in mind?

SHRI BHUPESH GUPTA: Kindly tell us in simple language.

MR. DEPUTY CHAIRMAN: Let him complete.

SHRI SHIV SHANKAR: One of the hon. Members has asked the question whether Article 368 gives the power to bring in the presidential form of Government and whether we are not recruiting judges only for the purpose so that ultimately the basic structure concept is totally annihilated. Sir, this is a matter of opinion. Opinions have been expressed by great Judges and jurists. The content of Article 368 has been debated from time to time before the Supreme Court right from Shankari Prasad Case. Right from 1951 the Judges have differed. Without going much far in the past, those Judges who rendered the judgement in the Golak Nath Case were also sharp divided, 6 on one side and 5 on the other side. Those who delivered the Kesavananda Bharati Case on the question of the basic structure, were also divided 7:6, 7 said 'basic structure', 6 said 'no basic structure'. This is a matter of opinion. (Interruptions) You cannot pass a remark on each and every sentence of mine.

SHRI G. C. BHATTACHARYA: It is not a relevant opinion.

SHRI SHIV SHANKAR: As long as the majority judgment of the Kesavananda Bharati Case of 7:6, is there, it is the law of the land. If this satisfies you I am glad. (Interruptions)

SHRI G. C. BHATTACHARYA: I am only asking about your opinion.

MR. DEPUTY CHAIRMAN: You are making unnecessary remarks.

Please do not disturb. Mr. Chakraborty, you are often getting up.

SHRI SHIV SHANKAR: I am having my own opinion, Sir, I am saying, the content of Article 368 does not take within its sweep the principle of basis structure at all. And I say this because, according to my own view, the framers of the Constitution were alive to the fact that if you place hedges on the content of the constitutional power to amend, the Constitution would break. That is why they kept the language in very wide terms. Many a judges have taken that view. Even in Kesavananda Bharati's case, six judges have taken that view. Sir, it has nothing to do with the appointment of judges in the Supreme Court. Many digressional aspects have been brought to the notice of the House. This is not an occasion for me to say something about the recruitment of judges. But I can assure you—and I am prepared to leave it to my Prime Minister to judge my conduct—that so far as I am concerned, I am not delaying a single appointment in any form on my whims and fancies.

SHRI G. C. BHATTACHARYA: This is factually incorrect.

SHRI SHIV SHANKAR: Mr. Bhattacharya, if you know more than this, you can be joyful in your own self. (Interruptions) But as an authority I have said this. So far as the Supreme Court appointments are concerned, since this directly concerns me, I say that it is only in September that the Chief Justice of India made the proposals. Are we not entitled to consult within the meaning of article 124 of the Constitution, which the previous Government also did? And I may say that some proposals are under process. I can assure the hon. members that they would certainly listen to the announcement, probably within about a week or ten days because certain proposals have been approved by the President of India. Therefore, if you want to run about under your own imaginative feelings, nobody can help it.

SHRI G. C. BHATTACHARYA:
No, no.

SHRI SHIV SHANKAR: That is
what is happening. (*Interruptions*).

SHRI G. C. BHATTACHARYA:
Since independence there have never
been so many vacancies. This is un-
precedented. Never so many vacan-
cies. (*Interruptions*).

MR. DEPUTY CHAIRMAN: No
please.

SHRI SHIV SHANKAR: For your
information, may I tell you that for
a very less number of appointments
in the past—I would not like to say
which Government; it is not fair of
me—more time than what we are tak-
ing has been consumed. Please don't
forget this. (*Interruptions*). That is
why on an issue like this, I must purge
myself, and it is precisely for this
reason that I have given out a fact
which perhaps in other circumstances
I would not have done. I have said
that proposals from the Supreme Court
Chief Justice had come only in Sep-
tember. I feel very much pained
about what comes in the papers day
in and day out. If only the truth is re-
vealed, I do not know, perhaps things
would be entirely different.

SHRI S. W. DHABE: Why don't
you give the truth?

SHRI SHIV SHANKAR: I can't.
I have got to maintain some propriety.
I am holding an office which expects
that I will act in a manner which does
not derogate from the position of that
office. Therefore...

SHRI NARASINGHA PRASAD
NANDA: Don't get provoked.

SHRI SHIV SHANKAR: I am not
provoked. I have said this on an
issue...

SHRI DINESH GOSWAMI: You
are setting up a standard which your
Chief Minister of Maharashtra is not
setting up. This is the complaint.

SHRI SHIV SHANKAR: Mr.
Goswami, you would like to link up

one issue with the other which has
absolutely no relevance. Because the
occasion was taken to attack me on
the question of appointment of judges,
I thought that I owe some duty to the
House to that extent that I should
explain, and I do so. I would not like
to go further. But I assure the House
that my conscience is clean that we
have not delayed any appointment for
any extraneous purpose. At the same
time I may say that in the year 1977,
on 1-11-1977, there were a less num-
ber of sanctioned judges, if I remem-
ber correctly, at that moment, the
number was 364. And the vacancies
were 88. Today they are more than
400 but the vacancies are not that
many. But I am not accusing the pre-
vious Government. I am only trying
to say that you must appreciate that
there is many a slip between the cup
and the lip. If only I start saying as
to how a particular State behaves, it
would be surprising. But I would
not like to. This was a passing re-
mark...

SHRI NARASINGHA PRASAD
NANDA: Now you come to your an-
swer on that day. That is the specific
question, Mr. Law Minister.

SHRI SHIV SHANKAR: I am
answering that point. What else am
I doing? One after the other I am
coming to your points. The next ques-
tion is . . . I now realise why Mr.
Nanda is impatient; I was to answer
his own question next...

SHRI NARASINGHA PRASAD
NANDA: I am never impatient.

SHRI SHIV SHANKAR: He want-
ed to know as to why I did not get
the answer from the Government of
Maharashtra or the Chief Minister
himself. When the question was
put...

SHRI BHUPESH GUPTA: The
Chief Minister is more powerful than
you are. He is the blue-eyed boy of
the Prime Minister. You are not.

SHRI SHIV SHANKAR: Whose
blue-eyed boy are you? Why should
you unnecessarily worry about me?

[Shri Shiv Shankar]

You should give me a chance to answer your points...

SHRI BHUPESH GUPTA: I am only sympathising with you.

SHRI SHIV SHANKAR: I don't require your sympathies. Your sympathies are misplaced.

SHRI BHUPESH GUPTA: You are in the class two category.

SHRI SHIV SHANKAR: What I was trying to say was when a question was put, it was for me to get an answer and I thought that an authentic answer could be got from the Maharashtra Government itself and when we contacted the Maharashtra Information Centre this is what was passed on. One of the friends asked whether I am prepared to place the whole thing before the House. I have got the whole thing and if he wants that I should read it out, I am prepared to read it out. Whatever we have received, we thought, that this was more authentic. UN₁ may say anything, because the news is tilted these days. It is very difficult to say about veracity because, at least about my department, day in and day out peculiar news is coming and I get shuddered every morning to see the news. Therefore, information Centre is my source. I thought that authentic information could be from the Maharashtra Government. They passed on this and this is what exactly I have quoted...

SHRI BHUPESH GUPTA: Puerile.

SHRI SHIV SHANKAR: After all, you cannot ask why I did not ask this and that authority or person. I thought whatever was there on record, whatever is there on paper, I should take it, and I have assimilated the same, and it is based on that and I have given the opinion. I regret if somebody reads too much into it. I have no motives beyond trying to get the information.

SHRI NARASINGHA PRASAD NANDA: We are not suspecting your motives. We are suspecting the motives of somebody else. You should understand that. We are not suspecting your motives at all.

SHRI SHIV SHANKAR: Another gentleman asked the question whether the Prime Minister would give a categorical answer...

(Interruptions)

MR. DEPUTY CHAIRMAN: He is at the neck of Mr. Antulay. You continue, Mr. Minister.

SHRI SHIV SHANKAR: I am her spokesman standing here. I have said that there is no thinking so far as the Government of India is concerned about a Presidential form of Government. They seem to be more resourceful than I am and I cannot help for that. I have said what could be within my knowledge and what it is today...

SHRI BHUPESH GUPTA: You have two lines of operation—official and unofficial.

श्री लाडली मोहन निगम : आप और कह दीजिए कि कोई और फैसला लायेंगे तो आप उसके हिस्सेदार नहीं होंगे । खत्म हो गया ।

SHRI SHIV SHANKAR: Many people who were contributing to a particular ideology yesterday have changed their places. This is an ever-changing world. After ten years who knows whether our children will really follow what we are saying or what things would there be after hundred years. We cannot say anything.

SHRI BHUPESH GUPTA: I am listening to you very patiently. You are defaming. Antulay very well, killing by kindness.

SHRI SHIV SHANKAR: This jugglery I cannot indulge in. I am stating what according to me is the correct approach and what is the thinking of the Government of India. I, as the spokesman of the Government of

India, thought it fit to clear the position. Tomorrow you may say that the Presidential form of Government is very good. If you come into power, I do not know whether we will survive. I would not like to say anything about it. People have their own ways.

श्री लाडली मोहन निगम: आप आश्वासन देते हैं? अगर यहाँ भी आश्वासन दे देते हैं तो मामला खत्म हो जाएगा।

श्री शिव शंकर : मैंने तो आश्वासन दे दिया।

SHRI BHUPESH GUPTA: If I come to power, I would make you a roaming Judge to go round the country.

MR. DEPUTY CHAIRMAN: Please do not waste time.

SHRI NARASINGHA PRASAD NANDA: Sir, two hours of discussion has not elicited a straight answer from the hon. Minister... (Interruptions).

SHRI GHOUSE MOHIUDDIN SHEIKH: They must have intelligence to understand.

SHRI SHIV SHANKAR: I may say this much in reply to the question of one of the hon. Members that we have the ability to solve the problems. We will do it within the parameters of the Constitutional concepts. Whatever road-blocks may be there, from whatever quarter, we will get over them. It is possible that time gets consumed in the process. In democracy when people are in action, the process is necessarily slow as compared to a dictatorial form of Government where you can have the road-roller approach. Therefore, delay is bound to be within the conceptual approach of democracy. We have to put it up. We are not going to run away from problems.

One of my friends asked whether the debate would not erode the confidence of the people and whether it should not be stopped. I would rather say: Let people go ahead with the

debate. What is wrong in it? If somebody wants...

SHRI BHUPESH GUPTA: Nobody wanted a discussion.

SHRI SHIV SHANKAR: You may not, for your own purpose. I will go to the extent of saying, supposing somebody would like to discuss...

SHRI G. C. BHATTACHARYA: Sir, this is a contradiction. On the one hand you explained the thinking of the Government. On the other hand you want the debate to continue... (Interruptions).

SHRI HARISINH BHAGUBAVA MAHIDA: What is wrong in it?

SHRI G. C. BHATTACHARYA: It is a contradiction.

SHRI AMARPROSAD CHAKRABORTY: Why should the discussion continue?

SHRI SHIV SHANKAR: We are committed to the Constitution. We are committed to the Constitutional concept of freedom of expression within the party and outside. Therefore, if anybody would like to air his views I welcome that. I welcome Mr. Bhupesh Gupta's views. He must also welcome my views. Therefore, there is no question of stopping it. Stopping it will create complications. Then, Sir, I have already answered that this type of a free discussion does not amount to any violation of the oath that one takes. Now, one friend had asked me a question.

SHRI JASWANT SINGH: Sir, with your permission, I would like to ask one question. The question is simply this: "Whether our form of Government was presidential or parliamentary has not been implicitly or explicitly made clear anywhere in the Constitution." This was the quotation that I gave and I related it to Mr. Antulay's speech. What does he say about that?

MR. DEPUTY CHAIRMAN: Your point has been made clear. That point has been cleared. (Interruptions).

SHRI NARASINGHA PRASAD NANDA: What is clear? Nothing is clear. Sir, nothing is clear in spite of his reply. (*Interruptions*).

SHRI HARISINH BHAGUBAVA MAHIDA: It will not be clear because your eyes are blurred. (*Interruptions*).

MR. DEPUTY CHAIRMAN: Mr. Mahida, let the Minister reply.

SHRI G. C. BHATTACHARYA: They want to impose the Presidential system. (*Interruptions*).

MR. DEPUTY CHAIRMAN: Let him complete the reply, please.

SHRI SHIV SHANKAR: One gentleman asked, Sir, whether I was invited. I say that I was invited and I had gone there because my Prime Minister was inaugurating it and I felt proud to attend it. Beyond that I need not say anything. I am her Law Minister.

Then, Sir, certain questions were also raised with reference to the party being ready to amend the Constitution for the Presidential form of Government of the Philippines type...

SHRI BHUPESH GUPTA: It is being rumoured

SHRI SHIV SHANKAR...and for that I have no answer. Rumours have a lot of legs when they are spread from persons like my friend, Mr. Bhupesh Gupta.

SHRI BHUPESH GUPTA: Last time when I showed the Bill, it was denied.

SHRI SHIV SHANKAR: Sir, I have explained the position and I do not think that I should dilate on this aspect any further.

SHRI BHUPESH GUPTA: The people say that there is one copy.

SHRI SHIV SHANKAR: I do not think that there is any other question now except the one which my friend has asked and it is whether we are prepared to decentralise the system of Government. My friend is aware that it is one of the accepted concepts...

SHRI BHUPESH GUPTA: You see, the Law Minister of 1976 did not know that Mr. Antulay had drafted the Bill.

SHRI SHIV SHANKAR: But then you were perching with him. Therefore, you knew perhaps.

SHRI BHUPESH GUPTA: I did. But the Law Minister did not know that.

SHRI SHIV SHANKAR: That is why I am expressing my ignorance. I do not know anything about it.

Sir, this is an accepted concept in the Directive Principles themselves. I am aware that the Directive Principles have not been implemented to the extent they should have been and everyone of us is aware that the reasons are manifold. Instead of dilating on the shortcomings, we should try to introspect and get over this by trying to implement the Directive Principles. I am one with the hon. Members that perhaps our pace should have been faster which has not been.

Sir, in view of this, I do not want to go into further aspects. I have tried to clear the doubts to the extent that I could.

SHRI BHUPESH GUPTA: Thank you very much. But we do not want a manipulated national debate.

SHRI SHIV SHANKAR: I am confident that notwithstanding my friend...

SHRI BHUPESH GUPTA: We want national condemnation of the move.

SHRI SHIV SHANKAR: Persons like my friend would still go on saying something which I cannot help. Thank you, Sir.

श्री उपसभापति: सदन की कार्यवाही
सोमवार 24 नवम्बर 1980 को 11 बजे
तक के लिए स्थगित की जाती है।

The House then adjourned at four minutes past seven of the clock till eleven of the clock on Monday, the 24th November, 1980.